

《逃犯(大韓民國)令》

(第 503 章, 附屬法例 Y)

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FUGITIVE OFFENDERS (REPUBLIC OF KOREA)  
ORDER

(Cap. 503 sub. leg. Y)

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《逃犯(大韓民國)令》

(第 503 章第 3 條)

**FUGITIVE OFFENDERS (REPUBLIC OF KOREA)  
ORDER**

(Cap. 503, section 3)

[2007 年 2 月 11 日] 2007 年第 13 號法律公告

[11 February 2007] *L.N. 13 of 2007*

1. (已失時效而略去)

1. (*Omitted as spent*)

2. 本條例中的程序在香港與大韓民國之間適用

2. **Procedures in Ordinance to apply between Hong Kong and Republic of Korea**

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大韓民國之間適用，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。

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 the Republic of Korea subject to the limitations, restrictions, exceptions and qualifications contained in the terms of the arrangements.

## 附表

[ 第 2 條 ]

### 《中華人民共和國香港特別行政區政府與 大韓民國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，與大韓民國政府(以下稱為“締約雙方”)，

為訂立相互移交逃犯的規定，

確認彼此尊重對方的法律制度及司法體制，

協議如下：

#### 第一條

##### 移交的義務

締約雙方同意，按照本協定的各項規定，相互移交在被要求方的司法管轄區發現並遭要求方追緝的人，以便就本協定第二條所述的罪行對他作出檢控、判刑或強制執行判刑。

#### 第二條

##### 罪行

## SCHEDULE

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### AGREEMENT FOR THE SURRENDER OF FUGITIVE OFFENDERS BETWEEN THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE REPUBLIC OF KOREA#

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 to conclude this Agreement by the Central People's Government of the People's Republic of China, and the Government of the Republic of Korea (hereinafter referred to as “the Parties”),

Desiring to make provisions for the reciprocal surrender of fugitive offenders,

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

Have agreed as follows:

#### ARTICLE 1

1. 凡屬本協定附件所描述的任何罪行，而該罪行根據締約雙方的法律均屬可判處一年以上的監禁或其他形式的拘留，或更嚴厲的刑罰，均須就該罪行准予移交；該附件構成本協定整體的一部分。
2. 在確定某罪行是否觸犯締約雙方的法律時：
  - (a) 不論締約雙方的法律是否將該罪行置於同一罪行類別或使用同一罪名；
  - (b) 須考慮被尋求移交的人被指稱的行為的全部，而不論該罪行的構成因素根據締約雙方的法律是否有別。
3. 凡要求移交逃犯是為執行判刑，須符合進一步規定，即未服的監禁或拘留期不得少於六(6)個月。
4. 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且並無機會出席接受審訊，被要求方可拒絕移交；但如該人有機會在他出席的情況下獲得重審，則作別論。如要求移交在缺席的情況下被定罪的人，則該要求須連同第八條第 3 款及第八條第 4 款所述的支持文件。
5. 在以下情況下，可根據本協定的規定就某罪行准予移交：
  - (a) 在構成該罪行的行為發生時，該罪行在要求方屬罪行；及
  - (b) 被指稱的行為如在提出移交要求時在被要求方的司法管轄區發生，即會構成觸犯在被要求方的司法管轄區有效的法律的罪行。

### 第三條

#### 國民的移交

## 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 referred to in Article 2 of this Agreement.

## ARTICLE 2

### Offences

1. Surrender of fugitive offenders shall be granted for an offence coming within any of the descriptions of offences specified in the Annex to this Agreement, which shall form an integral part of this Agreement, in so far as the offence is, according to the laws of both Parties, punishable by imprisonment or other form of detention for more than one year, or by a more severe penalty.
2. In determining whether an offence is against the laws of both Parties:
  - (a) it shall not matter whether the laws of the Parties place the offence within the same category of offence or denominate the offence by the same terminology;
  - (b) the totality of the conduct alleged against the person whose surrender is sought shall be taken into account

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第 503Y 章附表  
第 1 條

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。大韓民國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，要求方可要求將有關案件提交被要求方的有關機關，以考慮對有關的人進行檢控的法律程序。被要求方須將任何已採取的行動及任何檢控的結果知會要求方。
3. 有關的人的國籍須以要求移交所根據的罪行發生時該人的國籍為準。

#### 第四條

##### 死刑

如根據本協定要求移交逃犯的罪行是根據要求方的法律可判處死刑的，但就該罪行而言，被要求方的法律並無判處死刑的規定或通常不會執行死刑，則除非要求方提供被要求方認為充分的保證，即保證不會判處死刑或即使判處死刑亦不會執行，否則被要求方可拒絕移交。

