

《刑事事宜相互法律協助(波蘭)令》  
(第 525 章, 附屬法例 T)

**Mutual Legal Assistance in Criminal Matters (Poland) Order**  
(Cap. 525 sub. leg. T)

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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—S1-4	16.1.2020
附表 2 Schedule 2	S2-1—S2-36	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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E-1  
第 525T 章

E-2  
Cap. 525T

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**制定史**

本為 2006 年第 149 號法律公告 —— 2020 年第 1 號編輯修訂紀錄

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《刑事事宜相互法律協助(波蘭)令》

(第 525 章, 附屬法例 T)

目錄

條次		頁次
1.	(已失時效而略去)	1
2.	條例在香港與波蘭之間適用	1
附表 1	對本條例作出的變通	S1-1
附表 2	《中華人民共和國香港特別行政區政府與波蘭共和國政府關於刑事事宜相互法律協助的協定》	S2-1

Mutual Legal Assistance in Criminal Matters (Poland) Order

(Cap. 525 sub. leg. T)

Contents

Section		Page
1.	(Omitted as spent)	2
2.	Ordinance to apply between Hong Kong and Poland	2
Schedule 1	Modifications to the Ordinance	S1-2
Schedule 2	Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Poland Concerning Mutual Assistance in Criminal Matters	S2-2

## 《刑事事宜相互法律協助(波蘭)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)

[2007 年 2 月 28 日] 2007 年第 29 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. 條例在香港與波蘭之間適用
  - (1) 現就列明的相互法律協助的安排，指示本條例在撮錄於附表 1 的變通的規限下，在香港與波蘭共和國之間適用。
  - (2) 在第 (1) 款中，**列明的相互法律協助的安排** (scheduled arrangements for mutual legal assistance) 指適用於特區政府與波蘭共和國政府的安排，而該等安排的副本附錄於附表 2。

## Mutual Legal Assistance in Criminal Matters (Poland) Order

(Cap. 525, section 4)

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

[28 February 2007] L.N. 29 of 2007  
(Format changes—E.R. 1 of 2020)

1. (Omitted as spent—E.R. 1 of 2020)
2. **Ordinance to apply between Hong Kong and Poland**
  - (1) In relation to the scheduled arrangements for mutual legal assistance, it is directed that the Ordinance shall, subject to the modifications summarized in Schedule 1, apply as between Hong Kong and the Republic of Poland.
  - (2) In subsection (1), **scheduled arrangements for mutual legal assistance** (列明的相互法律協助的安排) means arrangements which are applicable to the Government and the Government of the Republic of Poland, a copy of which is annexed at Schedule 2.

S1-1  
第 525T 章

附表 1

Schedule 1

S1-2  
Cap. 525T

## 附表 1

[ 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 17(1) 條須予變通，刪去第 (ii) 段。
3. 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，而他沒有在接獲通知已無須為下述任何目的逗留後的 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。”。
4. 本條例第 23(2)(a) 條須予變通 ——  
(a) 在第 (i) 節的末處加入“或”；

## Schedule 1

[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 17(1) of the Ordinance shall be modified by deleting paragraph (ii).
3. 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 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~~ \*\*

S1-3  
第 525T 章

附表 1

(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)。
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Schedule 1

S1-4  
Cap. 525T

- (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.”.

4. 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).

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## 附表 2

[ 第 2 條 ]

### 《中華人民共和國香港特別行政區政府與波蘭共和國政府 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，與波蘭共和國政府(以下提述為“締約雙方”)，

為透過合作和在刑事事宜上的相互法律協助以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：

#### 第一條

#### 提供協助的範圍

## Schedule 2

[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 Republic of Poland Concerning Mutual 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 authorized by the Central People's Government of the People's Republic of China and the Government of the Republic of Poland, hereinafter referred to as “the Contracting Parties”,

Desiring to improve the effectiveness of law enforcement of both Contracting Parties in the investigation, prosecution and prevention of crime and the confiscation of the proceeds of crime through cooperation and mutual legal assistance in criminal matters;

Have agreed as follows:

#### ARTICLE 1

#### SCOPE OF ASSISTANCE

S2-3  
第 525T 章

附表 2

1. 締約雙方須按照本協定的條文，在偵查、檢控和防止罪行方面提供相互協助。締約雙方亦須在沒收或充公犯罪得益或犯罪工具，及直接與犯罪有關的其他法律程序方面的相關事宜上，提供相互協助，除非被請求方的法律不允許提供該等協助，則屬例外。
2. 提供的協助，包括：
  - (a) 錄取證供或陳述；
  - (b) 提供物品，包括作為證據的文件、紀錄及物件；
  - (c) 追尋或辨認有關的人和追尋或識別有關的物品；
  - (d) 送達文件；
  - (e) 安排有關的人(包括被羈押的人)親身出席；
  - (f) 執行搜查和檢取的請求；
  - (g) 協助進行關乎凍結和沒收或充公犯罪得益或犯罪工具的法律程序，及協助將該等得益或工具復還罪案受害人；及
  - (h) 被請求方的法律所不禁止的其他形式的協助。
3. 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。

