

《逃犯 (荷蘭) 令》
(第 503 章 , 附屬法例 A)
Fugitive Offenders (Netherlands) Order
(Cap. 503 sub. leg. A)

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經核證文本
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(《法例發布條例》(第 614 章) 第 5 條)
(Legislation Publication Ordinance (Cap. 614), section 5)

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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	15.2.2017
附表 1 Schedule 1	S1-1—S1-28	15.2.2017
附表 2 Schedule 2	S2-1—S2-6	15.2.2017

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」(<http://www.elegislation.gov.hk>) 閱覽。

Provisions / Amendments not yet in operation —

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制定史

本為 1997 年第 198 號法律公告 —— 2016 年第 38 號法律公告，2017 年第 1 號編輯修訂紀錄

Enactment History

Originally L.N. 198 of 1997 — L.N. 38 of 2016, E.R. 1 of 2017

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(第 503 章, 附屬法例 A)

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《逃犯(荷蘭)令》

(第 503 章第 3 條)

(略去制定語式條文——2017 年第 1 號編輯修訂紀錄)

[1997 年 6 月 20 日] 1997 年第 346 號法律公告
(格式變更——2017 年第 1 號編輯修訂紀錄)

1. (已失時效而略去——2017 年第 1 號編輯修訂紀錄)
2. **本條例中的程序在香港與荷蘭之間適用**
現就條款於附表 1 及 2 中敘述的移交逃犯安排，指示本條例中的程序在香港與荷蘭王國之間適用，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。
(2016 年第 38 號法律公告)

相應修訂

《1899 年引渡(荷蘭)令》

3. **命令的修訂**
《1899 年引渡(荷蘭)令》(Extradition (Netherlands) Order 1899) (S.I. 1899/83 U.K.) 現予修訂，在末處加入——
“Provided also that the said Acts shall cease to apply to Hong Kong.”。

Fugitive Offenders (Netherlands) Order

(Cap. 503, section 3)

(Enacting provision omitted—E.R. 1 of 2017)

[20 June 1997] L.N. 346 of 1997
(Format changes—E.R. 1 of 2017)

1. (Omitted as spent—E.R. 1 of 2017)
2. **Procedures in Ordinance to apply between Hong Kong and Netherlands**
In relation to the arrangements for the surrender of fugitive offenders the terms of which are recited in Schedules 1 and 2, it is directed that the procedures in the Ordinance apply as between Hong Kong and the Kingdom of the Netherlands subject to the limitations, restrictions, exceptions and qualifications contained in the terms of the arrangements.

(L.N. 38 of 2016)

Consequential Amendments

Extradition (Netherlands) Order 1899

3. **Amendment of Order**
The Extradition (Netherlands) Order 1899 (S.I. 1899/83 U.K.) is amended by adding at the end—
“Provided also that the said Acts shall cease to apply to Hong Kong.”。

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附表 1

[第 2 條]

(2016 年第 38 號法律公告)

香港政府和荷蘭王國政府的移交逃犯協定[#]

(2016 年第 38 號法律公告)

經負責其外交事務的主權國政府正式授權締結本協定的香港政府與荷蘭王國政府，

願訂立相互移交逃犯的規定；

並謹記依照一般所公認的標準賦予所有牽涉在刑事訴訟中的人的權利；

協議如下：——

第一條

締約雙方同意按照本協定所訂定的條文，把任何在被要求方管轄區內找到的並遭要求方通緝以便就第二條所列屬要求方的法律管轄範圍的罪行提出檢控、宣判或執行判決的人移交給對方。就本協定而言，該等人稱為「逃犯」。

Schedule 1

[s. 2]

(L.N. 38 of 2016)

Agreement between the Government of the Kingdom of the Netherlands and the Government of Hong Kong for the Surrender of Fugitive Offenders[#]

(L.N. 38 of 2016)

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

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

Recalling the rights conferred on every person involved in criminal proceedings in accordance with generally recognised standards;

Have agreed as follows:

ARTICLE 1

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 under Article 2 which falls under the jurisdiction of the latter Party. Such persons shall, for the purposes of this Agreement, be referred to as “fugitive offenders”.