#### 第五條

##### 強制拒絕移交

在以下任何情況下，不得根據本協定批准移交：

- (a) 被要求方有充分理由相信要求移交所根據的罪行是政治罪行或與政治罪行有關連的罪行，而對政治罪行的提述不包括以下罪行：
  - (i) 奪去或企圖奪去國家元首或政府首長的性命或其直系親屬的性命，或襲擊上述的人；及

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- and it shall not matter whether, under the laws of the Parties, the constituent elements of the offence differ.
3. Where surrender of a fugitive offender is requested for the purpose of carrying out a sentence, a further requirement shall be that a period of imprisonment or detention of at least six (6) months remains to be served.
  4. Where the surrender of a fugitive offender is requested for the purpose of carrying out a sentence, the Requested Party may refuse surrender if it appears that the conviction was obtained in his absence and he did not have the opportunity of being tried in his presence, unless he has the opportunity to have his case retried in his presence. Requests for the surrender of persons convicted in their absence shall be accompanied by the supporting documents referred to in paragraph 3 of Article 8 as well as the supporting documents referred to in paragraph 4 of Article 8.
  5. Surrender may be granted pursuant to the provisions of this Agreement in respect of an offence, provided that:
    - (a) it was an offence in the Requesting Party at the time of the conduct constituting the offence; and
    - (b) the conduct alleged would, if it had taken place in the jurisdiction of the Requested Party at the time of the making of the request for surrender, have constituted an offence against the law in force in the jurisdiction of the Requested Party.

#### ARTICLE 3

- (ii) 屬締約雙方基於國際多邊協定而不得視為政治罪行或與政治罪行有關連的罪行的罪行；
- (b) 被尋求的人正就要求移交所根據的罪行遭被要求方檢控；
- (c) 被尋求的人已就要求移交他所根據的罪行遭被要求方最後定罪或裁定無罪；
- (d) 就要求移交所根據的罪行作出的檢控或懲罰，會因締約任何一方的法律(包括有關時效消失的法律)訂明的理由而被禁止；
- (e) 被要求方有充分理由相信提出移交要求的目的是因被尋求的人的種族、宗教、國籍或政治意見而檢控或懲罰該人，或有充分理由相信該人的處境可能因任何該等理由而蒙受不利。

## 第六條

### 酌情拒絕移交

在以下任何情況下，可根據本協定拒絕移交：

- (a) 根據被要求方的法律，尋求移交所根據的罪行被視為全部或部分在被要求方的領土或地方觸犯；如在此情況下拒絕移交，要求方可要求將有關案件提交被要求方的有關機關，以考慮進行檢控的法律程序；
- (b) 被尋求的人已在第三方司法管轄區內就要求移交所根據的同一罪行最後被裁定無罪或定罪，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；
- (c) 在特殊情況下，被要求方在考慮有關罪行的嚴重性及要求方的利益的同時，認為鑑於被尋求的人的個人狀況，把該人移交不符合人道精神；及

## Surrender of Nationals

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 the Republic of Korea 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 authorities of the Requested Party in order that proceedings for prosecution of the person may be considered. That Party shall inform the Requesting Party of any action taken and the outcome of any prosecution.
3. Nationality shall be determined at the time of the commission of the offence for which surrender is requested.

## ARTICLE 4

### Death Penalty

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

- (d) 基於距離有關的人被指稱觸犯尋求移交所根據的罪行或被指稱非法逃匿之時已有相當日子，被要求方在考慮所有情況後，認為把該人交回是不公平或具壓迫性的。

### 第七條

#### 暫緩或暫時移交

1. 被尋求的人如因移交他的要求以外的罪行而正在被要求方的司法管轄區被起訴或受懲罰，該人的移交可暫緩至法律程序結束及對他判處的懲罰執行為止。
2. 被要求移交的人如因移交他的要求以外的罪行而正在被要求方的司法管轄區被起訴或受懲罰，惟該移交要求已獲得批准，則被要求方可暫時把該人移交要求方以進行檢控。被如此移交的人須根據經締約雙方決定的條件由要求方羈押，並在針對他進行的法律程序結束後交回被要求方。

### 第八條

#### 要求及支持文件

1. 除非締約雙方另有協議，否則移交要求須以書面透過大韓民國駐香港總領事館向被要求方的主管機關提出。大韓民國的主管機關為法務部，而香港特別行政區的主管機關為律政司。但如締約任何一方通知締約另一方，表示指定另一機關為主管機關，則作別論。
2. 要求須連同：

## ARTICLE 5

### Mandatory Refusal of Surrender

Surrender shall not be granted under this Agreement in any of the following circumstances:

- (a) when the Requested Party has substantial grounds for believing that the offence for which surrender is requested is a political offence or an offence connected with a political offence. Reference to a political offence shall not include the following offences:
  - (i) the taking or attempted taking of the life or an attack on the person of a Head of State or Head of Government or a member of the person's immediate family; and
  - (ii) any offence which, by reason of a multilateral international agreement, the Parties must not treat as a political offence or an offence connected with a political offence;
- (b) when the person sought is being prosecuted by the Requested Party for the offence for which the surrender is requested;
- (c) when the person sought has been finally convicted or acquitted by the Requested Party for the offence for which the person's surrender is requested;
- (d) when the prosecution or the punishment for the offence for which surrender is requested would be barred by reasons prescribed under the law of either Party including a law relating to the lapse of time;
- (e) when the Requested Party has substantial grounds for believing that the request for surrender has been presented with a view to prosecuting or punishing the person sought, by reason of race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of those reasons.

