

《刑事事宜相互法律協助(斯里蘭卡)令》
(第 525 章，附屬法例 AB)

Mutual Legal Assistance in Criminal Matters (Sri Lanka) Order
(Cap. 525 sub. leg. AB)

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經核證文本
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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	23.1.2020
附表 1 Schedule 1	S1-1—S1-34	23.1.2020
附表 2 Schedule 2	S2-1—S2-4	23.1.2020

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 2009 年第 45 號法律公告 —— 2020 年第 1 號編輯修訂紀錄

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Enactment History

Originally L.N. 45 of 2009 — E.R. 1 of 2020

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(第 525 章, 附屬法例 AB)

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《刑事事宜相互法律協助(斯里蘭卡)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)

[2011 年 2 月 19 日] 2011 年第 27 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. **本條例在香港與斯里蘭卡之間適用**

現就副本附錄於附表 1 的相互法律協助的安排，指示本條例在附表 2 指明的變通的規限下，在香港與斯里蘭卡民主社會主義共和國之間適用。

Mutual Legal Assistance in Criminal Matters (Sri Lanka) Order

(Cap. 525, section 4)

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

[19 February 2011] L.N. 27 of 2011

(Format changes—E.R. 1 of 2020)

1. (Omitted as spent—E.R. 1 of 2020)

2. **Ordinance to apply between Hong Kong and Sri Lanka**

In relation to the arrangements for mutual legal assistance a copy of which is annexed at Schedule 1, it is directed that the Ordinance shall, subject to the modifications specified in Schedule 2, apply as between Hong Kong and the Democratic Socialist Republic of Sri Lanka.

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附表 1

Schedule 1

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附表 1

[第 2 條]

《中華人民共和國香港特別行政區政府與斯里蘭卡民主社會主義共和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，與斯里蘭卡民主社會主義共和國政府(以下稱為“締約雙方”)，

為加強締約雙方在偵查、檢控、防止罪案及沒收犯罪得益方面的執法效能，

協議如下：

註：[#] 《中華人民共和國香港特別行政區政府與斯里蘭卡民主社會主義共和國政府關於刑事事宜相互法律協助的協定》以中文、英文及僧伽羅語簽訂，各文本均同等真確。特區政府保安局備有該協定的僧伽羅語文本供參閱。

Schedule 1

[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 Democratic Socialist Republic of Sri Lanka 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 authorised by the Central People's Government of the People's Republic of China and the Government of the Democratic Socialist Republic of Sri Lanka, (hereinafter referred to as “the Parties”),

Desiring to improve the effectiveness of law enforcement of both Parties in the investigation, prosecution and prevention of crime and the confiscation of criminal proceeds;

Have agreed as follows:

Note: [#] The Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Democratic Socialist Republic of Sri Lanka concerning Mutual Legal Assistance in Criminal Matters was done in the Chinese, English and Sinhala languages, each text being equally authentic. The Sinhala text of the Agreement is available for inspection at the Security Bureau of the Government of the HKSAR.

第一條

ARTICLE 1

提供協助的範圍

SCOPE OF ASSISTANCE

- (1) 締約雙方須按照本協定的條文，就刑事罪行的偵查和檢控以及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) 從有關的人取得陳述和證據；
 - (d) 執行搜查和檢取的請求；
 - (e) 就有關的人親自出席提供協助給予便利；
 - (f) 安排暫時移交被羈押的人以提供協助；
 - (g) 提供資料、文件、物品和紀錄(包括司法及官方紀錄)；
 - (h) 追查、限制、充公和沒收犯罪活動的得益和工具；
 - (i) 交付財產，包括復還財產及借出證物；及
 - (j) 符合本協定的目的且不抵觸被請求方法律的其他協助。
- (3) 本協定所指的協助可就觸犯關乎課稅、關稅或其他稅務事宜的法律的罪行提供，但不得就關乎課稅、關稅或其他稅務事宜的非刑事法律程序提供。
- (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。

- (1) The Parties shall provide, in accordance with the provisions of this Agreement, mutual assistance in the investigation and prosecution of criminal offences and in proceedings related to criminal matters.
- (2) Assistance shall include:
 - (a) identifying and locating persons;
 - (b) serving of documents;
 - (c) the obtaining of statements and evidence from persons;
 - (d) executing requests for search and seizure;
 - (e) facilitating the personal appearance of persons to provide assistance;
 - (f) effecting the temporary transfer of persons in custody to provide assistance;
 - (g) providing information, documents, articles and records (including judicial and official records);
 - (h) tracing, restraining, forfeiting and confiscating the proceeds and instrumentalities of criminal activities;
 - (i) delivery of property, including the restitution of property and lending of exhibits; and
 - (j) other assistance consistent with the objects of this Agreement which is not inconsistent with the law of the Requested Party.
- (3) Assistance under this Agreement may be granted in connection with offences against a law related to taxation, customs duties or other revenue matters but not in connection with non-criminal proceedings relating thereto.