Schedule 2

S2-4  
Cap. 525T

1. The Contracting Parties shall provide mutual assistance, in accordance with the provisions of this Agreement, in connection with the investigation, prosecution and prevention of offences. The Contracting Parties shall also provide such assistance in connection with the confiscation or forfeiture of the proceeds or instrumentalities of offences and other proceedings directly related to the commission of offences unless such assistance is not permitted by the laws of the Requested Party.
2. Assistance shall include:
  - (a) taking testimony or statements;
  - (b) providing items, including documents, records and articles of evidence;
  - (c) locating or identifying persons or items;
  - (d) serving documents;
  - (e) facilitating the personal appearance of persons, including persons in custody;
  - (f) executing requests for search and seizure;
  - (g) assisting in proceedings related to immobilization and confiscation or forfeiture of the proceeds or instrumentalities of offences and restitution of those proceeds or instrumentalities to the victims of crime; and
  - (h) any other forms of assistance not prohibited by the laws of the Requested Party.
3. This Agreement is intended solely for mutual legal assistance between the Contracting Parties. The provisions of this Agreement shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of the request.



## 第二條

## ARTICLE 2

### 中心機關

### CENTRAL AUTHORITIES

1. 締約雙方須各自設立中心機關，以根據本協定提出及接收請求。
2. 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。波蘭共和國的中心機關為司法部檢察總長或獲其授權的人。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。
3. 中心機關之間須就本協定的事宜直接通訊。

1. Each Contracting Party shall have a Central Authority to make and receive requests pursuant to this Agreement.
2. For the Hong Kong Special Administrative Region, the Central Authority shall be the Secretary for Justice, or a person authorized by the Secretary for Justice. For the Republic of Poland, the Central Authority shall be the Minister of Justice – Prosecutor General, or a person authorized by the Minister of Justice – Prosecutor General. Either Contracting Party may change its Central Authority in which case it shall notify the other of the change.
3. The Central Authorities shall communicate directly with one another for the purposes of this Agreement.

## 第三條

## ARTICLE 3

### 提供協助的限制

### LIMITATIONS ON PROVIDING ASSISTANCE

1. 如有以下情況，被請求方的中心機關須拒絕提供協助：
  - (a) 執行有關的協助請求會損害波蘭共和國的主權、安全或公共秩序，或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；
  - (b) 協助請求關乎屬政治性質的罪行；
  - (c) 協助請求關乎在軍法下的罪行，而該罪行在一般刑事法下不屬罪行；

1. The Central Authority of the Requested Party shall refuse assistance if:
  - (a) the execution of the request for assistance would impair the sovereignty, security or public order of the Republic of Poland or, in the case of the Hong Kong Special Administrative Region, the People's Republic of China;

S2-7  
第 525T 章

附表 2

- (d) 有充分理由相信提出協助請求的目的，是基於某人的種族、宗教、國籍或政治見解而將其檢控、懲罰或以其他方式予以起訴；
- (e) 協助請求關乎對某人進行的檢控，而該人已因同一罪行在被請求方被定罪或裁定無罪；
- (f) 被請求方認為執行協助請求會損害被請求方的基要利益；
- (g) 構成尋求協助所關乎的刑事行為的作為或不作為，根據被請求方的法律並不構成罪行，或假如在被請求方發生，並不構成罪行；
- (h) 提出協助請求的主要目的是對稅項的評估或徵收；
- (i) 協助請求所關乎的罪行，根據請求方的法律屬可判死刑的罪行；
- (j) 協助請求並非遵循本協定提出。

2. 在根據本條拒絕提供協助前，雙方的中心機關須進行磋商，以考慮能否在某些條件的規限下給予協助；如請求方接納在該等條件的規限下接受協助，則須遵守該等條件。

3. 如被請求方的中心機關拒絕提供協助，則須將拒絕的理由知會請求方的中心機關。

Schedule 2

S2-8  
Cap. 525T

- (b) the request for assistance relates to an offence of a political character;
- (c) the request for assistance relates to an offence under military law which would not be an offence under ordinary criminal law;
- (d) there are substantial grounds for believing that the request for assistance was made for the purpose of prosecuting, punishing or otherwise proceeding against a person 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 or acquitted in the Requested Party;
- (f) it is of the opinion that the execution of the request for assistance would impair the essential interests of the Requested Party;
- (g) the acts or omissions which constitute the criminal conduct in respect of which assistance is sought do not constitute an offence under the law of the Requested Party, or would not constitute an offence if committed within the Requested Party;
- (h) the primary purpose of the request for assistance is the assessment or collection of tax;
- (i) the request for assistance relates to an offence which carries the death penalty under the law of the Requesting Party;
- (j) the request for assistance is not made in conformity with this Agreement.