- (a) 對被尋求的人盡量準確的描述，以及任何其他有助確定該人身分及國籍的資料，包括關於其下落(如知道的話)的資料；
- (b) 關於要求移交所根據的罪行的陳述及該罪行的詳情；
- (c) 訂立該罪行的法律條文(如有的話)的文本及對就該罪行可判處的懲罰的陳述，以及說明就該罪行提起法律程序或執行所判處的懲罰是否有施加時限的陳述。
3. 尋求移交某人以作檢控的要求並須連同：
- (a) 由要求方的法官或裁判官發出的逮捕手令或該手令的副本；及
- (b) 根據被要求方的法律，容許就要求移交所根據的罪行作出移交該人的決定的證據。
4. 如要求與已被定罪或被判刑的人有關，要求並須連同：
- (a) 定罪或判刑證明書副本；及
- (b) (i) (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
- (ii) (如該人已被判刑)指該項判刑屬可強制執行及顯示未服的刑期的陳述。
5. 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、檢控人或官員簽署或核證；及
- (b) 蓋上要求方的主管機關的正式印鑑。

**ARTICLE 6****Discretionary Refusal of Surrender**

Surrender may be refused under this Agreement in any of the following circumstances:

- (a) when the offence for which surrender is sought is regarded under the law of the Requested Party as having been committed in whole or in part within the territory or area of the Requested Party, and in case of such refusal the Requesting Party may request that the case be submitted to the authorities of the Requested Party in order that proceedings for prosecution may be considered;
- (b) when the person sought has been finally acquitted or convicted in a third jurisdiction for the same offence for which surrender is requested and, if convicted, the sentence imposed has been fully enforced or is no longer enforceable;
- (c) when, in exceptional cases, the Requested Party while also taking into account the seriousness of the offence and the interests of the Requesting Party deems that, because of the personal circumstances of the person sought, the surrender would be incompatible with humanitarian considerations; and
- (d) when it appears to the Requested Party that, by reason of the passage of time since the person is alleged to have committed the offence for which surrender is sought or to have become unlawfully at large it would, having regard to all the circumstances, be unjust or oppressive to return him.

**ARTICLE 7**



6. 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，或翻譯成該方的一種法定語文，但如被要求方免除這項規定，則作別論。

### 第九條

#### 臨時逮捕

1. 在緊急情況下，經要求方的主管機關提出申請，被要求方可根據本身的法律，臨時逮捕被尋求的人。臨時逮捕的申請須載有：
  - (a) 對被尋求的人的描述；
  - (b) 被尋求的人的所在(如知道的話)；
  - (c) 對案情的簡述，包括(如可能的話)有關罪行發生的時間及地點；
  - (d) 對所違反的法律及法律訂明的刑罰的描述；
  - (e) 說明針對被尋求的人的逮捕手令或定罪判決書已經存在的陳述；及
  - (f) 說明隨後會就被尋求的人提出移交要求的陳述。
2. 臨時逮捕的申請，可經任何有書面紀錄的方式，透過與提出移交要求相同的途徑，或透過締約雙方主管機關之間的直接聯繫而向被要求方的主管機關提出。
3. 被要求方接獲申請後，須採取必需步驟以確保逮捕被尋求的人，並須迅速將要求方所提出的要求的結果通知要求方。
4. 在被尋求的人被臨時逮捕之日起計四十五(45)日屆滿時，如被要求方仍未接獲移交要求，臨時逮捕便須終止；但如要求方有充分理由支持繼續臨時逮捕該人，則臨時逮捕在延期十五

### Postponed or Temporary Surrender

1. If the person sought is being proceeded against or under punishment in the jurisdiction of the Requested Party for an offence other than that for which the person's surrender is requested, the person's surrender may be deferred until the conclusion of the proceedings and the execution of any punishment awarded to him.
2. If the request for surrender is granted in the case of a person who is being proceeded against or under punishment in the jurisdiction of the Requested Party for an offence other than that for which the person's surrender is requested, the Requested Party may temporarily surrender the person sought to the Requesting Party for the purpose of prosecution. The person so surrendered shall be kept in custody in the Requesting Party and shall be returned to the Requested Party after the conclusion of the proceedings against that person, in accordance with conditions to be determined between the Parties.