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第二條

中心機關

- (1) 締約雙方的中心機關須按照本協定的條文處理相互法律協助的請求。
- (2) 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。斯里蘭卡的中心機關為主管司法的部長秘書或經其正式授權的人員。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。
- (3) 中心機關之間可就本協定的事宜直接通訊。

第三條

其他協助

締約雙方可按照其他協定、安排或慣例提供協助。

ARTICLE 2

CENTRAL AUTHORITY

(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.

- (1) The Central Authorities of the Parties shall process requests for mutual legal assistance in accordance with the provisions of this Agreement.
- (2) The Central Authority of the Hong Kong Special Administrative Region is the Secretary for Justice or his or her duly authorised officer. The Central Authority for Sri Lanka is the Secretary to the Ministry of the Minister in charge of the subject of Justice or his or her duly authorised officer. Either Party may change its Central Authority in which case it shall notify the other of the change.
- (3) The Central Authorities may communicate directly with each other for the purposes of this Agreement.

ARTICLE 3

OTHER ASSISTANCE

The Parties may provide assistance pursuant to other agreements, arrangements or practices.

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第四條

ARTICLE 4

履行協定的限制

LIMITATIONS ON COMPLIANCE

- (1) 被請求方在以下情況下可拒絕提供協助，如其法律有所規定，則在以下情況下須拒絕提供協助：
- (a) 就香港特別行政區而言，批准請求會損害中華人民共和國的主權或會損害中華人民共和國或其任何部分的安全或公共秩序，或就斯里蘭卡而言，批准請求會損害斯里蘭卡的主權、安全或公共秩序；
 - (b) 協助請求關乎屬政治性質的罪行；
 - (c) 協助請求關乎只在軍法下才構成的罪行；
 - (d) 有充分理由相信協助請求將會引致某人因其種族、宗教、國籍或政治見解而蒙受不利；
 - (e) 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被請求方或請求方被定罪、裁定無罪或赦免，或假使該人是在被請求方或請求方的司法管轄區犯該罪行，由於時效消失，不能因此再被檢控；
 - (f) 被請求方認為批准請求將會嚴重損害其本身的基要利益；
 - (g) 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。
- (2) 如被請求方認為某罪行根據適用於締約雙方的國際協定已被豁除而不屬政治罪行，則本條第(1)(b)款不適用於該罪行。
- (3) 就第(1)(f)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不利於任何人的安全或會否對被請求方的資源造成過大的負擔。
- (4) 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

- (1) The Requested Party may, and shall if required by its law, refuse assistance if:
- (a) the granting of the request would, in the case of the Hong Kong Special Administrative Region, impair the sovereignty of the People's Republic of China or the security or public order of the People's Republic of China or any part thereof, or, in the case of Sri Lanka, impair the sovereignty, security or public order of Sri Lanka;
 - (b) the request for assistance relates to an offence of a political character;
 - (c) the request for assistance relates to an offence only under military law;
 - (d) 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 or political opinions;
 - (e) 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 the Requested Party or Requesting Party or for which the person could no longer be prosecuted by reason of lapse of time if the offence had been committed within the jurisdiction of the Requested Party or Requesting Party;
 - (f) it is of the opinion that the granting of the request would seriously impair its essential interests;

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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。

(5) 如請求方不能遵守任何有關保密或限制使用獲提供的物料的條件，被請求方可拒絕提供協助。

(6) 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。

(7) 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) 迅速將考慮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。

(8) 請求方如接納在第(7)(b)款所述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 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.

(2) Paragraph (1)(b) of this Article does not apply to an offence which the Requested Party considers excluded from being a political offence by any international Agreement that applies to the Parties.

(3) For the purpose of paragraph (1)(f) the Requested Party may include in its consideration of essential interests whether the provision of assistance could prejudice the safety of any person or impose an excessive burden on the resources of the Requested Party.

(4) 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, not carried out.

(5) The Requested Party may refuse assistance if the Requesting Party cannot comply with any conditions in relation to confidentiality or limitation as to the use of material provided.

(6) The Requested Party may postpone assistance if execution of the request would interfere with an ongoing investigation or prosecution in the Requested Party.

