

《刑事事宜相互法律協助(馬來西亞)令》
(第 525 章, 附屬法例 V)

Mutual Legal Assistance in Criminal Matters (Malaysia) Order
(Cap. 525 sub. leg. V)

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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	16.1.2020
附表 1 Schedule 1	S1-1—S1-54	16.1.2020
附表 2 Schedule 2	S2-1—S2-2	16.1.2020

尚未實施的條文 / 修訂 —

尚未實施的條文及修訂的資料，可於「電子版香港法例」(<https://www.elegislation.gov.hk>) 閱覽。

Provisions / Amendments not yet in operation —

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制定史

本為 2007 年第 206 號法律公告 —— 2020 年第 1 號編輯修訂紀錄

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Originally L.N. 206 of 2007 — E.R. 1 of 2020

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(第 525 章, 附屬法例 V)

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《刑事事宜相互法律協助(馬來西亞)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)

[2008 年 2 月 1 日] 2008 年第 10 號法律公告
(格式變更——2020 年第 1 號編輯修訂紀錄)

1. (已失時效而略去——2020 年第 1 號編輯修訂紀錄)

2. **條例在香港與馬來西亞之間適用**

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 所指明的變通的規限下，在香港與馬來西亞之間適用。

Mutual Legal Assistance in Criminal Matters (Malaysia) Order

(Cap. 525, section 4)

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

[1 February 2008] L.N. 10 of 2008
(Format changes—E.R. 1 of 2020)

1. (Omitted as spent—E.R. 1 of 2020)

2. **Ordinance to apply between Hong Kong and Malaysia**

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 Malaysia.

附表 1

[第 2 條]

《中華人民共和國香港特別行政區政府與馬來西亞政府 關於刑事事宜相互法律協助的協定》#

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第三條	中心機關
第四條	履行協定的限制
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註：# 《中華人民共和國香港特別行政區政府與馬來西亞政府關於刑事事宜相互法律協助的協定》以中文、英文及馬來文簽訂，各文本均具同等真確性。特區政府保安局備有該協定的馬來文文本供參閱。

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 Malaysia Concerning Mutual Legal Assistance in Criminal Matters#

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

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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訂立本協定，與馬來西亞政府(以下單指一方時提述為“締約一方”，而指雙方時則提述為“締約雙方”)；

為通過彼此合作和在刑事事宜方面的相互法律協助，以加強締約雙方在偵查、檢控、防止罪案及追查、限制和充公犯罪得益和犯罪工具方面的執法效能；

協議如下：

第 I 部——一般條文

第一條

提供協助的範圍

- (1) 締約一方如就某些罪行的偵查、檢控及法律程序請求提供相關的相互法律協助，而該方當時就該等罪行具有司法管轄權，則締約雙方須按照本協定的條文，並在符合各自法律的規定下，互相提供最大程度的該等協助。
- (2) 提供的協助包括：
- (a) 追尋和辨認證人及疑犯；
 - (b) 送達司法文件；
 - (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) 為有關的人就刑事事宜出席作證或提供協助而給予便利；

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 to conclude this Agreement and the Government of Malaysia (hereinafter referred to singularly as “the Party” and collectively as “the Parties”);

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

Have agreed as follows:

PART I—GENERAL PROVISIONS

ARTICLE 1

SCOPE OF ASSISTANCE

- (1) The Parties shall, in accordance with the provisions of this Agreement and in conformity with their respective laws, render to one another the widest measure of mutual legal assistance in connection with investigations, prosecutions and proceedings that pertain to offences over which the Requesting Party has jurisdiction at the time the assistance is requested.
- (2) Assistance shall include:
- (a) locating and identifying witnesses and suspects;
 - (b) serving of judicial documents;
 - (c) obtaining of statements and evidence from persons;
 - (d) executing requests for search and seizure;

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- (f) 為被羈押的人就刑事事宜作證或提供協助而安排將他們暫時移交；
- (g) 提供資料、文件、物品和紀錄(包括司法及官方紀錄，以及銀行、財務、法團及業務紀錄)；
- (h) 辨認、追查、限制、檢取、追討、充公和沒收犯罪活動的得益和工具；
- (i) 借出證物；
- (j) 檢查物品和現場；及
- (k) 符合本協定的目的且不抵觸被請求方法律的其他協助。

(3) 就有關課稅罪行偵查的請求而言，如偵查的主要目的是評估或徵收稅項，則須拒絕提供協助。

(4) 本協定純為締約雙方提供相互法律協助而設。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。

- (e) facilitating the attendance of persons to give evidence or assistance in relation to criminal matters;
- (f) arranging the temporary transfer of persons in custody to give evidence or assistance in relation to criminal matters;
- (g) providing information, documents, articles and records (including judicial and official records and bank, financial, corporate and business records);
- (h) identifying, tracing, restraining, seizing, recovering, forfeiting and confiscating proceeds and instrumentalities of criminal activities;
- (i) lending of exhibits;
- (j) examining objects and sites; and
- (k) other assistance consistent with the objects of this Agreement which is not inconsistent with the law of the Requested Party.

(3) In the case of requests related to the investigation of taxation offences assistance shall be refused if the primary purpose of the investigation is the assessment or collection of tax.