第二條

ARTICLE 2

(1) 凡犯以下所描述的任何罪行的逃犯，包括企圖、參與或煽惑他人犯該罪行，而該罪行依照締約雙方的法律屬可判處監禁或以其他形式拘留超過 1 年或可判處更嚴厲刑罰者，須准予移交：

- (i) 謀殺；誤殺
- (ii) 協助、教唆、慫使或促致他人自殺
- (iii) 惡意傷人；侵犯致造成身體嚴重或實際傷害
- (iv) 強姦
- (v) 猥褻侵犯
- (vi) 對兒童、弱智的人或失去知覺的人作出嚴重猥褻行為
- (vii) 綁架；拐帶；非法拘禁；買賣或販運奴隸或其他人；扣押人質
- (viii) 刑事恐嚇
- (ix) 犯有關麻醉藥物及精神藥物的法律的罪行
- (x) 以欺騙手段取得財物或金錢利益；盜竊；搶劫；入屋犯法；盜用公款；勒索；敲詐；非法處理或收受財物；偽造帳目；犯其他與財物或財務有關而涉及欺詐手段的罪行
- (xi) 犯破產法律的罪行
- (xii) 犯有關公司的法律的罪行
- (xiii) 犯任何與贗製有關的罪行；犯任何有關偽造或使用偽造的東西的法律的罪行
- (xiv) 犯有關賄賂的法律的罪行
- (xv) 偽證及唆使他人作偽證
- (xvi) 犯有關破壞或妨礙司法公正的罪行
- (xvii) 刑事毀壞，包括縱火
- (xviii) 犯有關火器法律的罪行

(1) Surrender of fugitive offenders shall be granted for an offence coming within any of the following descriptions of offences, including an attempt or participation therein or incitement thereto, insofar 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:

- (i) murder; manslaughter
- (ii) aiding, abetting, counselling or procuring suicide
- (iii) maliciously wounding; assault occasioning grievous or actual bodily harm
- (iv) rape
- (v) indecent assault
- (vi) gross indecency with a child, a mental defective or an unconscious person
- (vii) kidnapping; abduction; false imprisonment; dealing or trafficking in slaves or other persons; taking a hostage
- (viii) criminal intimidation
- (ix) offences against the law relating to narcotic drugs and psychotropic substances
- (x) obtaining property or pecuniary advantage by deception; theft; robbery; burglary; embezzlement; blackmail; extortion; unlawful handling or receiving of property; false accounting; any other offence in respect of property or fiscal matters involving fraud
- (xi) offences against bankruptcy law
- (xii) offences against the law relating to companies

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- (xix) 犯有關爆炸品的法律的罪行
 - (xx) 犯有關環境污染的法律的罪行
 - (xxi) 在海上的船舶上叛變或作出任何叛變行為
 - (xxii) 國際法中牽涉船舶或航空器的海盜行為
 - (xxiii) 非法扣押或控制航空器
 - (xxiv) 種族滅絕或直接及公開煽惑他人進行種族滅絕
 - (xxv) 促成或容許在羈留中的人逃走
 - (xxvi) 走私
 - (xxvii) 為財務利益，安排他人非法進入要求方管轄區
 - (xxviii) 犯根據對締約雙方有約束力的國際公約可移交逃犯的罪行，及犯由於對締約雙方有約束力的國際組織決定而訂定的罪行
 - (xxix) 串謀犯或籌備犯任何根據本協定可准予移交的罪行
 - (xxx) 犯依照締約雙方的法律可准予移交的其他罪行。
- (2) 凡要求移交逃犯是為了執行一項判決，就該項判決的監禁或拘留期而言，該項要求須符合另一項規定，即餘下的監禁或拘留期須不得少於 6 個月。
- (3) 在確定一項罪行根據締約雙方的法律是否屬可處罪行時，不論該項罪行的構成因素根據締約雙方的法律是否有區別，因明白到要求方所陳述的作為或不作為的全部須予以考慮。
- (4) 凡要求移交逃犯是為了執行一項判決，如逃犯看似是在缺席的情況下被定罪，被要求方可拒絕把他移交，除非他有機會在他出席的情況下獲得重審，則屬例外，而在此情況下他須被視為本協定範圍內的被告。