2. Before refusing assistance pursuant to this Article, the Central Authorities shall consult with each other to consider whether assistance can be given subject to conditions. If the Requesting Party accepts assistance subject to these conditions, it shall comply with the conditions.

S2-9  
第 525T 章

附表 2

Schedule 2

S2-10  
Cap. 525T**第四條****請求的形式和內容**

1. 協助請求須以書面提出，但在緊急情況下，被請求方的中心機關可接受以其他形式提出的請求；而在這種情況下，除非被請求方的中心機關另作表示，否則須在隨後十天內以書面確認該請求。除非締約雙方另有協議，協助請求須採用請求方的語文書寫，並附有以被請求方的語文書寫的譯本。
2. 協助請求須包括：
  - (a) 進行與請求有關的偵查、檢控或法律程序的機關的名稱；
  - (b) 對有關刑事事宜性質的描述，並連同有關事實和法律的撮要；
  - (c) 對所尋求提供的證據、資料或其他協助的描述；及
  - (d) 對尋求提供證據、資料或其他協助的目的的描述。
3. 在有必要及可能的範圍內，請求亦須包括：
  - (a) 關於任何被請求提供證據或資料的人的身分及其所在的資料；
  - (b) 關於將被送達文件的人的身分及其所在、該人與有關法律程序的關係以及送達方式的資料；
  - (c) 關於所追尋的人的身分及下落，或所追尋的物品的識別及下落的資料；
  - (d) 要搜查的地方或人及要檢取的物品的確切描述；
  - (e) 對錄取及記錄任何證供、證據或陳述的方式的描述；
  - (f) 擬向某人提出的問題，或擬向某人訊問的事項的描述，或兩者兼備；

**ARTICLE 4****FORM AND CONTENTS OF REQUESTS**

1. A request for assistance shall be made in writing except that the Central Authority of the Requested Party may accept a request in another form in emergency situations. In any such case, the request shall be confirmed in writing within ten days thereafter unless the Central Authority of the Requested Party indicates otherwise. The request shall be in the language of the Requesting Party, with an attached translation into the language of the Requested Party, unless otherwise agreed.
2. The request shall include the following:
  - (a) the name of the authority conducting the investigation, prosecution or proceeding to which the request relates;
  - (b) a description of the nature of the criminal matter and a summary of the relevant facts and laws;
  - (c) a description of the evidence, information or other assistance sought; and
  - (d) a statement of the purpose for which the evidence, information, or other assistance is sought.
3. To the extent necessary and possible, a request shall also include:
  - (a) information on the identity and location of any person from whom evidence or information is sought;

S2-11  
第 525T 章

附表 2

Schedule 2

S2-12  
Cap. 525T

- (g) 對執行請求時須遵循的任何特定程序的描述；
- (h) 有關在執行請求時須有請求內所指定的人在場的任何要求；
- (i) 關於被要求在請求方出席的人有權獲得的津貼及開支的資料；
- (j) 與請求有關的任何時限；
- (k) 有關保密的任何要求；及
- (l) 為便於執行請求而可能要提請被請求方注意的任何其他資料。

- (b) information on the identity and location of a person to be served, that person's relationship to the proceedings, and the manner in which service is to be made;
- (c) information on the identity and whereabouts of a person or an item to be located;
- (d) a precise description of the place or person to be searched and of the items to be seized;
- (e) a description of the manner in which any testimony, evidence or statement is to be taken and recorded;
- (f) a list of questions to be asked of a person or a description of the subject matter about which a person is to be examined or both;
- (g) a description of any particular procedure to be followed in executing the request;
- (h) any requirement for persons designated in the request to be present during the execution of the request;
- (i) information as to the allowances and expenses to which a person asked to appear in the Requesting Party will be entitled;
- (j) any time limits relevant to the request;
- (k) any requirements for confidentiality; and
- (l) any other information which may be brought to the attention of the Requested Party to facilitate its execution of the request.