(4) This Agreement is intended solely for mutual legal assistance between the Parties. The provisions of the Agreement shall not give rise to any right on the part of any private person to obtain, suppress or exclude any evidence or to impede the execution of a request.

第二條

不適用的範圍

- (1) 本協定不適用於以下情況——
 - (a) 為移交某人而逮捕或拘留該人；

ARTICLE 2

NON-APPLICATION

- (1) This Agreement does not apply to—

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- (b) 在被請求方強制執行已在請求方判定的刑事判決(但在被請求方的法律所容許的範圍內者,則不在此限);
- (c) 移交被羈押的人以便服刑;及
- (d) 移交刑事事宜的法律程序。

(2) 如締約一方的法律將某項司法管轄權或職能列入該方的有關當局的專有權限內,則本協定並不授權締約另一方在首述的締約一方的領域內行使該司法管轄權或履行該職能。

- (a) the arrest or detention of any person with a view to the surrender of that person;
- (b) the enforcement in the Requested Party of criminal judgments imposed in the Requesting Party except to the extent permitted by the law of the Requested Party;
- (c) the transfer of persons in custody to serve sentences; and
- (d) the transfer of proceedings in criminal matters.

(2) This Agreement does not authorise either Party to undertake, in the territory of the other, the exercise of jurisdiction or the performance of functions that are placed within the exclusive purview of the authorities of the other Party by its law.

第三條

中心機關

- (1) 締約雙方須各自指定一個中心機關,以便根據本協定提出和接受請求。
- (2) 根據本協定所作的請求,須通過設於香港特別行政區的馬來西亞駐港總領館提出和接受。
- (3) 締約雙方的中心機關須按照本協定的條文處理關乎相互法律協助的請求。
- (4) 香港特別行政區的中心機關為律政司司長或經其授權的人。馬來西亞的中心機關為總檢察長或經其指定的人。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。
- (5) 中心機關之間可就本協定的事宜直接通訊。

ARTICLE 3

CENTRAL AUTHORITIES

- (1) Each Party shall designate a Central Authority to make and receive requests pursuant to this Agreement.
- (2) Requests pursuant to this Agreement shall be made and received through the Consulate-General of Malaysia in the Hong Kong Special Administrative Region.
- (3) The Central Authorities of the Parties shall process requests for mutual legal assistance in accordance with the provisions of this Agreement.
- (4) The Central Authority for the Hong Kong Special Administrative Region is the Secretary for Justice or a person authorised by the Secretary for Justice. For Malaysia, the Central Authority shall be the Attorney

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第四條

履行協定的限制

- (1) 如有以下情況，被請求方須拒絕提供協助：
- (a) 如批准請求，就香港特別行政區而言，會損害中華人民共和國的主權、安全或公共秩序，或就馬來西亞而言，會損害馬來西亞的主權、安全或公共秩序；
 - (b) 請求關乎就某罪行而對某人進行的偵查、檢控或懲罰，而該罪行屬政治性質的罪行，或由於犯該罪行或指稱犯該罪行時的情況而屬政治性質的罪行；
 - (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提出的目的，是基於某人的種族、宗教、性別、族裔、國籍或政治見解而對該人進行偵查、檢控、懲罰或以其他方式使該人蒙受不利；
 - (e) 協助請求關乎就某罪行而對某人進行的偵查、檢控或懲罰，而該人已因同一罪行在請求方被定罪、裁定無罪或赦免，或已接受請求方的法律所規定的懲罰；
 - (f) 被請求方認為批准請求將會嚴重損害其本身的基要公眾利益；
 - (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，並不構成觸犯被請求方法律的罪行；

ARTICLE 4

LIMITATIONS ON COMPLIANCE

- (1) The Requested Party shall refuse assistance if:
- (a) the granting of the request would, in the case of the Hong Kong Special Administrative Region, impair the sovereignty, security or public order of the People's Republic of China, or, in the case of Malaysia, impair the sovereignty, security or public order of Malaysia;
 - (b) the request relates to the investigation, prosecution or punishment of a person for an offence that is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political nature;
 - (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 was made for the purpose of investigating, prosecuting, punishing or otherwise causing prejudice to a person on account of his race, religion, sex, ethnic origin, nationality or political opinions;