- (xiii) any offence relating to counterfeiting; any offence against the law relating to forgery or uttering what is forged
- (xiv) an offence against the law relating to bribery
- (xv) perjury and subornation of perjury
- (xvi) offences relating to the perversion or obstruction of the course of justice
- (xvii) criminal damage, including arson
- (xviii) an offence against the law relating to firearms
- (xix) an offence against the law relating to explosives
- (xx) an offence against the law relating to environmental pollution
- (xxi) mutiny or any mutinous act committed on board a vessel at sea
- (xxii) piracy, involving ships or aircraft, according to international law
- (xxiii) unlawful seizure or exercise of control of an aircraft
- (xxiv) genocide or direct and public incitement to commit genocide
- (xxv) facilitating or permitting the escape of a person from custody
- (xxvi) smuggling
- (xxvii) arranging, for financial gain, the illegal entry of persons into the jurisdiction of the requesting Party
- (xxviii) offences for which fugitive offenders may be surrendered under international conventions binding on the Parties, and offences created as a result of decisions of international organisations which are binding on the Parties
- (xxix) conspiracy to commit, or acts preparatory to the commission of, any offence for which surrender may be granted under this Agreement
- (xxx) any other offences for which surrender may be granted in accordance with the laws of both Parties.

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(2) Where surrender of a fugitive offender is requested for the purpose of carrying out a sentence, a further requirement shall be that, in the case of a period of imprisonment or detention, at least six months remain to be served.

(3) In determining whether an offence is an offence punishable under the laws of both Parties, it shall not matter whether, under the laws of the Parties, the constituent elements of the offence differ, it being understood that the totality of the acts or omissions as presented by the requesting Party shall be taken into account.

(4) Where the surrender of a fugitive offender is requested for the purpose of carrying out a sentence the requested Party may refuse to surrender him if it appears that the conviction was obtained in his absence, unless he has the opportunity to have his case retried in his presence, in which case he shall be considered as an accused person under this Agreement.

第三條

荷蘭王國政府保留拒絕移交其國民的權利。香港政府保留拒絕移交負責其外交事務的政府所屬國家的國民的權利。

ARTICLE 3

The Government of the Kingdom of the Netherlands reserves the right to refuse the surrender of its nationals. The Government of Hong Kong reserves the right to refuse the surrender of nationals of the State whose Government is responsible for its foreign affairs.

第四條

如某項根據本協定要求移交逃犯的罪行依照要求方的法律可判處死刑，但就該項罪行而言，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，則除非要求方作出被要求方認為充分的保證，

ARTICLE 4

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

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即逃犯將不會被判處死刑或即使被判處死刑亦不會執行，否則被要求方可拒絕移交逃犯。

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 this penalty will not be imposed or, if imposed, will not be carried out.

第五條

ARTICLE 5

- (1) 如根據被要求方的法律，逃犯所犯罪行被視為是在被要求方的法院的管轄範圍內犯的，被要求方可拒絕移交該逃犯。
- (2) 如因根據締約雙方的任何一方的法律所規定的任何理由，逃犯獲豁免就已要求把他移交的罪行而被檢控或判處懲罰，則不得移交該名逃犯。

- (1) The requested Party may refuse to surrender a fugitive offender for an offence which is regarded by its law as having been committed within the jurisdiction of its courts.
- (2) A fugitive offender shall not be surrendered if he is or has become, for any reason provided for under the law of either Party, immune from prosecution or punishment for the offence for which his surrender has been requested.

第六條

ARTICLE 6

- (1) 如被要求方認為逃犯被控或被定罪的罪行屬政治性質，則不得移交該逃犯。
- (2) 如被要求方有充分理由相信以下事項屬實，則不得移交逃犯：
 - (a) 提出移交該逃犯的要求(該項要求雖然看來是因為一項可准予移交的罪行而提出)實際上是要就該逃犯的種族、宗教、國籍或政見而檢控或懲罰該逃犯；或
 - (b) 該逃犯一經交回，可因其種族、宗教、國籍或政見而在審判時受到不公平對待、被懲罰、被拘留或使其人身自由受限制。

- (1) A fugitive offender shall not be surrendered if the requested Party considers that the offence of which that person is accused or was convicted is an offence of a political character.
- (2) A fugitive offender shall not be surrendered if the requested Party has substantial grounds for believing:
 - (a) that the request for his return (though purporting to be made on account of an offence for which surrender may be granted) is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions; or

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第七條

如被要求方認為有以下情況出現，亦可拒絕移交逃犯：

- (a) 在考慮所有情況後，有關罪行的嚴重性不足以支持該項移交；或
- (b) 由於不能歸咎於該逃犯的理由，以致向該逃犯提出起訴、將他的案件提交審判、使他服刑或使他服餘下的刑期有過分延誤；或
- (c) 把該逃犯移交可使被要求方違反它根據國際條約須履行的義務；或
- (d) 在該案的情況下，鑑於逃犯的年齡、健康或其他個人狀況，把該逃犯移交不合人道。