## 第五條

### 執行請求

## ARTICLE 5

### EXECUTION OF REQUESTS

S2-13  
第 525T 章

附表 2

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。被請求方的主管機關須盡其所能執行請求。被請求方的司法機關或其他主管機關須發出執行請求所需的傳召出庭令、搜查令或其他命令。
2. 被請求方的中心機關須作出一切必需的安排，使請求方在因協助請求而引起的且在被請求方進行的任何法律程序中獲得代表。
3. 請求須按照本協定執行。就本協定沒有管限的事宜而言，請求須按照被請求方的法律處理。請求內所指明的執行方法，除非為被請求方的法律所禁止，否則須予遵循。
4. 如被請求方的中心機關確定執行請求會防礙正在該方進行的刑事偵查、檢控或其他法律程序，該方可暫緩執行，或在與請求方的中心機關磋商後，在經決定屬必需的條件的規限下執行請求。如請求方同意在該等條件的規限下接受協助，則須遵守該等條件。
5. 如請求方的中心機關請求保密，則被請求方須盡其所能將有關的請求及其內容保密。倘若無法在不違反保密的情況下執行請求，則被請求方的中心機關須將此事知會請求方的中心機關，由請求方的中心機關決定是否仍須執行請求。
6. 請求方的中心機關如就執行請求的進展情況提出合理的查詢，被請求方的中心機關須作出回應。
7. 被請求方的中心機關須將執行請求的結果，迅速知會請求方的中心機關。如請求的執行有所延遲或暫緩，或不能全部執行或有部分不能執行，則被請求方的中心機關須將有關的理由知會請求方的中心機關。

Schedule 2

S2-14  
Cap. 525T

1. The Central Authority of the Requested Party shall promptly execute the request or arrange for its execution through its competent authorities. The competent authorities of the Requested Party shall use their best efforts to execute the request. The judicial authorities or other competent authorities of the Requested Party shall issue subpoenas, search warrants, or other orders necessary to execute the request.
2. The Central Authority of the Requested Party shall make all necessary arrangements for representation of the Requesting Party in any proceedings in the Requested Party arising out of a request for assistance.
3. Requests shall be executed in accordance with this Agreement. As regards matters not governed by this Agreement, requests shall be dealt with in accordance with the laws of the Requested Party. The method of execution specified in the request shall be followed except insofar as it is prohibited by the laws of the Requested Party.
4. If the Central Authority of the Requested Party determines that the execution of a request would interfere with an ongoing criminal investigation, prosecution or other proceeding in that Party, it may postpone execution, or make execution subject to conditions determined necessary, after consultation with the Central Authority of the Requesting Party. If the Requesting Party accepts assistance subject to conditions, it shall comply with the conditions.
5. The Requested Party shall use its best efforts to keep confidential a request and its contents if such confidentiality is requested by the Central Authority of the Requesting Party. If the request cannot be executed without breaching such confidentiality, the Central Authority of the Requested Party shall so inform the Central Authority of the Requesting Party, which shall then determine whether the request should nevertheless be executed.
6. The Central Authority of the Requested Party shall respond to reasonable enquiries by the Central Authority of the Requesting Party about progress toward execution of the request.

S2-15  
第 525T 章

附表 2

Schedule 2

S2-16  
Cap. 525T

## 第六條

### 費用

1. 被請求方須支付關乎執行請求的一切費用，但下述項目除外：
  - (a) 應請求方的要求而聘請的律師的費用；
  - (b) 專家的費用；
  - (c) 傳譯或翻譯的費用；
  - (d) 由私人謄寫證供或陳述所招致的費用，或由私人擬備的證供或陳述的書面紀錄或錄影紀錄所招致的費用；
  - (e) 應請求方的請求或根據第十或十一條而將某人送往被請求方的某地所涉及的津貼或交通費。
2. 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，締約雙方須相互進行磋商，以決定繼續執行請求的條款及條件。

## ARTICLE 6

### COSTS

1. The Requested Party shall pay all costs relating to the execution of the request, except for:
  - (a) the fees of counsel retained at the request of the Requesting Party;
  - (b) the fees for experts;
  - (c) the cost of oral and written translations;
  - (d) the cost incurred for transcription by private persons of testimony or statements, or the cost incurred for the preparation by private persons of written records or video records of testimony or statements;
  - (e) the allowances and expenses related to travel of persons to a place in the Requested Party upon the request of the Requesting Party, or pursuant to Articles 10 or 11.
2. If, during the execution of the request, it becomes apparent that expenses of an extraordinary nature are required to fulfil the request the Contracting Parties shall consult each other to determine the terms and conditions under which the execution of the request may continue.