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- (h) 請求方的中心機關沒有承諾所要求的物品不會用於該項要求所關乎的刑事事宜以外的事宜，而被請求方的中心機關並沒有同意免除該項承諾；
- (i) 請求方的中心機關沒有承諾在提出請求所關乎的刑事事宜完結時會應被請求方的中心機關的請求，將就請求而取得的任何物品歸還被請求方的中心機關；
- (j) 提供協助需採取的步驟，會觸犯被請求方法律。
- (2) 被請求方如認為提供協助會不利於任何人的安全或會對被請求方的資源造成過大的負擔，則可拒絕提供協助。
- (3) 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。
- (4) 如執行請求會妨礙或不利於正在被請求方進行的偵查或檢控，被請求方可暫緩提供協助。
- (5) 在根據本條拒絕或暫緩提供協助前，被請求方須通過其中心機關——
- (a) 迅速將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。
- (6) 請求方如接納在第(5)(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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- (e) the request for assistance relates to the investigation, prosecution or punishment of a person for an offence in respect of which the person has been convicted, acquitted or pardoned in the Requesting Party or has undergone the punishment provided by the law of that Party;
- (f) it is of the opinion that the granting of the request would seriously impair its essential public interests;
- (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 against the law of the Requested Party;
- (h) the Central Authority of the Requesting Party fails to undertake that the item requested will not be used for a matter other than the criminal matter in respect of which the request was made and the Central Authority of the Requested Party has not consented to waive such undertaking;
- (i) the Central Authority of the Requesting Party fails to undertake to return to the Central Authority of the Requested Party, upon its request, any item that may be obtained pursuant to the request upon completion of the criminal matter in respect of which the request was made;
- (j) the provision of the assistance would require steps to be taken that would be contrary to the law of the Requested Party.
- (2) The Requested Party may refuse assistance if the Requested Party is of the opinion that the provision of assistance could prejudice the safety of any person or impose an excessive burden on the resources of the Requested Party.
- (3) 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.

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第五條

請求

(1) 請求須以書面提出，或在可能情況下，以任何能作出書面紀錄而又容許被請求方確立其真確性的方式提出。在緊急情況下並在被請求方的法律容許的範圍內，請求可經口頭方式提出，但須在其後 10 天內以書面確認。

(2) 中心機關須處理所有請求的傳遞以及任何有關的通訊。在緊急情況下並在被請求方的法律容許的範圍內，請求以及任何有關的通訊均可通過國際刑警組織傳遞。

ARTICLE 5

REQUESTS

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

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

- (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.

(6) If the Requesting Party accepts assistance subject to the terms and conditions referred to in paragraph (5)(b), it shall comply with those terms and conditions.

(1) Requests shall be made in writing or, where possible, by any means capable of producing a written record under conditions allowing the Requested Party to establish authenticity. In urgent situations and where permitted by the law of the Requested Party, requests may be made orally, but in such cases the requests shall be confirmed in writing within ten days.

(2) Central Authorities shall deal with the transmission of all requests and any communication related thereto. In urgent situations and where permitted by the law of the Requested Party, requests and any communication related thereto may be transmitted through the International Criminal Police Organization (INTERPOL).

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第六條

請求的內容

- (1) 協助請求須包括：
- (a) 提出請求的辦事處名稱，以及進行該項請求所關乎的偵查或刑事法律程序的主管機關名稱；
 - (b) 對請求的目的及所需協助性質的描述，包括所尋求的證據、資料或其他協助的詳情；
 - (c) 對有關偵查、檢控及罪行的性質的描述，包括可就該罪行判處的最高刑罰以及說明是否已提起法律程序；
 - (d) (如已提起法律程序) 法律程序的細節；
 - (e) 有關事實的撮要，包括對指稱構成該罪行的事實的描述，以及有關法律的條文或對該法律的陳述；
 - (f) 有關保密的任何要求以及保密理由；
 - (g) 請求方希望得以遵循的任何特別程序或規定的細節及提出該等程序或規定的理由；
 - (h) 意欲設定履行請求的時限的具體說明；及
 - (i) 有助於執行請求的任何其他資料。
- (2) 在有必要的範圍內，協助請求亦可包括以下資料：
- (a) 屬有關偵查或刑事法律程序的標的人物的身分、國籍及所在；
 - (b) 任何被尋求提供證據的人的身分及所在；
 - (c) 被送達人的身分及所在、該人與有關刑事法律程序的關係，以及送達方式；
 - (d) 被追尋的人的身分和下落；
 - (e) 對取得及記錄任何證供或陳述的方式的描述；
 - (f) 向證人提出的問題的清單；

ARTICLE 6

CONTENTS OF REQUESTS

- (1) Requests for assistance shall include:
- (a) the name of the requesting office and the competent authority conducting the investigation or criminal proceedings to which the request relates;
 - (b) a description of the purpose of the request and the nature of the assistance requested including particulars of the evidence, information or other assistance sought;
 - (c) a description of the nature of the investigation, prosecution and offence including the maximum penalty for such offence and whether or not proceedings have been instituted;
 - (d) in the event that proceedings have been instituted, details of the proceedings;
 - (e) a summary of the relevant facts including a description of the facts alleged to constitute the offence and a statement or text of the relevant laws;
 - (f) any requirements for confidentiality and the reasons for it;
 - (g) the reasons for and details of any particular procedure or requirement that the Requesting Party wishes to be followed;
 - (h) specification of any time limit within which compliance with the request is desired; and
 - (i) any other information which is required to facilitate execution of the request.
- (2) Requests for assistance may also, to the extent necessary, contain the following information:

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- (g) 對須交出的文件、紀錄或證物的描述，及對被要求交出上述文件、紀錄或證物的適當人士的描述，以及(在沒有其他規定的範圍內)對複製和認證上述文件、紀錄或證物的形式的描述；
 - (h) 對是否要求經宣誓(宗教式或非宗教式)的證據或陳述的說明；
 - (i) 對請求所關乎的財產、資產或物品的描述，包括其識別資料及所在；及
 - (j) 與請求提供的協助有關的法庭命令，以及關於該命令的終局性的陳述。
- (3) 請求、支持請求的所有文件以及根據本協定作出的其他通訊，如非以英文書寫，則須附有英文譯本。
- (4) 被請求方的中心機關如認為請求所載的資料不足以令請求獲得處理，則可要求提供額外資料。請求方須提供被請求方認為為使該請求能得以履行而需要的額外資料。