(7) Before denying or postponing assistance pursuant to this Article, the Requested Party, through its Central Authority—

(a) shall promptly inform the Requesting Party of the reason for considering denial or postponement; and

(b) shall consult with the Requesting Party to determine whether assistance may be given subject to such terms and conditions as the Requested Party deems necessary.

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第五條

請求

- (1) 請求須以書面提出。
- (2) 協助請求須包括：
 - (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性質的描述；
 - (c) 對有關偵查、檢控、罪行或刑事事宜性質的描述，及說明是否已提起法律程序；
 - (d) 如已提起法律程序，說明法律程序的細節；
 - (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；
 - (h) 履行請求的時限的細節；及
 - (i) 有助於執行該項請求的任何其他資料。
- (3) 在被請求方要求下，請求方須將請求以及支持請求的所有文件翻譯為被請求方的法定語文。
- (4) 任何擬接納為證據用以支持請求的文件，須按照被請求方的法律的規定妥為核證或認證。

ARTICLE 5

REQUESTS

- (1) Requests shall be made in writing.
- (2) Requests for assistance shall include:
 - (a) the name of the authority on behalf of which the request is made;
 - (b) a description of the purpose of the request and the nature of the assistance requested;
 - (c) a description of the nature of the investigation, prosecution, offence or criminal matter and whether or not proceedings have been instituted;
 - (d) where proceedings have been instituted, details of the proceedings;
 - (e) a summary of the relevant facts and laws;
 - (f) any requirements for confidentiality;
 - (g) details of any particular procedure the Requesting Party wishes to be followed;
 - (h) details of the period within which the request should be complied with; and
 - (i) any other information which is required to facilitate execution of the request.

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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) 除非獲請求方授權，否則被請求方須盡其所能將請求及其內容保密。

ARTICLE 6

EXECUTION OF REQUESTS

- (3) The request and all documents submitted in support of a request shall be translated, if so required by the Requested Party, into an official language of the Requested Party.
- (4) Any document to be admitted in evidence in support of a request shall be duly certified or authenticated in accordance with the requirements of the law of the Requested Party.

- (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) The Requested Party shall use its best efforts to keep confidential a request and its contents except when authorised by the Requesting Party.

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第七條

ARTICLE 7

代表及開支

REPRESENTATION AND EXPENSES

- (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。
- (2) 被請求方須承擔在其境內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) 翻譯開支；及
 - (d) 往來請求方與被請求方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。

- (1) The Requested Party shall make all necessary arrangements for the representation of the Requesting Party in any proceeding arising out of a request for assistance and shall otherwise represent the interests of the Requesting Party.
- (2) The Requested Party shall assume all ordinary expenses of executing a request within its boundaries, except:
 - (a) fees of counsel retained at the request of the Requesting Party;
 - (b) fees of experts;
 - (c) expenses of translation; and
 - (d) travel expenses and allowances of persons who travel between the Requesting and Requested Parties.
- (3) If during the execution of the request it becomes apparent that expenses of an extraordinary nature are required to fulfil the request, the Parties shall consult to determine the terms and conditions under which the execution of the request may continue.

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第八條

使用限制

- (1) 被請求方在與請求方磋商後，可要求將所提供的資料或證據(包括文件、物品或紀錄)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。
- (2) 未經被請求方中心機關事先同意，請求方不得透露或使用獲提供的資料或證據(包括文件、物品或紀錄)作請求所述以外的用途。

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取得證據、文件、物品或紀錄

- (1) 如請求方就在其司法管轄區的與刑事事宜有關的偵查、檢控或法律程序提出取證請求，被請求方須在其法律的規限下安排取得有關證據。
- (2) 就本協定而言，作證或取證包括交出文件、物品或紀錄。
- (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。
- (4) 凡因應根據本條提出的協助請求而取證，就向作證的人提出問題而言，則在請求方進行的偵查、檢控或法律程序所關乎的人、將作證的人以及請求方的代表，可在被請求方的法律的規限下出席或由法律代表出席或兩者一起出席。

ARTICLE 8

LIMITATIONS ON USE

- (1) The Requested Party may require, after consultation with the Requesting Party, that information or evidence furnished, including documents, articles or records, be kept confidential or be disclosed or used only subject to such terms and conditions as it may specify.
- (2) The Requesting Party shall not disclose or use information or evidence furnished, including documents, articles or records, for purposes other than those stated in the request without the prior consent of the Central Authority of the Requested Party.