S2-17  
第 525T 章

附表 2

Schedule 2

S2-18  
Cap. 525T

## 第七條

### 使用限制

1. 被請求方的中心機關可要求，未經其事先同意前，請求方不得將根據本協定取得的資料或證據，用於協助請求內所述以外的偵查、檢控或法律程序用途。如被請求方的中心機關如此要求，請求方須予遵守。
2. 被請求方的中心機關可要求，根據本協定提供的資料或證據須予保密，或須按照該中心機關所指明的任何條件使用。如請求方接納在該等條件的規限下接受該等資料或證據，則須盡其所能以遵守該等條件。
3. 如任何資料在某項刑事檢控中可為被告人辯白，則本條並不妨礙在此情況下使用或透露該等資料。請求方須將擬在此情況下透露資料一事事先通知被請求方。
4. 已根據第 1 或 2 款在請求方公開的資料或證據，於其後可作任何用途。

## 第八條

### 在被請求方的證據

## ARTICLE 7

### LIMITATIONS ON USE

1. The Central Authority of the Requested Party may require that the Requesting Party not use any information or evidence obtained under this Agreement in any investigation, prosecution, or proceeding other than that described in the request without the prior consent of the Central Authority of the Requested Party. In such cases, the Requesting Party shall comply with the requirement.
2. The Central Authority of the Requested Party may require that information or evidence furnished under this Agreement be kept confidential or be used in accordance with any conditions which the Central Authority shall specify. If the Requesting Party accepts the information or evidence subject to such conditions, the Requesting Party shall use its best efforts to comply with the conditions.
3. Nothing in this Article shall preclude the use or disclosure of information to the extent that such information is exculpatory to the defendant in a criminal prosecution. The Requesting Party shall notify the Requested Party in advance of any such proposed disclosure.
4. Information or evidence which has been made public in the Requesting Party in accordance with paragraph 1 or 2 may thereafter be used for any purpose.

## ARTICLE 8

### EVIDENCE IN THE REQUESTED PARTY

S2-19  
第 525T 章

附表 2

1. 如根據本協定請求在被請求方的某人提供證據，在有需要下，須強制該人出席作證或出示物品，包括作為證據的文件、紀錄或物件。在執行請求下以口頭或書面作假證供的人，須按照被請求方的刑法在該方受檢控和受罰。
2. 在請求方的請求下，被請求方的中心機關須事先提供關於根據本條錄取證據的日期和地點的資料。
3. 被請求方須容許在請求內所指明的人在執行請求時出席，並在該方的法律所容許的範圍內，容許該人向作證的人發問。
4. 第 1 款所提述的人如按照請求方或被請求方的法律有權拒絕作證，則可拒絕作證。
5. 如被尋求提供證據的人堅稱他根據被請求方的法律有拒絕作證的權利，被請求方須按照本身的法律解決此事。如被尋求提供證據的人堅稱他根據請求方的法律有拒絕作證的權利，則被請求方須基於請求方的中心機關的證明書解決此事。
6. 請求方可請求按照其請求所附的格式，核證根據本條在被請求方所出示的物品(包括文件、紀錄及物件)，請求所附的格式亦可用以核證有關物品(包括文件、紀錄及物件)未有取得或並不存在。

Schedule 2

S2-20  
Cap. 525T

1. A person in the Requested Party from whom evidence is requested pursuant to this Agreement shall be compelled, if necessary, to appear and testify or produce items, including documents, records and articles of evidence. A person who gives false testimony, either orally or in writing, in execution of a request shall be subject to prosecution and punishment in the Requested Party in accordance with the criminal law of that Party.
2. Upon the request of the Requesting Party, the Central Authority of the Requested Party shall furnish information in advance about the date and place of the taking of the evidence pursuant to this Article.
3. The Requested Party shall permit the presence of persons specified in the request during the execution of the request, and to the extent permitted by its law shall allow such persons to question the person giving the evidence.
4. The person referred to in paragraph 1 may refuse to give evidence if such person is entitled to do so according to the laws of the Requesting Party or the Requested Party.
5. If the person from whom evidence is sought asserts the right to decline to give evidence under the law of the Requested Party, the Requested Party shall resolve the matter in accordance with its own law. If the person from whom evidence is sought asserts the right to decline to give evidence under the law of the Requesting Party, the Requested Party shall resolve the matter on the basis of a certificate of the Central Authority of the Requesting Party.
6. The Requesting Party may request that items, including documents, records and articles produced in the Requested Party pursuant to this Article be certified in accordance with forms attached to the request. The absence or non-existence of items, including documents, records and articles may also be certified by forms attached to the request.