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- (a) the identity, nationality and location of the person or persons who are the subject of the investigation or criminal proceedings;
 - (b) the identity and location of any person from whom evidence is sought;
 - (c) the identity and location of a person to be served, that person's relationship to the criminal proceedings, and the manner in which service is to be made;
 - (d) information on the identity and whereabouts of a person to be located;
 - (e) a description of the manner in which any testimony or statement is to be taken and recorded;
 - (f) a list of questions to be asked of a witness;
 - (g) a description of the documents, records or items of evidence to be produced as well as a description of the appropriate person to be asked to produce them and, to the extent not otherwise provided for, the form in which they should be reproduced and authenticated;
 - (h) a statement as to whether sworn or affirmed evidence or statements are required;
 - (i) a description of the property, asset or article to which the request relates, including its identity and location; and
 - (j) any court order relating to the assistance requested and a statement relating to the finality of that order.
- (3) The request, all documents submitted in support of the request and other communications made pursuant to this Agreement shall, if they are not in English, be accompanied by a translation into English.
- (4) If the Central Authority of the Requested Party considers that the information contained in the request is not sufficient to enable the request to be dealt with, the Central Authority may request additional information.

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第七條

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以及作出該決定的理由，知會請求方。
- (5) 被請求方須盡其所能將請求及其內容保密，但在為執行請求而有必要作出透露的範圍內者，則不在此限。
- (6) 被請求方的中心機關須在合理期間內，回應請求方的中心機關提出的關於執行請求的進展的合理查詢。
- (7) 被請求方的中心機關可要求請求方的中心機關按所需形式提供資料，使被請求方的中心機關能執行請求，亦可要求請求方的中心機關採取根據被請求方的法律及慣例屬必需的步驟，使從請求方接獲的請求能得以執行。

ARTICLE 7

EXECUTION OF REQUESTS

The Requesting Party shall supply such additional information as the Requested Party considers necessary to enable the request to be fulfilled.

- (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 to the extent necessary to execute it.
- (6) The Central Authority of the Requested Party shall respond within a reasonable period to reasonable inquiries by the Central Authority of the Requesting Party concerning progress toward execution of the request.

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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) 未經被請求方的中心機關事先同意，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。
- (3) 在任何偵查、檢控或法律程序中，凡控罪被更改，但只要最終控告的罪行屬根據本協定可就其提供相互法律協助的罪行，則已提供的資料或證據均可繼續在該偵查、檢控或法律程序中使用。

第九條

保密以及證據與資料的使用限制

ARTICLE 8

LIMITATIONS ON USE

(7) The Central Authority of the Requested Party may ask the Central Authority of the Requesting Party to provide information in such form as may be necessary to enable it to execute the request or to undertake any steps which may be necessary under the law and practice of the Requested Party in order to give effect to the request received from the Requesting Party.

(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.

(3) In an investigation, prosecution or proceeding where the charge is altered, the information or evidence provided may continue to be used in that investigation, prosecution or proceeding so far as the offence, as charged, is an offence in respect of which mutual legal assistance could be provided under this Agreement.

ARTICLE 9

PROTECTION OF CONFIDENTIALITY AND

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(1) 如請求方提出請求，被請求方須在其法律容許的範圍內盡其所能將協助請求、請求的內容和支持請求的文件、批准給予協助一事以及根據請求所採取的任何行動保密。倘若無法在不違反請求中所述的保密規定的情況下執行請求，則被請求方須將此事知會請求方，由請求方決定是否仍須執行請求。

(2) 如被請求方提出請求，請求方須在其法律容許的範圍內將被請求方提供的證據和資料保密，但如有關證據及資料屬請求中所述的偵查及刑事法律程序所需者，則不在此限。

第 II 部 —— 協助形式

第十條

取得證據

(1) 如請求方就在其司法管轄區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證人所關乎的事項。

RESTRICTION ON USE OF EVIDENCE AND INFORMATION

(1) The Requested Party shall, upon request and to the extent permitted by its law, use its best endeavours to keep confidential the request for assistance, its contents and its supporting documents, the fact of granting of such assistance and any action taken pursuant to the request. If the request cannot be executed without breaching the confidentiality requirements stated in the request, the Requested Party shall so inform the Requesting Party, which shall then determine whether the request should nevertheless be executed.

(2) The Requesting Party shall, upon request and to the extent permitted by its law, keep confidential evidence and information provided by the Requested Party, except to the extent that the evidence and information is needed for the investigation and criminal proceedings described in the request.

PART II—FORMS OF ASSISTANCE

ARTICLE 10

OBTAINING OF EVIDENCE

(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 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.

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(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。

(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) 假使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或規定該人拒絕作證；或
- (b) 假使在請求方進行該等法律程序，請求方的法律容許或規定該人拒絕作證。

(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。

第十一條

以視像或電視聯繫獲取證供

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

(4) 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 law 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 or require 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 or require 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.