## ARTICLE 8

### Request and Supporting Documents

1. Requests for surrender shall be made in writing to the competent authority of the Requested Party through the Consulate General of the Republic of Korea in Hong Kong, unless the Parties otherwise agree. The competent authority for the Republic of Korea shall be the Ministry of Justice and the competent authority for the Hong Kong Special Administrative Region shall be the Department of

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(15) 日的期限屆滿時須終止。本規定並不妨礙在其後接獲移交要求時再逮捕或移交該被尋求的人。

### 第十條

#### 同意移交

1. 如被尋求的人同意被移交予要求方，則被要求方可無須經進一步的程序而盡快移交該人。
2. 在被要求方的法律規定的範圍內，第十六條的規定適用於根據本條被移交的人。

### 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. 如被尋求移交的人已被逮捕，而所提供的補充資料根據本協定並不足夠或沒有在指明時間內接獲，則該人可被釋放。該釋放不妨礙要求方重新提出要求移交按此被釋放的人。
3. 如該人根據第 2 款被釋放，被要求方須在切實可行範圍內盡快通知要求方。

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Justice, unless a different competent authority is notified by either Party to the other.

2. The request shall be accompanied by:
  - (a) as accurate a description as possible of the person sought, together with any other information which would help to establish the person's identity and nationality including, if known, his or her whereabouts;
  - (b) a statement and particulars of the offence for which surrender is requested;
  - (c) the text of the legal provisions, if any, creating the offence, and a statement of the punishment which can be imposed for it and whether any time limit is imposed on the institution of proceedings, or on the execution of any punishment imposed, for that offence.
3. A request for surrender of a person who is sought for prosecution shall also be accompanied by:
  - (a) a warrant of arrest issued by a judge or magistrate of the Requesting Party or a copy of that warrant; and
  - (b) such evidence as, according to the law of the Requested Party, would permit a decision to be taken to surrender that person for the offence for which surrender is requested.
4. If the request relates to a person already convicted or sentenced, it shall also be accompanied by:
  - (a) a copy of the certificate of the conviction or sentence; and

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Cap. 503Y**同時要求**

1. 如被要求方接獲締約另一方及其他司法管轄區要求就同一罪行或不同罪行而移交同一人，被要求方須決定把該人移交哪一司法管轄區，並須將其決定通知每一提出要求的司法管轄區。
2. 在決定把某人移交哪一司法管轄區時，被要求方須考慮所有情況，包括被要求方與要求方及其他司法管轄區之間的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，及其後被移交另一司法管轄區的可能性。被要求方如決定把該逃犯移交另一司法管轄區，須向締約另一方提供顯示有充分理由支持其決定的資料。

**第十三條****代表和費用**

1. 如要求方提出要求，被要求方須為要求方在因移交逃犯要求而引起的任何法律程序中所需的法律代表和協助作出必需的安排。如要求方自行安排法律代表和協助，則須負擔所引起的任何費用。
2. 要求方須負擔與翻譯文件有關的開支，以及將被移交的人從被要求方運送往要求方的開支。被要求方須支付在其司法管轄區因該等法律程序而引起的所有其他開支。

**第十四條**

- (b) (i) 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
- (ii) 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. Documents supporting a request for surrender shall be admitted in evidence as proof of the facts contained therein if duly authenticated. Documents are duly authenticated if they purport to be:
  - (a) signed or certified by a judge, magistrate, prosecutor or an official of the Requesting Party; and
  - (b) sealed with the official seal of the competent authority of the Requesting Party.
6. All documents submitted in accordance with this Agreement shall be in or translated into an official language of the Requested Party, unless the Requested Party dispenses with this requirement.

**ARTICLE 9****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 authority of the Requesting Party. The application for provisional arrest shall contain:

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第 503Y 章附表  
第 1 條**移交**

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。被要求方如完全或部分拒絕移交要求，則須說明理由。
2. 被要求方須在其司法管轄區一處對締約雙方都方便的地點把被尋求的人移交要求方的適當機關。
3. 除本條第 4 款另有規定外，如要求方沒有在被要求方的法律訂明的時間內接管被尋求的人，則該人可被釋放，而被要求方其後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。

**第十五條****移交財產**

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，被要求方須把所有以下財產(包括金錢)交予要求方：
  - (a) 可作為有關罪行的證據的財產；或
  - (b) 被尋求的人因有關罪行而取得並由該人管有或其後被發現的財產。
2. 如有關財產可能會在被要求方的司法管轄區被檢取或沒收，則被要求方可在與待決的法律程序有關連的情況下暫時保留該財產，或在要求方保證歸還的條件下把該財產交予要求方。