第八條

- (1) 移交逃犯的要求須由締約一方的有關當局向締約另一方的有關當局提出。締約一方會不時知會締約另一方何謂有關當局。
- (2) 提出要求時，須一併提供以下資料：

ARTICLE 7

The surrender of a fugitive offender may also be refused if the requested Party considers that:

- (a) the offence is, having regard to all the circumstances, not sufficiently serious to warrant the surrender; or
- (b) there has been excessive delay, for reasons which cannot be imputed to the fugitive offender, in bringing charges against him, in bringing his case to trial or in making him serve his sentence or the remainder thereof; or
- (c) the surrender of the fugitive offender may place that Party in breach of its obligations under international treaties; or
- (d) in the circumstances of the case, the surrender of the fugitive offender would be incompatible with humanitarian considerations in view of age, health or other personal circumstances.

ARTICLE 8

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

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- (a) 該逃犯的盡量準確的描述，和其他有助確定他的身分、國籍和他的所在(如知道的話)的資料；
- (b) 要求移交逃犯的罪行的說明和詳情；
- (c) 如有訂定該項罪行的法律條文，該條文的本文、該項罪行能判處的懲罰的說明和就該項罪行提出訴訟或強制執行有關該項罪行的判決的時限的詳細說明。
- (3) 如該項移交要求與被告有關，該項要求即須附有由要求方的法官、裁判官或其他主管當局發出的逮捕令的副本，以及任何根據被要求方的法律，如該項罪行發生在被要求方的法律管轄範圍內，足以使該被告被交付審判的證據。
- (4) 如該項移交要求與已被定罪或被判決的人有關，則須一併附上：
- (a) 定罪或判決證明書副本；及
- (b) 如該人已被定罪但未被判決，有關法院就此作出的說明及逮捕令副本；或
- (c) 如該人已被判決，該項判決可強制執行和顯示未服刑期尚有多少的說明。
- (5) 如要求方所提供的資料不足，以致被要求方不能依據本協定作出決定，被要求方可要求提供所需的補充資料，並可定出收取該等資料的時限。
- (6) 要求方須按被要求方可接受的語文提供與該項要求有關的所有文件譯本。本條文不得影響要求方提供但未經翻譯的文件的可接受性。

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- (a) as accurate a description as possible of the fugitive offender, together with any other information which would help to establish his identity, nationality and, if known, his whereabouts;
- (b) a statement and particulars of the offence for which the surrender is requested;
- (c) the text of the legal provisions, if any, creating the offence, a statement of the punishment which can be imposed therefor and a specification of any time limit that is imposed on the institution of proceedings or on the enforcement of any sentence in respect of that offence.
- (3) If the request relates to an accused person, it shall also be accompanied by a copy of the warrant of arrest issued by a judge, magistrate or other competent authority of the requesting Party and by such evidence as, according to the law of the requested Party, would justify his committal for trial if the offence had been committed within the jurisdiction of the requested Party.
- (4) If the request relates to a person already convicted or sentenced, it shall also be accompanied by:
- (a) a copy of the certificate of the conviction or sentence; and
- (b) if the person was convicted but not sentenced, a statement to that effect by the appropriate court and a copy of the warrant of arrest; or
- (c) if the person was sentenced, a statement that the sentence is enforceable and indicating how much of the sentence has still to be served.
- (5) If the information communicated by the requesting Party is found to be insufficient to allow the requested Party to make a decision in pursuance of this Agreement, the latter Party may request the necessary supplementary information and may fix a time-limit for receipt thereof.

第九條

- (1) 在緊急情況下，經要求方的主管當局提出申請，被要求方可依照本身的法律，暫時逮捕被要求移交的人。
- (2) 申請書內須載有對被要求移交的人的描述、要求移交該人的意向的表示、逮捕令已具備及逮捕令的條款的說明或該人被定罪的判決書、該項罪行能判的最高懲罰或已處的懲罰的說明及指稱構成該項罪行的作為或不作為(包括時間和地點)的說明。
- (3) 要求暫時逮捕逃犯的申請須以書面提出並可透過要求移交逃犯的另一途徑提出，或透過國際刑警組織提出。
- (4) 如被要求方收不到附有第八條第(2)至(4)款所指文件的移交要求，則該暫時逮捕由逮捕日期起計滿 60 天便告終止。但如其後收到移交要求，則本條文並不阻止被要求方再度逮捕或移交被要求移交的人。

第十條

ARTICLE 9

(6) The requesting Party shall provide a translation of all documents relating to the request into a language acceptable to the requested Party. This provision shall not affect the admissibility of an untranslated document furnished by the requesting Party.