ARTICLE 9

OBTAINING OF EVIDENCE, DOCUMENTS ARTICLES OR RECORDS

- (1) Where a request is made that evidence be taken for the purpose of an investigation, prosecution or proceeding in relation to a criminal matter in the jurisdiction of the Requesting Party the Requested Party shall, subject to its law, arrange to have such evidence taken.
- (2) For the purposes of this Agreement, the giving or taking of evidence shall include the production of documents, articles or records.
- (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.

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- (5) 根據協助請求而需在被請求方作證的人，可在以下情況下拒絕作證：
- (a) 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人拒絕作證；或
 - (b) 假如在請求方進行該等法律程序，請求方的法律容許該人拒絕作證。
- (6) 如任何人聲稱有權根據請求方的法律拒絕作證，在決定有關問題時，被請求方須以請求方中心機關的證明書為憑據，作為該證明書上所述事宜的表面證據。

- (4) Where evidence is to be taken, pursuant to a request for assistance under this Article, the person to whom the investigation, prosecution or proceeding in the Requesting Party relates, the person who is to give evidence and representatives of the Requesting party may, subject to the laws of the Requested Party, appear or have legal representation or both for the purpose of questioning the person giving the evidence.
- (5) A person who is required to give evidence in the Requested Party pursuant to a request for assistance may decline to do so where either:
- (a) the law of the Requested Party would permit that witness to decline to give evidence in similar circumstances in proceedings which originated in the Requested Party; or
 - (b) the law of the Requesting Party would permit him to decline to give evidence in such proceedings in the Requesting Party.
- (6) If any person claims that there is a right to decline to give evidence under the law of the Requesting Party, the Requested Party shall with respect thereto rely on a certificate of the Central Authority of the Requesting Party as prima facie evidence of the matters stated therein.

第十條

ARTICLE 10

取得有關的人的陳述

OBTAINING STATEMENTS OF PERSONS

如請求方請求取得某人的陳述，供該方的刑事事宜的偵查、檢控或法律程序使用，被請求方須盡力取得有關陳述。

Where a request is made to obtain the statement of a person for the purpose of an investigation, prosecution or proceeding in relation to a criminal matter in the Requesting Party, the Requested Party shall endeavour to obtain such statement.

第十一條

ARTICLE 11

有關的人的所在或身分

LOCATION OR IDENTITY OF PERSONS

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。

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

第十二條

ARTICLE 12

送達文件

SERVICE OF DOCUMENTS

- (1) 請求方交付送達的任何文件，被請求方須予以送達。
- (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。
- (5) 如被送達人沒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該被送達人或向其施加強制措施。

- (1) The Requested Party shall serve any document transmitted to it for the purpose of service.
- (2) The Requesting Party shall transmit a request for the service of a document pertaining to a response or 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.
- (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.

第十三條

ARTICLE 13

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

第十四條

ARTICLE 14

核證和認證

CERTIFICATION AND AUTHENTICATION

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。

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.

第十五條

ARTICLE 15

移交被羈押的人

TRANSFER OF PERSONS IN CUSTODY

- (1) 如請求方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

- (1) A person in custody in the Requested Party whose presence is requested in the Requesting Party for the purposes of providing assistance

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續羈押及在事後送還給被請求方，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。

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.

(2) Where the sentence of imprisonment of a person transferred pursuant to this Article expires whilst 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.

第十六條

ARTICLE 16

移交其他人

TRANSFER OF OTHER PERSONS

(1) 請求方可請求被請求方協助邀請某人在請求方出席，以按本協定提供協助。

(2) 被請求方接獲有關請求後，須邀請該人前往請求方，並將該人的回應知會請求方。

(1) The Requesting Party may request the assistance of the Requested Party in inviting a person to appear in the Requesting Party to provide assistance pursuant to this Agreement.

(2) Upon receipt of such a request the Requested Party shall invite the person to travel to the Requesting Party and inform the Requesting Party of the person's response.

第十七條

ARTICLE 17

安全通行

SAFE CONDUCT

(1) 同意根據第十五或十六條提供協助的人，除第十五條另有規定外，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。

(1) A person who consents to provide assistance pursuant to Articles 15 or 16 shall not be prosecuted, detained, or restricted in his personal liberty

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- (2) 如有關的人並非根據第十五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) 同意根據第十五或十六條作證的人，不得因其所作證供而遭受檢控，但犯偽證罪則不在此限。
- (4) 同意根據第十五或十六條提供協助的人，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提供協助。
- (5) 任何人如不同意根據第十五或十六條提供協助，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。

第十八條

搜查及檢取

- (1) 如請求方請求搜查、檢取及交付與刑事事宜的偵查、檢控或法律程序有關的物料，被請求方在本身法律容許的範圍內，須執行該請求。
- (2) 如請求方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) 如被請求方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。

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in the Requesting Party for any criminal offence which preceded his departure from the Requested Party, except as provided in Article 15.