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- (a) a description of the person sought;
  - (b) the location of the person sought, if known;
  - (c) a brief statement of the facts of the case, including, if possible, the time and location of the offence;
  - (d) a description of the laws violated and the sentence prescribed by the law;
  - (e) a statement of the existence of a warrant of arrest or a judgement of conviction against the person sought; and
  - (f) a statement that a request for surrender of the person sought will follow.
2. An application for provisional arrest may be forwarded to the competent authority of the Requested Party by any means affording a record in writing through the same channels as a request for surrender or through direct contact between the competent authorities of both Parties.
3. On receipt of such an application, the Requested Party shall take the necessary steps to secure the arrest of the person sought and the Requesting Party shall be promptly notified of the result of its request.
4. The provisional arrest of the person sought shall be terminated upon the expiration of forty-five (45) days from the date of arrest if the request for surrender has not been received unless the Requesting Party can justify continued provisional arrest of the person sought, in which case the period of provisional arrest shall be terminated upon the expiration of a further fifteen (15) days. This provision shall not prevent the re-arrest or surrender of the person sought if the request for surrender is received subsequently.

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第 3 條

3. 此等規定不損害被要求方的權利，亦不損害被尋求的人以外的其他人的權利。如該等權利存在，要求方須應要求在法律程序結束後，並在可能的範圍內，盡快把有關財產免費歸還被要求方。
4. 如要求方提出要求，即使由於被尋求的人死亡或逃脫以致未能執行移交，第 1 款所述的財產仍須在被要求方的法律容許的範圍內交予要求方。

### 第十六條

#### 關於特定罪行的規定

1. 已被移交的逃犯，除因以下罪行外，不得因他在被移交前所犯的任何罪行而遭起訴、判刑或被拘留以執行刑罰：
  - (a) 准予移交所根據的罪行；
  - (b) 根據准予移交該人所按照的事實所定的同等或較輕微的罪行(不論如何描述)，但該罪行須屬按照本協定可准予移交的罪行；
  - (c) 任何其他屬按照本協定可准予移交的罪行，而被要求方亦同意；  
但如該逃犯曾有機會離開要求方的司法管轄區，但從他可以自由離開起計四十(40)日內並沒有離開，或在離開後自願返回該司法管轄區，則作別論。
2. 根據本條第 1 款(c)段被要求同意的一方可要求提交第八條所述的任何文件，及被移交的人就該事所作的任何陳述。

### 第十七條

SCHEDULE—ARTICLE 10  
Section 1S-22  
Cap. 503Y

## ARTICLE 10

### Surrender by Consent

1. If the person sought consents to surrender to the Requesting Party, the Requested Party may surrender the person as expeditiously as possible without further proceedings.
2. To the extent required under the law of the Requested Party, the provisions of Article 16 shall apply to a person surrendered pursuant to this Article.

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

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第 1 條**轉移交**

1. 凡任何人已被移交要求方，該方不得因該人在被移交前所犯的罪行而把他移交任何其他司法管轄區，除非有以下情況，則作別論：
  - (a) 被要求方同意；或
  - (b) 該人曾有機會離開要求方的司法管轄區，但從他可以自由離開起計四十(40)日內並沒有離開，或在離開後自願返回該司法管轄區。
2. 根據本條第 1 款 (a) 段被要求同意的一方可要求出示由另一司法管轄區為支持其移交要求而提交的文件。

**第十八條****過境**

1. 締約一方在其法律容許的範圍內，可應以任何有書面紀錄的方式提出的要求，給予由第三方經該締約一方的司法管轄區將某被移交的人運送給締約另一方的權利。過境要求須載有對被運送的人的描述及對案情的簡述。過境要求可透過與提出移交要求相同的途徑，或透過締約雙方主管機關之間的直接聯繫而向被要求方的主管機關提出。
2. 被移交的人的過境許可，須包括授權陪同人員羈押該人或就繼續作出羈押而要求和取得過境所在地的締約一方的有關機關的協助。

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Section 1S-24  
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preclude the Requesting Party from making a fresh request for the surrender of that 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 practicable.

**ARTICLE 12****Concurrent Requests**

1. If the Requested Party receives requests from the other Party and from any other jurisdiction for the surrender of the same person either for the same offence or for different offences, the Requested Party shall determine to which jurisdiction the person is to be surrendered and shall notify each requesting jurisdiction of its decision.
2. In determining to which jurisdiction a person is to be surrendered, the Requested Party shall have regard to all the circumstances including the provisions in this regard in any agreements in force between the Requested Party and the Requesting Party or other jurisdictions, the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality and the ordinary place of residence of the person sought, and the possibility of subsequent surrender to another jurisdiction, and shall furnish the other Party with information justifying its decision in the event of surrender of the fugitive to another jurisdiction.