- (1) In urgent cases the person sought may, in accordance with the law of the requested Party, be provisionally arrested on the application of the competent authorities of the requesting Party.
- (2) The application shall contain a description of the person sought, an indication of intention to request his surrender, a statement of the existence and terms of a warrant of arrest or a judgment of conviction against the person, a statement of the maximum punishment that can be imposed or the punishment that has been imposed for the offence, and a statement of the acts or omissions (including time and place) alleged to constitute the offence.
- (3) The application for provisional arrest shall be in writing and may be forwarded through the same channels as a request for surrender or through the International Criminal Police Organisation (Interpol).
- (4) The provisional arrest of the person sought shall be terminated upon the expiration of sixty days from the date of his arrest if the request for his surrender supported by the documents referred to in paragraphs (2) to (4) of Article 8, has not been received. This provision shall not prevent his re-arrest or surrender if the request for his surrender is received subsequently.

ARTICLE 10

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如締約一方和一個或多個與荷蘭王國或香港有移交逃犯安排的國家同時要求移交逃犯，被要求方須在考慮所有情況後才作出決定，須考慮的情況包括該等安排的有關條文、所涉及罪行的犯罪地點、罪行的相對嚴重性、各移交要求的提出日期、逃犯的國籍和逃犯其後被移交給另一個國家的可能性。

If the surrender of a fugitive offender is requested concurrently by one of the Parties and a State or States with which the Kingdom of the Netherlands or Hong Kong, whichever is being requested, has arrangements for the surrender of fugitive offenders, the requested Party shall make its decision having regard to all the circumstances, including the relevant provisions of such arrangements, the place of commission of the offences, their relative seriousness, the respective dates of the requests, the nationality of the fugitive offender and the possibility of subsequent surrender to another State.

第十一條

ARTICLE 11

附於移交要求的文件如經正式確認，須被接受為證據。看來是經以下方式處理的文件為經正式確認的文件：

Documents accompanying a request for surrender shall be admitted in evidence if duly authenticated. A document is duly authenticated if it purports to be:

- (a) 經要求方的法官、裁判官或政府官員簽署或證明；和
- (b) 經要求方主管當局蓋上公印。

- (a) signed or certified by a judge, magistrate or an official of the requesting Party; and
- (b) sealed with the official seal of the competent authority of the requesting Party.

第十二條

ARTICLE 12

(1) 被要求方向其司法當局提交要求移交逃犯的證明文件前，須審查該等證明文件在法律上是否充分，並須把要求方的要求交由該司法當局處理。

(1) The requested Party shall review for legal sufficiency documentation in support of a request for the surrender of a fugitive offender prior to submission to its judicial authorities and shall deal with the request of the requesting Party before such authorities.

(2) 被要求方須負擔逮捕被要求移交的人的開支、羈留該人直至把他交予要求方任命的人的費用以及因移交要求而須由被要求方的司法當局進行的任何法律程序所需的開支。

(2) The requested Party shall bear the expenses of the arrest of the person whose surrender is requested, of the maintenance in custody of the person until he is handed over to a person nominated by the requesting

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第 503A 章

附表 1

Schedule 1

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Cap. 503A

(3) 要求方須負擔把該人由被要求方的管轄區解返所引致的開支。

Party and in relation to any legal proceedings before the judicial authorities of the requested Party arising out of the request for surrender.

(3) The requesting Party shall bear the expenses incurred in conveying the person from the jurisdiction of the requested Party.

第十三條

ARTICLE 13

不符合本協定所載條件的移交要求須予以拒絕。特別是如果通緝逃犯被控的罪行是在被要求方的管轄區內犯的，則除非有關證據依照被要求方的法律足以使該逃犯被交付審判，否則不得把該逃犯移交。

Requests which do not satisfy the conditions laid down in this Agreement shall be refused. In particular, a fugitive offender who is wanted for prosecution shall not be surrendered unless the evidence is found sufficient according to the law of the requested Party to justify his committal for trial if the offence of which he is accused had been committed in the jurisdiction of the requested Party.