ARTICLE 11

TAKING OF TESTIMONY BY VIDEO OR TELEVISION LINK

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在有利於司法公正而屬合宜的情況下，締約雙方可因應每宗個案的情況，同意按照被請求方的法律及程序而使用視像或電視直播聯繫或其他適當的通訊及多媒體設施，以執行本協定。

The Parties may agree on a case by case basis to the use of live video or television links or other appropriate communications and multimedia facilities in accordance with the law and procedure of the Requested Party for the purpose of executing this Agreement if it is expedient in the interest of justice to do so.

第十二條

ARTICLE 12

有關的人的所在或身分

LOCATION OR IDENTIFICATION OF PERSONS

如請求方提出請求，被請求方須盡其所能查明請求所指明的任何人的所在或身分。

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

第十三條

ARTICLE 13

送達文件

SERVICE OF DOCUMENTS

(1) 被請求方如接獲交付予它送達的任何文件，則須盡其所能將該文件送達。

(1) The Requested Party shall use its best endeavours to effect service of any document transmitted to it for the purpose of service.

(2) 如請求方請求送達的文件要求被送達人作出回應或在請求方出席，則請求方須於預定回應或出席日期前的一段合理時間內交付該請求。

(2) The Requesting Party shall transmit a request for the service of a document that requires a response or appearance in the Requesting Party within a reasonable time before the scheduled response or appearance.

(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，盡可能在有關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。

(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) 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。

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(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。

(6) 就第(4)款而言，“送達證明”一詞包括以誓章形式表達的送達文件的時間及方式的資料，並連同(如可能的話)由被送達人簽署的收據，如送達人員未能促使文件被送達，則以誓章形式表達的資料須說明此項事實以及未能送達的理由。

(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.

(6) For the purposes of paragraph (4), the expression “proof of service” includes information in the form of an affidavit on when and how the document was served and, where possible, a receipt signed by the person on whom it was served and if the serving officer has not been able to cause the document to be served, that fact and the reason for the failure.

第十四條

ARTICLE 14

可供公眾取閱的文件和官方文件

PUBLICLY AVAILABLE AND OFFICIAL DOCUMENTS

(1) 被請求方須向請求方提供被請求方的政府部門及機構所管有的可供公眾取閱的文件的副本，包括任何形式的文件或資料。

(2) 被請求方可在其法律容許的範圍內，向請求方提供被請求方的政府部門或機構所管有但並非供公眾取閱的任何紀錄(包括任何形式的文件或資料)的副本。被請求方可酌情決定全部或部分拒絕根據本款提出的請求。

(1) The Requested Party shall provide the Requesting Party with copies of publicly available documents, including documents or information in any form, in the possession of government departments and agencies in the Requested Party.

(2) The Requested Party may, to the extent permitted by its law, provide the Requesting Party with copies of any records, including documents or information in any form, that are in the possession of a government department or agency in the Requested Party but that are not publicly available. The Requested Party may in its discretion deny, entirely or in part, a request pursuant to this paragraph.

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第十五條

有關的人在請求方出席

- (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。
- (3) 凡任何人被要求在請求方出席，有關請求須載有關於以下事項的資料：
 - (a) 該人有權獲得的費用、津貼和有權獲付還的開支(如有的話)；
 - (b) 該人往返及逗留在請求方期間的保安安排(如有的話)；及
 - (c) 該人逗留在請求方期間的住宿安排。

第十六條

被羈押的人在請求方出席

- (1) 如請求方請求把羈押在被請求方的人移交到請求方，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

ARTICLE 15

ATTENDANCE OF PERSONS IN THE REQUESTING PARTY

- (1) The Requesting Party may request the assistance of the Requested Party in inviting a person to attend 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.
- (3) Where a person is asked to attend in the Requesting Party, the request shall contain information on the following matters:
 - (a) the fees, allowances and expenses, if any, to which he will be entitled;
 - (b) the arrangements for his security while he is travelling to and from the Requesting Party and while he is in the Requesting Party, if any; and
 - (c) the arrangements for his accommodation while he is in the Requesting Party.

ARTICLE 16

ATTENDANCE OF PERSONS IN CUSTODY IN THE REQUESTING PARTY

- (1) A person in custody in the Requested Party whose attendance 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，則在被請求方的法律容許的範圍內，該人須被暫時由被請求方移交到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，而該人須被視為本協定第十五條所提述的人。
- (3) 請求方不得要求被請求方提起法律程序以引渡被移交的人。
- (4) 有關的人在請求方被羈押的期間，須計算在該人在被請求方的監禁或拘留期之內。
- (5) 除非請求方的中心機關作出以下承諾，否則不得根據本條作出移交——
 - (a) 承擔及負責該項羈押的移交的所有開支；
 - (b) 在移交有關的人的羈押的整個過程中，維持對該人作出合法羈押；及
 - (c) 在有關的人已無需再在請求方的主管機關或法庭出席時，立即將該人送還給被請求方羈押。

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pursuant to this Agreement shall, if the Requested Party consents and to the extent permitted by its law, be temporarily 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 and the person shall be treated as a person referred to in Article 15 of this Agreement.
- (3) The Requesting Party shall not require the Requested Party to initiate proceedings for the surrender of the person transferred.
- (4) The period during which such person was under the custody of the Requesting Party shall count towards the period of his imprisonment or detention in the Requested Party.
- (5) No transfer under this Article shall be effected unless the Central Authority of the Requesting Party gives an undertaking—
 - (a) to bear and be responsible for all the expenses of the transfer of custody;
 - (b) to keep the person under lawful custody throughout the transfer of his custody; and
 - (c) to return him into the custody of the Requested Party immediately upon his attendance before the competent authority or court in the Requesting Party is dispensed with.