## 第九條

### 文件和官方紀錄

1. 被請求方須向請求方提供由被請求方的機關所管有並可供公眾取閱的任何形式的文件或紀錄的副本。
2. 被請求方的機關所管有但不供公眾取閱的文件或紀錄，被請求方可按照其向本身的執法或司法機關提供該類文件或紀錄的副本的相同範圍和條件，提供副本。
3. 請求方可請求按照其請求所附的格式，核證根據本條提供的文件或紀錄，請求所附的格式亦可用以核證有關文件或紀錄未有取得或並不存在。

## 第十條

### 在請求方出席

當請求方請求某名不在該方羈押下的人出席，被請求方須邀請該人在請求方的適當機關出席。請求方須示明該人的開支有多少可獲支付。被請求方的中心機關須迅速將該人的回應知會請求方的中心機關。

## ARTICLE 9

### DOCUMENTS AND OFFICIAL RECORDS

1. The Requested Party shall provide the Requesting Party with copies of documents or records in any form publicly available in the Requested Party, in the possession of the authorities of the Requested Party.
2. The Requested Party may provide copies of any documents or records in the possession of the authorities of that Party, but which are not publicly available, to the same extent and under the same conditions as such copies would be available to its own law enforcement or judicial authorities.
3. The Requesting Party may request that documents or records provided pursuant to this Article be certified in accordance with forms attached to the request. The absence or non-existence of documents or records may also be certified by forms specified in the request.

## ARTICLE 10

### APPEARANCE IN THE REQUESTING PARTY

When the Requesting Party requests the appearance of a person not in custody in that Party, the Requested Party shall invite the person to appear before the appropriate authority in the Requesting Party. The Requesting Party shall indicate the extent to which the expenses of that person will be paid. The Central Authority of Requested Party shall promptly inform the Central Authority of the Requesting Party of the person's response.

## 第十一條

### 移交被羈押的人

1. 如為根據本協定提供協助而尋求被羈押在被請求方的人在請求方出席，而該人及締約雙方的中心機關對此均亦表同意，則該人須從被請求方暫時移交至請求方，以提供有關的協助。
2. 如為根據本協定提供協助而尋求被羈押在請求方的人在被請求方出席，而該人及締約雙方的中心機關對此均亦表同意，則該人須從請求方暫時移交至被請求方，以提供有關的協助。
3. 就本條而言：
  - (a) 接收方有羈押該名被移交的人的權力和責任。但如移送方另有授權，則作別論；
  - (b) 接收方須在情況許可下盡快將被移交的人送還移送方羈押，或按雙方的中心機關另外作出的協議歸還；
  - (c) 接收方不得要求移送方提出引渡法律程序或任何其他法律程序以送還被移交的人；及
  - (d) 被移交的人在移送方被判須服的刑期，須扣除他被羈押在接收方時所服的刑期。

## ARTICLE 11

### TRANSFER OF PERSONS IN CUSTODY

1. A person in the custody of the Requested Party whose presence in the Requesting Party is sought for purposes of assistance under this Agreement shall be temporarily transferred from the Requested Party to the Requesting Party for that purpose if the person consents and if the Central Authorities of both Parties agree.
2. A person in the custody of the Requesting Party whose presence in the Requested Party is sought for the purposes of assistance under this Agreement shall be temporarily transferred from the Requesting Party to the Requested Party if the person consents and if the Central Authorities of both Parties agree.
3. For the purposes of this Article:
  - (a) the receiving Party shall have the authority and the obligation to keep the person transferred in custody unless otherwise authorised by the sending Party;
  - (b) the receiving Party shall return the person transferred to the custody of the sending Party as soon as circumstances permit or as otherwise agreed by both Central Authorities;
  - (c) the receiving Party shall not require the sending Party to initiate extradition proceedings or any other proceedings for the return of the person transferred; and
  - (d) the person transferred shall receive credit for service of the sentence imposed in the sending Party for the time served in the custody of the receiving Party.

## 第十二條

### 安全通行

1. 除第十一條第 3(a) 款另有規定外，第十或十一條所提述的人如應請求在請求方出席，不得因他在離開被請求方之前的作為而在請求方被檢控、扣留或被限制人身自由。該人不得被請求在有關的請求所關乎的法律程序以外的法律程序中作供。
2. 第十或十一條所提述的人如應請求在請求方出席，不得因他所作證供的內容而在請求方被檢控、扣留或被限制人身自由，但以證人身分作假證供則不在此限。
3. 如出席的人本可自由離開請求方，但該人在接獲有關主管機關通知毋須再逗留後的連續十五天內仍未離開請求方，或離開後主動返回，則第 1 款不適用。
4. 任何根據第十或十一條被邀請在請求方出席的人如沒有出席，不得因此而在被請求方受罰或被施加強制措施。

## 第十三條

### 有關的人的所在或身分或物品的所在或其識別

## ARTICLE 12

### SAFE CONDUCT

1. A person referred to in Article 10 or 11 who upon request appears in the Requesting Party shall not, subject to Article 11.3(a), be prosecuted, detained or restricted in his personal liberty in that Party for any acts committed before his departure from the Requested Party. That person shall not be required to give testimony in any proceedings other than the proceedings to which the request relates.
2. A person referred to in Article 10 or 11 who upon request appears in the Requesting Party shall not be prosecuted, detained or restricted in his personal liberty in that Party by reason of the content of testimony provided by him, unless he gives false testimony as a witness.
3. The provisions of paragraph 1 shall not apply if the person who appears, being free to leave the Requesting Party, has not left it within fifteen consecutive days after being notified by a competent authority that his presence is no longer required, or having left, has voluntarily returned.
4. A person who has not appeared in the Requesting Party when invited to do so under Article 10 or 11 shall not be liable to any penalty or coercive measure in the Requested Party.