3. 凡根據本條第 2 款某人正被羈押在過境所在地的締約一方的司法管轄區，而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。
4. 凡採用空運，並且沒有預定在過境所在地的締約一方的司法管轄區着陸，則無須取得過境批准。如未經預定而在該締約一方的司法管轄區着陸，則該締約一方可要求另一方按本條第 1 款的規定提出過境要求。過境所在地的締約一方須在其法律容許的範圍內拘留被運送的人，直至運送繼續進行為止，但該項要求須在該次未經預定的着陸發生後九十六(96)小時內收到。

### 第十九條

#### 磋商

1. 締約雙方須應締約任何一方的要求而迅速就對本協定的解釋、適用或履行進行磋商。
2. 締約双方的主管機關可就個案的處理與對方直接磋商。

### 第二十條

#### 生效及終止

1. 本協定將於締約雙方以書面通知對方已各自履行為使本協定生效的規定的日期起計三十(30)日後生效。
2. 本協定適用於在本協定生效後提出的要求，而不論有關罪行的犯罪日期。

## ARTICLE 13

### Representation and Costs

1. The Requested Party shall, if asked by the Requesting Party, make the necessary arrangements for the Requesting Party's legal representation and assistance in any proceedings arising out of a request for the surrender of a fugitive offender. In the event that the Requesting Party arranges its own legal representation and assistance, it shall bear any costs incurred.
2. The Requesting Party shall bear the expenses related to the translation of documents and the transportation of the person surrendered from the Requested Party to the Requesting Party. The Requested Party shall pay all other expenses incurred in its jurisdiction by reason of the proceedings.

## ARTICLE 14

### Surrender

1. The Requested Party shall, as soon as a decision on the request for surrender has been made, communicate that decision to the Requesting Party. Reasons shall be given for any complete or partial refusal of a request for surrender.

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3. 締約任何一方均可隨時藉給予締約另一方書面通知而終止本協定。在此情況下，在接獲該通知起計六(6)個月後本協定即告失效。

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、英文及韓文寫成，一式兩份，並於二零零六年六月二十六日在香港簽訂，所有文本均具同等效力。

### 附件

#### 對第二條所述的罪行的描述

- (1) 非法奪取人命；意圖謀殺而襲擊。
- (2) 協助、教唆、慫使或促致他人自殺。
- (3) 惡意傷人；殘害他人；使人受到嚴重或實際身體傷害；襲擊造成實際身體傷害；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。
- (4) 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；法定的性罪行。
- (5) 對兒童、有精神缺陷或不省人事的人作出嚴重猥褻行為。
- (6) 綁架；拐帶；非法監禁或羈留；買賣或販運奴隸或其他人；劫持人質。
- (7) 刑事恐嚇。

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2. The Requested Party shall surrender the person sought to the appropriate authorities of the Requesting Party at a mutually convenient location in the jurisdiction of the Requested Party.
3. Subject to the provisions of paragraph 4 of this Article, if the Requesting Party does not take custody of the person sought within the time prescribed by the law of the Requested Party, the person may be released and the Requested Party may subsequently refuse to surrender the 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 upon a new date for surrender and the provisions of paragraph 3 of this Article shall apply.

## ARTICLE 15

### Surrender of Property

1. To the extent permitted under the laws of the Requested Party, when a request for surrender of a fugitive offender is granted, the Requested Party shall hand over to the Requesting Party all property, 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 the person's possession or discovered subsequently.



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- (8) 與危險藥物(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。
- (9) 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)或相類罪行;盜用公款;勒索;敲詐;處理或收受贓物;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。
- (10) 破產法或破產清盤法所訂的罪行。
- (11) 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)。
- (12) 與證券及期貨交易有關的罪行。
- (13) 任何與偽製有關的罪行;與偽造或使用偽造物件有關的法律所訂的任何罪行。
- (14) 與保護知識產權(包括版權、專利權、商標、設計或商業秘密)有關的法律所訂的罪行。
- (15) 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。
- (16) 偽證及唆使他人作偽證。
- (17) 與妨礙或阻礙司法公正有關的罪行。
- (18) 縱火;刑事損壞或損害(包括與電腦數據有關的損害)。

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2. If the property in question is liable to seizure or confiscation within the jurisdiction of the Requested Party, that Party may, in connection with pending proceedings, temporarily retain it or hand it over to the Requesting Party on condition it is 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 property shall on request be returned to the Requested Party without charge as soon as possible after the end of the proceedings.
4. The property mentioned in paragraph 1 shall, if the Requesting Party so requests, be handed over to that Party to the extent permitted by the laws of the Requested Party, even if the surrender cannot be carried out due to the death or escape of the person sought.