- (2) Paragraph (1) shall not apply if the person, not being a person in custody transferred under Article 15, 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 15 or 16 shall not be subject to prosecution based on his testimony, except for perjury.
- (4) A person who consents to provide assistance pursuant to Articles 15 or 16 shall not be required to provide assistance in any proceedings other than the proceedings to which the request relates.
- (5) A person who does not consent to provide assistance pursuant to Articles 15 or 16 shall not by reason thereof be liable to any penalty or coercive measure by the courts of the Requesting Party or Requested Party.

ARTICLE 18

SEARCH AND SEIZURE

- (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 an investigation, prosecution or proceeding in relation to a criminal matter.
- (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.

第十九條

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，則須採取其法律容許的措施，防止任何人處理、轉讓或處置這些犯罪得益，以待請求方的法院就這些得益作出最後裁定。
- (3) 有關協助沒收犯罪得益的請求，須根據被請求方的法律執行。協助的方法可包括就請求所關乎的得益強制執行請求方法院作出的命令、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，否則根據本協定沒收的得益須由被請求方保留。

ARTICLE 19

PROCEEDS OF CRIME

- (1) The Requested Party shall, upon request, endeavour to ascertain whether any proceeds of a crime against the law 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 may be located in its jurisdiction.
- (2) Where pursuant to paragraph (1) suspected proceeds of crime are found the Requested Party shall take such measures as are permitted by its law to prevent any dealing in, transfer or disposal of, those suspected proceeds of crime, pending a final determination in respect of those proceeds by a Court of the Requesting Party.
- (3) Where a request is made for assistance in securing the confiscation of proceeds such request shall be executed pursuant to 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 to which the request relates.
- (4) Proceeds confiscated pursuant to this Agreement shall be retained by the Requested Party unless otherwise agreed upon between the Parties.

第二十條

ARTICLE 20

解決爭議

SETTLEMENT OF DISPUTES

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自行達成協議，須通過外交途徑解決。

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be resolved through diplomatic channels if the Central Authorities are themselves unable to reach agreement.

第二十一條

ARTICLE 21

生效及終止

ENTRY INTO FORCE AND TERMINATION

- (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 30 天後生效。
- (2) 締約一方可隨時藉給予締約另一方通知而終止本協定。在此情況下，本協定將於締約另一方接獲通知起計 6 個月後失效。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。

- (1) This Agreement shall enter into force thirty days after the date on which the Parties have notified each other in writing that their respective requirements for the entry into force of the Agreement have been complied with.
- (2) Each of the Parties may terminate this Agreement at any time by giving notice to the other. In that event the Agreement shall cease to have effect six months after the receipt of that 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.

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。

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

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本協定於二零零八年六月十六日在香港特別行政區簽訂，每份均用中文、英文及僧伽羅語寫成，各文本均具同等效力。

Done at the Hong Kong Special Administrative Region, this sixteenth day of June Two thousand and eight in the Chinese, English and Sinhala languages, each text being equally authentic.

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附表 2

[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 5(1) 條須予變通，加入 ——
“(ea) 該項請求關乎因某作為或不作為而對某人進行的檢控，而 ——
(i) 根據該地方的法律因時效消失而不再能夠在該地方予以檢控；或
(ii) 假使該作為或不作為是在香港發生，便會根據香港的法律因時效消失而不再能夠在香港予以檢控；*”。
3. 本條例第 17(1) 條須予變通，刪去第 (ii) 段。
4. 本條例第 17(3)(b) 條須予變通至如下所示 ——

Schedule 2

[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 5(1) of the Ordinance shall be modified by adding—
“(ea) the request relates to the prosecution of a person in respect of an act or omission that—
(i) can no longer be prosecuted in the place by reason of lapse of time under the law of the place; or
(ii) if it had occurred in Hong Kong, could no longer be prosecuted in Hong Kong by reason of lapse of time under the law of Hong Kong;**”.

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“(b) 該人可自由離開香港並接獲通知他已無須為下述任何目的逗留，但他沒有在接獲該通知後的 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。”。

5. 本條例第 23(2)(a) 條須予變通 ——

(a) 在第 (i) 節的末處加入“或”；

(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)。

3. Section 17(1) of the Ordinance shall be modified by deleting paragraph (ii).

4. 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 the person's 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**~~

(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.”.

5. 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).