## ARTICLE 13

### LOCATION OR IDENTIFICATION OF PERSONS OR ITEMS

S2-27  
第 525T 章

附表 2

Schedule 2

S2-28  
Cap. 525T

如請求方追查在被請求方內任何人的所在或身分，或追查在被請求方內任何物品的所在或其識別，被請求方須盡其所能予以查明。

If the Requesting Party seeks the location or identity of persons or items in the Requested Party, the Requested Party shall use its best efforts to establish the location or identity.

## 第十四條

## ARTICLE 14

### 送達文件

### SERVICE OF DOCUMENTS

1. 請求方交付送達的任何文件，被請求方須盡其所能予以送達。
2. 如請求送達的文件要求被送達人在請求方某機關席前出席，請求方須於預定出席的日期前的一段合理時間內交付該請求。如請求送達的文件要求被送達人採取任何其他特定步驟，或給予被送達人機會採取任何其他特定步驟，則上述原則同樣適用。
3. 被請求方須按請求方要求的形式，交回送達證明。
4. 被送達人未有遵守送達給他的法律程序文件的規定，不得因此而在被請求方受罰或被施加強制措施。

1. The Requested Party shall use its best efforts to effect service of any document transmitted to it by the Requesting Party for the purposes of service.
2. The Requesting Party shall transmit any request for the service of a document requiring the appearance of a person before an authority in the Requesting Party a reasonable time before the scheduled appearance. This principle shall apply equally to a request for the service of a document requiring the recipient to take any other specific steps or giving the recipient the opportunity to do so.
3. The Requested Party shall return a proof of service in the manner specified in the request.
4. A person who fails to comply with any process served on him shall not thereby be liable to any penalty or coercive measure in the Requested Party.

## 第十五條

## ARTICLE 15

### 搜查及檢取

### SEARCH AND SEIZURE

S2-29  
第 525T 章

附表 2

Schedule 2

S2-30  
Cap. 525T

1. 請求方如請求搜查、檢取及交付任何物品，而該請求包括一些資料，證明根據被請求方的法律是有理由支持有關行動的，則被請求方須執行該請求。
2. 請求方如要求提供與檢獲物品的搜查、檢取及保管情況有關的資料，被請求方須予提供。請求方尤其可要求每名曾負責保管檢獲物品的人員，按照有關請求內所附的格式，核證有關物品的識別資料、保管的持續期，以及有關物品的完好狀況。該等核證在請求方須被接納為證明其內所述事宜的證據。
3. 被請求方如把檢獲物品交付請求方，請求方須遵循被請求方就該等物品施加的任何條件。

1. The Requested Party shall execute a request for the search, seizure, and delivery of any item to the Requesting Party if the request includes information justifying such action under the law of the Requested Party.
2. The Requested Party shall provide such information as may be required by the Requesting Party concerning the circumstances of any search, seizure and custody of the item seized. In particular the Requesting Party may request that each official who has had custody of a seized item certify the identity of the item, the continuity of custody and the integrity of its condition in accordance with forms attached to the request. Such certificates shall be admissible as evidence in the Requesting Party as proof of the matters set forth therein.
3. The Requesting Party shall observe any conditions imposed by the Requested Party in relation to any seized item which is delivered to the Requesting Party.

## 第十六條

## ARTICLE 16

### 物品的交還

### RETURN OF ITEMS

如被請求方的中心機關提出要求，請求方的中心機關須盡快交還根據本協定執行請求而向其提供的任何物品。

If required by the Central Authority of the Requested Party the Central Authority of Requesting Party shall return as soon as possible any item furnished to it in execution of a request under this Agreement.