## ARTICLE 16

### Rule of Speciality

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 surrender other than:
  - (a) the offence in respect of which surrender is granted;
  - (b) an equivalent or lesser offence, however described, based on the facts in respect of which his surrender

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- (19) 與火器有關的法律所訂的罪行。
- (20) 與爆炸品有關的法律所訂的罪行。
- (21) 與環境污染或保障公眾衛生有關的法律所訂的罪行。
- (22) 叛變或於海上的船隻上所犯的任何叛變性的作為。
- (23) 牽涉船舶或飛機的海盜行為。
- (24) 非法使用、扣押或控制飛機、船隻或其他運輸工具。
- (25) 危害種族或直接和公開煽惑他人進行危害種族。
- (26) 方便或容許任何人從羈押中逃走。
- (27) 與控制任何種類貨物進出口或國際性資金移轉有關的法律所訂的罪行。
- (28) 走私；與違禁品(包括歷史及考古文物)的進出口有關的法律所訂的罪行。
- (29) 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)。
- (30) 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。
- (31) 與賭博或獎券活動有關的罪行。
- (32) 與非法終止懷孕有關的罪行。

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- was granted, provided such offence is one for which he could be surrendered under this Agreement;
- (c) any other offence being an offence for which surrender may be granted under this Agreement and the Requested Party consents;
- unless that person has first had an opportunity to leave the jurisdiction of the Requesting Party and has not done so within forty (40) days of having been free to do so or has returned voluntarily to that jurisdiction having left it.
2. A Party whose consent is requested under subparagraph (c) of paragraph 1 of this Article may require the submission of any document referred to in Article 8 and any statement made by the surrendered person on the matter.

## ARTICLE 17

### Re-surrender

1. Where a person has been surrendered to the Requesting Party, that Party shall not surrender the person to any other jurisdiction for an offence committed before that person's surrender unless:
- (a) the Requested Party consents; or
- (b) the person has first had an opportunity to leave the jurisdiction of the Requesting Party and has not done so within forty (40) days of having been free to do so or has returned voluntarily to that jurisdiction having left it.

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- (33) 拐帶、遺棄、扔棄或非法羈留兒童；涉及利用兒童的任何其他罪行。
- (34) 與賣淫及供賣淫用的處所有關的法律所訂的罪行。
- (35) 涉及非法使用電腦的罪行。
- (36) 與財務事宜、課稅或關稅有關的罪行，儘管被要求方的法律並沒有徵收與要求方的法律所徵收的同類的課稅或關稅，或並沒有訂明與要求方的法律所訂的同類的課稅、關稅或海關規例。
- (37) 與從羈押中非法逃走有關或與為避免被檢控而逃走有關的罪行；監獄叛亂。
- (38) 與婦女及女童有關的罪行。
- (39) 與虛假或有誤導成分的貨品說明有關的法律所訂的罪行。
- (40) 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)(以下簡稱為“附件所述罪行”)所獲的得益有關的罪行。
- (41) 阻止逮捕或檢控曾犯或相信曾犯任何附件所述罪行的人。
- (42) 根據對締約雙方有約束力的國際公約可作為移交逃犯的根據的罪行；由對締約雙方有約束力的國際組織的決定所訂定的罪行。
- (43) 串謀犯欺詐罪或串謀詐騙。

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Section 1S-34  
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2. A Party whose consent is requested under subparagraph (a) of paragraph 1 of this Article may require the production of the documents submitted by the other jurisdiction in support of its request for surrender.

## ARTICLE 18

### Transit

1. To the extent permitted by its law, the right to transport through the jurisdiction of one of the Parties a person surrendered to the other Party by a third party may be granted on request made by any means affording a record in writing. The request for transit shall contain a description of the person being transported and a brief statement of the facts of the case. The request for transit may be forwarded to the competent authority of the Requested Party through the same channels as a request for surrender or through direct contact between the competent authorities of both Parties.
2. Permission for the transit of a person surrendered shall include authorization for accompanying officials to hold that person in custody or request and obtain assistance from authorities in the Party of transit in maintaining custody.
3. Where a person is being held in custody pursuant to paragraph 2 of this Article, the Party in whose jurisdiction the person is being held may direct that the person be released if transportation is not continued within a reasonable time.

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- (44) 串謀犯或以任何種類的組織犯任何附件所述罪行。
- (45) 協助、教唆、慫使或促致他人犯任何附件所述罪行，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。
- (46) 任何其他根據締約雙方的法律均屬可判處一年以上的監禁或其他形式的拘留或更嚴厲的刑罰的罪行；但如被要求方的法律不容許就該罪行作出移交，則作別論。

註：#《中華人民共和國香港特別行政區政府與大韓民國政府關於移交逃犯的協定》以中文、英文及韓文簽訂，各文本均具同等真確性。特區政府保安局備有該協定的韓文文本供參閱。

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4. Authorization for transit shall not be required when air transport is to be used and no landing is scheduled in the jurisdiction of the Party of transit. If an unscheduled landing occurs in the jurisdiction of that Party, it may require the other Party to furnish a request for transit as provided in paragraph 1 of this Article. The Party of transit shall, within the limits permitted by its law, detain the person to be transported until the transportation is continued, provided that the request is received within ninety-six (96) hours of the unscheduled landing.