第十四條

ARTICLE 14

(1) 被要求方須把其就移交要求而作出的決定迅速知會要求方。拒絕全部及部分移交要求，須給予理由。

(1) The requested Party shall promptly communicate its decision on the request for surrender to the requesting Party. Reasons shall be given for any complete or partial refusal of the request.

(2) 如要移交逃犯，被要求方當局須於與要求方商定的日期，把該逃犯送往被要求方的管轄區內一處雙方都認為方便的離境地點。被要求方須知會要求方由於移交要求該逃犯被拘留了多久。

(2) If the fugitive offender is to be surrendered, he shall be taken by the authorities of the requested Party on a date agreed with the requesting Party to a mutually convenient place of departure within the jurisdiction of the requested Party. The requested Party shall inform the requesting Party of the length of time for which the fugitive offender was detained in connection with the request for his surrender.

(3) 如逃犯在被要求方的管轄區內因其他罪行正被起訴或接受懲罰，則須待訴訟程序完成和他被判處的懲罰已執行，才把他移交。

(3) If the fugitive offender is being proceeded against or under punishment in the jurisdiction of the requested Party for any other offence, his surrender shall be deferred until the conclusion of the proceedings and the execution of any punishment awarded to him.

(4) 除本條第(5)款另有規定外，如要求方並無在經雙方商定的日期接管逃犯，該逃犯須在該日期後30天屆滿時，或在被要求方的法律規定的較短期間屆滿時獲得釋放。此後，被要求方可拒絕因同一罪行把該逃犯移交。

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Schedule 1

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(5) 締約一方如因不受其控制的情況以致不能按商定日期移交或接管逃犯，即須知會締約另一方。在此情況下，雙方須另定新的移交日期，而本條第(4)款的規定須適用。

(4) Subject to the provisions of paragraph (5) of this Article, if the requesting Party does not take custody of the person on the date agreed by the two Parties, he shall be released on the expiry of thirty days thereafter or such lesser period as is provided by the law of the requested Party. The requested Party may subsequently refuse to surrender him for the same offence.

(5) If circumstances beyond its control prevent a Party from surrendering or taking over the person as agreed, it shall notify the other Party. In that case, the two Parties shall agree a new date for the surrender, and the provisions of paragraph (4) of this Article shall apply.

第十五條

ARTICLE 15

(1) 移交逃犯的要求獲准後，被要求方須應要求方的要求及在其法律許可範圍內把在其管轄區內找到的以下所有物件，包括金錢，交予要求方——

(1) When a request for surrender of a fugitive offender is granted the requested Party shall, at the request of the requesting Party and so far as its law allows, hand over to the requesting Party all articles, including sums of money, found within its jurisdiction:

- (a) 可用作有關罪行的證據的物件；或
- (b) 該逃犯因犯該罪行而取得並由其管有或其後被發現的物件。

- (a) which may serve as proof of the offences; or
- (b) which have been acquired by the fugitive offender as a result of the offence and are in his possession or discovered subsequently.

(2) 如有關物件可在被要求方的管轄區內遭檢取或充公，被要求方可由於未決的訴訟保留該等物件或在無須支付費用而會獲歸還的條件下把該等物件交給要求方。本條的規定不得損害被要求方的權利或該逃犯以外的其他人的權利。

(2) If the articles in question are liable to seizure or confiscation within the jurisdiction of the requested Party, it may, in connection with pending proceedings, retain them or hand them over on condition they are returned without charge. This provision shall not prejudice the rights of the requested Party or of any person other than the fugitive offender.

第十六條

ARTICLE 16

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(1) 已被移交的逃犯不得由於犯其在被移交前所犯的以下罪行以外的罪行而被要求方起訴、判決、拘留、或對其個人自由作其他限制：

- (a) 已批准移交該逃犯所依據的罪行或該等罪行；
- (b) 與已批准移交該逃犯所依據的犯罪事實基本相同的罪行不論以何種方式描述，但該項罪行須是根據本協定可將該逃犯移交的罪行，且對該項罪行須受的刑罰不得比對移交該逃犯所依據的罪行須受的刑罰更重；
- (c) 根據本協定可准予移交及被要求方可同意該逃犯被懲處的其他罪行。