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第十七條

安全通行

- (1) 凡某人根據在本協定第十五或十六條下提出的請求而身在請求方，則——
- (a) 該人不得因他在離開被請求方之前作出的或被指稱作出的任何作為或不作為，或在離開被請求方之前觸犯或被指稱觸犯請求方法律的任何罪行的定罪，而在請求方被拘留、檢控、懲罰或被限制人身自由；
 - (b) 該人不得因他在離開被請求方之前作出的或被指稱作出的任何作為或不作為而遭受任何民事起訴(但只限於假如該人不在請求方則不得遭受的民事起訴)。
- (2) 如有關的人並非根據第十六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連續 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，但犯偽證罪或藐視法庭罪則不在此限。
- (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。

ARTICLE 17

SAFE CONDUCT

- (1) Where a person is present in the Requesting Party pursuant to a request made under Article 15 or 16 of this Agreement—
- (a) that person shall not be detained, prosecuted, punished or subjected to any other restriction of personal liberty in the Requesting Party in respect of any acts or omissions or convictions for any offence against the law of the Requesting Party that is alleged to have been committed, or that was committed, before the person's departure from the Requested Party;
 - (b) that person shall not be subjected to any civil suit (being a civil suit to which the person could not be subject if he were not in the Requesting Party) in respect of any act or omission of the person that is alleged to have occurred, or that had occurred, before the person's departure from the Requested Party.
- (2) Paragraph (1) shall not apply if the person, not being a person in custody transferred under Article 16, and being free to leave, has not left the Requesting Party within a period of 15 consecutive 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 Article 15 or 16 shall not be subjected to prosecution based on his testimony, except for perjury or contempt of court.

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附表 1

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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，則在真誠第三者的權利受到保障的情況下，被請求方須在本身法律容許的範圍內執行該請求。
- (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。

第十九條

犯罪得益及犯罪工具

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 and provided that the rights of *bona fide* third parties are protected.
- (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 and the subsequent custody of the property seized.
- (3) The Requesting Party shall observe any conditions imposed by the Requested Party in relation to any seized property which is delivered to the Requesting Party.

ARTICLE 19

PROCEEDS AND INSTRUMENTALITIES OF CRIME

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附表 1

- (1) 如請求方提出請求，被請求方須盡其所能辨認或追尋處於其司法管轄區的任何犯罪得益或犯罪工具，或查明任何犯罪得益或犯罪工具是否處於其司法管轄區，並須把調查結果通知請求方。請求方在提出請求時，須把相信這些得益或工具可能處於被請求方司法管轄區的理由通知被請求方。
- (2) 被請求方如根據第(1)款尋獲涉嫌犯罪得益或犯罪工具，則須採取其法律容許的措施，防止任何人處理、轉讓或處置這些涉嫌犯罪得益或犯罪工具，以待請求方的法院就這些得益或工具作出最後裁定。
- (3) 有關協助充公或沒收犯罪得益或犯罪工具的請求，須根據被請求方的法律執行。協助的方法可包括強制執行由請求方法院作出的命令。
- (4) 除非締約雙方另有協議，否則根據本協定充公或沒收的犯罪得益或犯罪工具，須由被請求方保留。
- (5) 在引用本條時，在被請求方法律容許的範圍內，真誠第三者的權利必須受到尊重。
- (6) 就本協定而言——
“犯罪得益”包括——
 - (a) 從犯罪而直接或間接所得或將犯罪所得變現而直接或間接所得的財產；及
 - (b) 代表與犯罪所得的財產及其他利益相等的價值的財產；“犯罪工具”指用於或擬用於與犯罪有關的用途的財產，或與該等財產相等的價值。

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- (1) The Requested Party shall, upon request, use its best endeavours to identify or locate any proceeds or instrumentalities of crime located within its jurisdiction or to ascertain whether any such proceeds or instrumentalities are located within its jurisdiction and shall notify the Requesting Party of the result of its inquiries. In making the request, the Requesting Party shall notify the Requested Party of the basis of its belief that such proceeds or instrumentalities may be located in its jurisdiction.
- (2) Where pursuant to paragraph (1) suspected proceeds or instrumentalities of crime are found, the Requested Party shall take such measures as are permitted by its law to prevent any dealing in, transfer or disposal of, those suspected proceeds or instrumentalities of crime, pending a final determination in respect of those proceeds or instrumentalities by a court of the Requesting Party.
- (3) Where a request is made for assistance in securing the forfeiture or confiscation of proceeds or instrumentalities of crime, such request shall be executed pursuant to the law of the Requested Party. This may include enforcing an order made by a court in the Requesting Party.
- (4) Proceeds or instrumentalities of crime forfeited or confiscated pursuant to this Agreement shall be retained by the Requested Party unless otherwise agreed upon between the Parties.
- (5) In the application of this Article, the rights of *bona fide* third parties shall be respected to the extent permitted by the law of the Requested Party.
- (6) For the purposes of this Agreement—
“proceeds of crime” includes—
 - (a) property derived or realized directly or indirectly from the commission of an offence; and