## 第十七條

## ARTICLE 17

### 沒收及充公法律程序中的協助

### ASSISTANCE IN CONFISCATION AND FORFEITURE PROCEEDINGS

S2-31  
第 525T 章

附表 2

1. 締約某一方的中心機關如知悉有犯罪得益或犯罪工具處於在締約另一方，可知會該另一方的中心機關。如該另一方有司法管轄權充公或暫時凍結該等得益或工具，則可將有關資料呈報其有關機關，以裁定是否適宜採取任何行動。該等機關須按照法律作出決定，並須透過其中心機關，將已採取的行動知會首先作出通知的一方。
2. 締約雙方須在有關沒收或充公犯罪得益或犯罪工具以及向罪案受害人作出復還的法律程序中，在其各別的法律容許的範圍內相互提供協助，包括採取行動以暫時凍結有關得益或工具，以待進一步的法律程序。
3. 犯罪得益或犯罪工具如在締約某一方的保管中，則該一方須按照其法律予以處置。任何一方均可將該等資產的全部或部分移轉至另一方，或將其出售後的得益移轉至另一方，但以作出移轉的一方的法律所容許的範圍為限，及須按照雙方協議的條款進行。

## 第十八條

### 認證

根據本協定交付的證據或文件，除非締約任何一方按照其法律以明示方式要求認證，否則毋須任何方式的認證。

Schedule 2

S2-32  
Cap. 525T

1. If the Central Authority of one Contracting Party becomes aware that proceeds or instrumentalities of offences are located in the other Contracting Party, it may so inform the Central Authority of the other Contracting Party. If that other Party has jurisdiction to forfeit or temporarily immobilize those proceeds or instrumentalities, it may present this information to its authorities for a determination whether any action is appropriate. These authorities shall issue their decision in accordance with law, and shall, through their Central Authority, inform the Party which has made the initial notification of the action taken.
2. The Contracting Parties shall assist each other to the extent permitted by their respective laws in proceedings relating to the confiscation or forfeiture of the proceeds or instrumentalities of offences and restitution to the victims of crime. The assistance may include action to temporarily immobilize the proceeds or instrumentalities pending further proceedings.
3. The Contracting Party that has custody of the proceeds or instrumentalities of offences shall dispose of them in accordance with its law. Either Party may transfer all or part of such assets or the proceeds of their sale to the other Party, to the extent permitted by the transferring Party's laws and upon such terms as may be agreed.

## ARTICLE 18

### AUTHENTICATION

Evidence or documents transmitted pursuant to this Agreement shall not require any form of authentication, unless expressly requested by either of the Contracting Parties in accordance with its law.



## 第十九條

### 與其他協定兼容

本協定的條文不阻止締約任何一方透過其他適用的國際協定條文或慣例，向另一方提供協助。

## 第二十條

### 商議

1. 締約雙方的中心機關在有需要時須進行磋商，以促使本協定獲得最有效的運用。雙方的中心機關亦可視乎需要而協議實際的措施，以有助于本協定的履行。
2. 任何因本協定的解釋或適用所引起的歧見，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。

## 第二十一條

### 生效、持續期及終止

## ARTICLE 19

### COMPATIBILITY WITH OTHER AGREEMENTS

The provisions of this Agreement shall not prevent either of the Contracting Parties from granting assistance to the other Party through the provisions of other applicable international agreements or practices.

## ARTICLE 20

### CONSULTATION

1. The Central Authorities of the Contracting Parties shall consult, whenever necessary, to promote the most effective use of this Agreement. The Central Authorities may also agree on such practical measures as may be necessary to facilitate the implementation of this Agreement.
2. Any differences arising out of the interpretation or application of this Agreement shall be resolved through diplomatic channels if the Central Authorities of the Contracting Parties are themselves unable to reach agreement.

## ARTICLE 21

### ENTRY INTO FORCE, DURATION AND TERMINATION

S2-35  
第 525T 章

附表 2

1. 締約每一方須按照其法律採納本協定。
2. 本協定在締約雙方接獲對方通知已各自履行為使本協定生效的法律規定的日期起計三十天後生效，如雙方接獲通知的日期並不一致，則以較後的一個日期為準。
3. 本協定並沒有就一段預定的期間而訂立。締約任何一方可藉給予另一方通知而終止本協定，而在此情況下，本協定於另一方接獲通知的日期起計三個月屆滿後失效。

下列簽署人，經其各自政府正式授權，已在本協定上簽字為證。

本協定於二零零五年四月二十六日在香港簽訂，一式兩份，每份均用以中文、英文及波蘭文寫成。各文本均同等真確。如有釋義上的爭議，則以英文本為準。

Schedule 2

S2-36  
Cap. 525T

1. This Agreement shall be adopted by each Contracting Party in accordance with its laws.
2. This Agreement shall enter into force thirty days after the date of receipt of the later of the notifications by which the Contracting Parties notify each other that their respective legal requirements for entry into force of the Agreement have been complied with.
3. This Agreement has not been concluded for a predetermined period of time. It may be terminated by means of notification of either of the Contracting Parties; in such case it shall cease to be in force after the expiry of three months from the date of receipt of the notification.

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

DONE at Hong Kong this twenty-sixth day of April 2005 in duplicate, in the Chinese, English and Polish languages, all texts being equally authentic; in case of a dispute as to their interpretation, the English text shall prevail.