除非該逃犯曾有機會行使其權利，離開其已被移交給的一方的管轄區，但在 40 天內仍未離開，或在離開該管轄區後自願重返該地，則屬例外。

(2) 已被移交的逃犯不得由於其在被移交前所犯的罪行而被轉交另一管轄區，除非有以下情況，則屬例外：

- (a) 被要求方同意該項轉交；或
- (b) 該逃犯曾有機會行使其權利，離開其已被移交給的一方的管轄區，但在 40 天內仍未離開，或在離開該管轄區後自願重返該地。

(3) 根據本條第 (1)(c) 或 (2)(a) 款被要求表示同意的一方可要求取得第八條所指的任何文件或說明，及被移交的人就該事所作的任何說明。

(1) A fugitive offender who has been surrendered shall not be proceeded against, sentenced, detained or subjected to any other restriction of personal liberty by the requesting Party for any offence committed prior to his surrender other than:

- (a) the offence or offences in respect of which his surrender was granted;
- (b) an offence, however described, based on substantially the same facts in respect of which his surrender was granted, provided such offence is one for which he could be surrendered under this Agreement, and provided further such offence is punishable by a penalty no more severe than the penalty for the offence for which he was surrendered;
- (c) any other offence for which surrender may be granted under this Agreement in respect of which the requested Party may consent to his being dealt with;

unless he has first had an opportunity to exercise his right to leave the jurisdiction of the Party to which he has been surrendered and he has not done so within forty days or has voluntarily returned to that jurisdiction having left it.

(2) A fugitive offender who has been surrendered shall not be re-surrendered to another jurisdiction for an offence committed prior to his surrender unless:

- (a) the requested Party consents to such re-surrender; or
- (b) he has first had an opportunity to exercise his right to leave the jurisdiction of the Party to which he has been surrendered and has not done so within forty days or has voluntarily returned to that jurisdiction having left it.

(3) A Party whose consent is requested under paragraphs (1)(c) or (2)(a) of this Article may require the submission of any document or statement referred to in Article 8, and any statement made by the surrendered person on the matter.

第十七條

就荷蘭王國而言，本協定只適用於該王國位於歐洲的部分。

第十八條

- (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要求的日期之後 30 天生效。
- (2) 締約一方可隨時透過與提出移交逃犯要求相同的途徑，給予締約另一方通知中止或終止本協定。本協定於締約另一方接獲中止通知後即行中止。在終止本協定方面，本協定於締約另一方接獲終止通知的 6 個月後失效。

經各自政府正式授權的以下簽署人已在本協定上簽字為證。

本協定以中文、荷文及英文寫成，並於一九九二年十一月二日在香港簽訂，各文本均為具有同等效力的真確本。

ARTICLE 17

With respect to the Kingdom of the Netherlands this Agreement shall apply to the part of the Kingdom in Europe only.

ARTICLE 18

- (1) This Agreement shall enter into force thirty days after the date on which the Parties have notified each other in writing that their respective requirements for the entry into force of this Agreement have been complied with.
- (2) Each of the Parties may suspend or terminate the Agreement at any time by giving notice to the other through the same channels as a request for the surrender of a fugitive offender. Suspension shall take effect on receipt of the relevant notice. In the case of termination the Agreement shall cease to have effect six months after the receipt of notice to terminate.

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

Done at Hong Kong this second day of November One thousand nine hundred and ninety two in the Chinese, Dutch and English languages, each text being equally authentic.

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附表 1

Schedule 1

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註：# 香港政府和荷蘭王國政府的《移交逃犯協定》以中文、英文及荷蘭文簽訂，各文本均同等真確。特區政府保安局備有該協定的荷蘭文文本供參閱。
(2016 年第 38 號法律公告)

Note:# The Agreement between the Government of the Kingdom of the Netherlands and the Government of Hong Kong for the Surrender of Fugitive Offenders was done in the Chinese, English and Dutch languages, each text being equally authentic. The Dutch text of the Agreement is available for inspection at the Security Bureau of the Government of the HKSAR.