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附表 1

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第二十條

歸還證據

- (1) 如被請求方提出請求，則請求方須在提出協助請求所關乎的刑事事宜完結後，把根據在本協定下提出的請求而提供給請求方的任何證據(包括文件、紀錄或物品)歸還被請求方。
- (2) 儘管有第(1)款的規定，如被請求方需要任何根據在本協定下提出的請求而提供給請求方的證據(包括文件、紀錄或物品)以用於在被請求方進行的偵查或刑事法律程序，則請求方須應被請求方的請求，隨時把該證據暫時歸還被請求方。

第 III 部——最後的條文

第二十一條

核證和認證

ARTICLE 20

RETURN OF EVIDENCE

- (1) The Requesting Party shall, upon request, at the conclusion of the criminal matter in respect of which the request for assistance was made return to the Requested Party any evidence, including documents, records or items, provided to the Requesting Party pursuant to a request under this Agreement.
- (2) Notwithstanding paragraph (1), the Requesting Party shall at any time, upon request, temporarily return to the Requested Party any evidence, including documents, records or items, provided to the Requesting Party pursuant to a request under this Agreement if it is needed for an investigation or criminal proceedings in the Requested Party.

PART III—FINAL PROVISIONS

ARTICLE 21

CERTIFICATION AND AUTHENTICATION

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附表 1

- (1) 交付請求方的文件或其他物料，只有在請求方提出請求的情況下，才會予以核證或認證。文件或其他物料只有在請求方的法律有特別規定的情況下，才會由領事或外交人員核證或認證。
- (2) 就本協定而言，任何文件或其他物料在以下情況下即屬妥為認證——
- (a) 該文件或物料看來是經被請求方的法律妥為授權的被請求方的法官、裁判官或官員簽署或核證的；及
 - (b) 以下兩者之一——
 - (i) 該文件或物料經證人或被請求方的政府人員以宗教式或非宗教式誓詞作出核實；或
 - (ii) 該文件或物料看來是蓋上被請求方的正式印章或公印，或看來是蓋上被請求方的國家公使或政府部門或政府人員的正式印章或公印。
- (3) 本條並不妨礙按照請求方的法律證明任何事宜或接納任何文件或其他物料為證據。
- (4) 在締約任何一方本身的法律容許的範圍內——
- (a) 任何文件如已按照有關的締約一方的法律以數碼簽署或電子簽署作為簽署，則猶如經親手簽署或蓋上拇指指紋或任何其他標記的文件般具有法律約束力；及
 - (b) 按照有關的締約一方的法律作出的數碼簽署或電子簽署，須當作為具有法律約束力的簽署。

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- (1) Documents or other material which are to be transmitted to the Requesting Party shall only be certified or authenticated if the Requesting Party so requests. Documents or other material shall be certified or authenticated by consular or diplomatic officers only if the law of the Requesting Party specifically so requires.
- (2) A document or other material is duly authenticated for the purposes of this Agreement if—
- (a) it purports to be signed or certified by a judge, magistrate, or officer of the Requested Party duly authorised by the law of the Requested Party; and
 - (b) either—
 - (i) it is verified by the oath or affirmation of a witness, or of an officer of the government of the Requested Party; or
 - (ii) it purports to be sealed with an official or public seal of the Requested Party or of a Minister of State, or of a department or officer of the government, of the Requested Party.
- (3) Nothing in this Article shall prevent the proof of any matter or the admission in evidence of any document or other material in accordance with the law of the Requesting Party.
- (4) To the extent permitted by the law of each Party—
- (a) a document signed with a digital or electronic signature in accordance with the law of the Party concerned shall be as legally binding as a document signed with a handwritten signature, an affixed thumb-print or any other mark; and

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第二十二條

代表及開支

- (1) 被請求方須作出一切必需的安排，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，但以下項目除外：
 - (a) 應請求方要求而聘請的律師的費用；
 - (b) 專家證人的費用及開支；
 - (c) 翻譯、傳譯及謄寫的費用；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或龐大開支，以履行有關請求，締約雙方須進行磋商，以決定繼續執行請求的條款及條件。
- (4) 設立視像或電視直播聯繫或其他適當的通訊及多媒體設施的費用、與視像或電視直播聯繫或其他適當的通訊及多媒體設施的維修有關的費用、被請求方所提供的傳譯員的薪酬、證人的津貼及證人在被請求方的交通開支，均須由請求方付還給被請求方，但如締約雙方互相同意另作安排，則不在此限。