## ARTICLE 19

### Consultations

1. The Parties shall, at the request of either Party, promptly hold consultations concerning the interpretation, application or implementation of this Agreement.
2. The competent authorities of the Parties may consult each other directly in connection with the processing of individual cases.

## ARTICLE 20

### Entry Into Force and Termination

1. This Agreement shall enter into force thirty (30) 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. This Agreement shall apply to requests made after its entry into force regardless of the date of commission of the offence or offences.
3. Either of the Parties may terminate this Agreement at any time by giving notice in writing to the other. In that event, this Agreement shall cease to have effect six (6) months after the receipt of the notice.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done in duplicate at Hong Kong this twenty-sixth day of June 2006 in the Chinese, English and Korean languages, all texts being equally authentic.

ANNEX

Descriptions of Offences referred to in Article 2

- (1) The unlawful taking of human life; assault with intent to commit murder.
- (2) Aiding, abetting, counselling or procuring suicide.

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- (3) Maliciously wounding; maiming; inflicting grievous or actual bodily harm; assault occasioning actual bodily harm; threats to kill; intentional or reckless endangering of life whether by means of a weapon, a dangerous substance or otherwise; offences relating to unlawful wounding or injuring.
- (4) Offences of a sexual nature including rape; sexual assault; indecent assault; unlawful sexual acts on children; statutory sexual offences.
- (5) Gross indecency with a child, a mental defective or an unconscious person.
- (6) Kidnapping; abduction; unlawful imprisonment or detention; dealing or trafficking in slaves or other persons; taking a hostage.
- (7) Criminal intimidation.
- (8) Offences against the law relating to dangerous drugs including narcotics and psychotropic substances 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.
- (9) Obtaining property or pecuniary advantage by deception; theft; robbery; burglary (including breaking and entering) or similar offences; embezzlement; blackmail; extortion; handling or receiving stolen property; false accounting; any other offence in respect of property or fiscal matters involving fraud; any offence against the law relating to unlawful deprivation of property.
- (10) Offences against bankruptcy law or insolvency law.

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- (11) Offences against the law relating to companies including offences committed by officers, directors and promoters.
- (12) Offences relating to securities and futures trading.
- (13) Any offence relating to counterfeiting; any offence against the law relating to forgery or uttering what is forged.
- (14) Offences against the laws relating to protection of intellectual property, including copyright, patents, trademarks, designs or trade secrets.
- (15) An offence against the law relating to bribery, corruption, secret commissions and breach of trust.
- (16) Perjury and subornation of perjury.
- (17) Offences relating to the perversion or obstruction of the course of justice.
- (18) Arson; criminal damage or mischief including mischief in relation to computer data.
- (19) An offence against the law relating to firearms.
- (20) An offence against the law relating to explosives.
- (21) An offence against laws relating to environmental pollution or protection of public health.
- (22) Mutiny or any mutinous act committed on board a vessel at sea.

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- (23) Piracy involving ships or aircraft.
  - (24) Unlawful use, seizure or exercise of control of an aircraft, vessel or other means of transportation.
  - (25) Genocide or direct and public incitement to commit genocide.
  - (26) Facilitating or permitting the escape of a person from custody.
  - (27) An offence against the laws relating to the control of exportation or importation of goods of any type, or the international transfer of funds.
  - (28) Smuggling; offences against the laws relating to import and export of prohibited items, including historical and archaeological items.
  - (29) Immigration offences including fraudulent acquisition or use of a passport or visa.
  - (30) Arranging or facilitating for financial gain, the illegal entry of persons into the jurisdiction of the Requesting Party.
  - (31) An offence relating to gambling or lotteries.
  - (32) Offences relating to the unlawful termination of pregnancy.
  - (33) Stealing, abandoning, exposing or unlawfully detaining a child; any other offences involving the exploitation of children.
  - (34) Offences against the laws relating to prostitution and premises kept for the purposes of prostitution.



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- (35) Offences involving the unlawful use of computers.
  - (36) 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.
  - (37) Offences relating to unlawful escape from custody or flight to avoid prosecution; mutiny in prison.
  - (38) Offences relating to women and girls.
  - (39) Offences against the law relating to false or misleading descriptions of goods.
  - (40) 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.
  - (41) 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.
  - (42) 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.
  - (43) Conspiracy to commit fraud or to defraud.
  - (44) Conspiracy to commit, or any type of association to commit, any offence for which surrender may be granted under this Agreement.

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- (45) 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.
- (46) Any other offence which is punishable under the laws of both Parties by imprisonment or other form of detention for more than one year, or by a more severe penalty, unless surrender for such offence is not permitted by the laws of the Requested Party.

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