(L.N. 38 of 2016)

附表 2

[第 2 條]

Schedule 2

[s. 2]

**《中華人民共和國香港特別行政區政府和荷蘭王國政府
為修訂於 1992 年 11 月 2 日在香港簽訂的〈移交逃犯協
定〉而訂立的議定書》[#]**

**Protocol between the Government of the Hong Kong
Special Administrative Region of the People's Republic
of China and the Government of the Kingdom of
the Netherlands Amending the Agreement for the
Surrender of Fugitive Offenders, Done at Hong Kong
on 2 November 1992[#]**

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授權與荷蘭王國政府訂立本議定書，

The Government of the Hong Kong Special Administrative Region of the People's Republic of China (“Hong Kong Special Administrative Region”) having been authorised by the Central People's Government of the People's Republic of China to conclude this Protocol with the Government of the Kingdom of the Netherlands,

與

and

荷蘭王國政府(以下簡稱為”締約雙方”)，

the Government of the Kingdom of the Netherlands (hereinafter referred to as “the Parties”),

謹記於 1992 年 11 月 2 日在香港簽訂的香港政府和荷蘭王國政府關於移交逃犯的協定(以下簡稱”《協定》”)，

Recalling the Agreement between the Government of Hong Kong and the Government of the Kingdom of the Netherlands for the surrender of fugitive offenders, done at Hong Kong on 2 November 1992 (hereinafter referred to as “the Agreement”),

確認中華人民共和國於 1997 年 7 月 1 日恢復對香港行使主權，並根據中華人民共和國憲法，於該日設立中華人民共和國香港特別行政區，

Recognizing that the People's Republic of China resumed the exercise of sovereignty over Hong Kong with effect from 1 July 1997 and in

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附表 2

Schedule 2

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Cap. 503A

表明中華人民共和國政府已確定《協定》繼續適用於香港特別行政區，並已確定承認《協定》為香港特別行政區政府經中華人民共和國政府授權而與荷蘭王國政府訂立的協定，

為修訂《協定》，

協議如下：

第一條

本議定書修訂《協定》，而《協定》及本議定書須作為單一份文書一併閱讀和解釋。

第二條

《協定》第十七條的文本須予刪除而代以下列條文：

“就荷蘭王國而言，本協定適用於荷蘭的歐洲部分及荷蘭的加勒比海部分（博奈爾島、聖尤斯特歇斯島及薩巴島）。”

accordance with its constitution has on that date established the Hong Kong Special Administrative Region of the People's Republic of China,

Noting that the Government of the People's Republic of China has confirmed the continued application of the Agreement to the Hong Kong Special Administrative Region and its recognition as an agreement entered into between the Government of the Hong Kong Special Administrative Region under the authorisation of the Government of the People's Republic of China and the Government of the Kingdom of the Netherlands,

Desiring to amend the Agreement,

Have agreed as follows:

Article 1

This Protocol amends the Agreement and the Agreement and this Protocol shall be read and interpreted together as one single instrument.

Article 2

The text of Article 17 of the Agreement shall be replaced by the following:

“With respect to the Kingdom of the Netherlands this Agreement shall apply to the European part of the Netherlands and to the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba).”

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第 503A 章

附表 2

Schedule 2

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Cap. 503A

第三條

- (1) 本議定書將於香港特別行政區政府以書面通知荷蘭王國政府已履行為使本議定書生效的規定的日期起計三十天後生效。
- (2) 本議定書在《協定》維持有效期間維持有效。

下列簽署人，經其各自政府正式授權，已在本議定書上簽字為證。

本議定書以中文、荷蘭文及英文寫成，一式兩份，並於二零一五年二月十七日在香港簽訂，各文本均為具有同等效力的真確本。

註：# 《中華人民共和國香港特別行政區政府和荷蘭王國政府為修訂於 1992 年 11 月 2 日在香港簽訂的〈移交逃犯協定〉而訂立的議定書》以中文、英文及荷蘭文簽訂，各文本均同等真確。特區政府保安局備有該議定書的荷蘭文文本供參閱。

(附表 2 由 2016 年第 38 號法律公告增補)

Article 3

- (1) This Protocol shall enter into force thirty days after the date on which the Government of the Hong Kong Special Administrative Region has notified the Government of the Kingdom of the Netherlands in writing that the requirements for the entry into force of the Protocol have been complied with.
- (2) This Protocol shall remain in force so long as the Agreement remains in force.

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

DONE in duplicate at Hong Kong this Seventeenth day of February, Two Thousand and Fifteen in the Chinese, Dutch and English languages, each text being equally authentic.

Note:# The Protocol between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Kingdom of the Netherlands Amending the Agreement for the Surrender of Fugitive Offenders, Done at Hong Kong on 2 November 1992 was done in the Chinese, English and Dutch languages, each text being equally authentic. The Dutch text of the Protocol is available for inspection at the Security Bureau of the Government of the HKSAR.

(Schedule 2 added L.N. 38 of 2016)