ARTICLE 22

REPRESENTATION AND EXPENSES

- (b) a digital or electronic signature created in accordance with the law of the Party concerned shall be deemed to be a legally binding signature.
- (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) the fees and expenses of expert witnesses;
 - (c) the costs of translation, interpretation and transcription; 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 or substantial 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.
 - (4) The cost of establishing live video or television links or other appropriate communications and multimedia facilities, the costs related to the servicing of live video or television links or other appropriate communications and multimedia facilities, the remuneration of interpreters

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第二十三條

與其他安排的配合

- (1) 締約雙方可根據其他協定、安排或慣例提供協助。
- (2) 如根據任何其他載有或可能載有規管國際刑事司法協助的特定方面的條文的國際雙邊或多邊條約或安排，締約雙方之間存在某些有效的義務，則本協定不得解釋為影響或限制該等義務的全部或部分。本協定亦不得解釋為影響或限制締約雙方在此事宜上可遵循的較為有利的慣例。但如締約雙方互相同意另作安排，則不在此限。

第二十四條

磋商

- (1) 締約雙方的中心機關須於互相同意的時間作出磋商，以促使本協定得到最有效的運用。
- (2) 締約雙方可視乎需要而制定實際的措施，以便利本協定的執行。

ARTICLE 23

COMPATIBILITY WITH OTHER ARRANGEMENTS

- (1) The Parties may provide assistance pursuant to other agreements, arrangements or practices.
- (2) Unless the Parties mutually agree otherwise, this Agreement shall not be interpreted as affecting or restricting obligations in effect between the Parties under any other international, bilateral or multilateral treaty or arrangement that contains or might contain clauses governing specific aspects of international criminal judicial assistance, wholly or in part, or more favourable practices which those Parties might observe in this matter.

ARTICLE 24

CONSULTATION

- (1) The Central Authorities of the Parties shall consult, at times mutually agreed upon by them, to promote the most effective use of this Agreement.
- (2) The Parties may develop such practical measures as may be necessary to facilitate the implementation of this Agreement.

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第二十五條

修訂

- (1) 本協定可由締約雙方互相經書面同意而於任何時間作出修改或修訂。該等修改或修訂將於締約雙方互相同意的日期生效，並成為本協定的一部分。
- (2) 任何修改或修訂，均不損害在該修改或修訂的生效日期前或直至該日期為止因本協定而產生或以本協定為根據的權利及義務。

第二十六條

解決爭議

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

第二十七條

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 30 天後生效。

ARTICLE 25

AMENDMENT

- (1) This Agreement may be modified or amended at any time by mutual written consent of the Parties. Such modification or amendment will enter into force on such date as may be mutually agreed upon by the Parties and will form part of the Agreement.
- (2) Any modification or amendment will be without prejudice to the rights and obligations arising from or based on this Agreement before or up to the date such modification or amendment enters into force.

ARTICLE 26

SETTLEMENT OF DISPUTES

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

ARTICLE 27

ENTRY INTO FORCE AND TERMINATION

- (1) This Agreement shall enter into force 30 days after the date on which the Parties have notified each other in writing that their respective

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(2) 本協定適用於在其生效日期後提交的請求，而不論構成罪行的有關作為或不作為是在該日期之前或之後發生。

(3) 締約任何一方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，本協定將於通知日期起計 6 個月後失效。

(4) 在本協定終止前已接獲的協助請求，仍須按照協定的條款處理，如同協定仍然生效。本協定的終止並不損害因協定而產生或以協定為根據的權利及義務。

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、英文及馬來文寫成，一式兩份，並於二零零六年十月十七日在香港簽訂，各文本均同等真確。如任何文本之間有任何釋義上的分歧，則須以英文文本為準。

requirements for the entry into force of the Agreement have been complied with.

(2) This Agreement shall apply to requests presented after the date of its entry into force whether the relevant acts or omissions constituting the offence occurred before or after that date.

(3) Either Party may terminate this Agreement at any time by giving written notification to the other. In that event, the Agreement shall cease to have effect six months following the date of notification.

(4) Requests for assistance which have been received prior to termination of this Agreement shall nevertheless be processed in accordance with the terms of the Agreement as if the Agreement were still in force. Termination of the Agreement shall be without prejudice to the rights and obligations arising from or based on the Agreement.

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

Done in duplicate at Hong Kong, this 17th day of October Two thousand and six, in the Chinese, English and Malay languages, each text being equally authentic. In the event of any divergence in interpretation between any of the texts, the English text shall prevail.

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附表 2

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附表 2

[第 2 條]

對本條例作出的變通

本條例第 17(3)(b) 條須予變通至如下所示 ——

- “(b) 該人可自由離開香港並接獲通知他已無須為下述任何目的逗留，但在他接獲該通知後的連續 15 天內，他不曾離開香港 * 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。”。

* 劃上底線的字句屬增訂部分。(劃上底線是為了使該項變通易於識別)。

** 劃上橫線的字句屬刪除部分。(劃上橫線是為了使該項變通易於識別)。

Schedule 2

[s. 2]

Modifications to the Ordinance

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 consecutive days after being notified that his presence is no longer required for any of the following purposes* ~~has had an opportunity of leaving Hong Kong and has remained in Hong Kong otherwise than for~~ ** —
- (i) the purpose to which the request relates; ~~or~~ **
 - (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.”.

* 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).