

《刑事事宜相互法律協助(新加坡)令》
(第 525 章, 附屬法例 P)

Mutual Legal Assistance in Criminal Matters (Singapore) Order
(Cap. 525 sub. leg. P)

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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—S1-4	16.1.2020
附表 2 Schedule 2	S2-1—S2-40	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 2004 年第 112 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(新加坡)令》

(第 525 章, 附屬法例 P)

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Mutual Legal Assistance in Criminal Matters
(Singapore) Order

(Cap. 525 sub. leg. P)

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《刑事事宜相互法律協助(新加坡)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)

[2004 年 7 月 14 日] 2004 年第 129 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. **條例在香港與新加坡之間適用**
 - (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，在香港與新加坡共和國之間適用。
 - (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新加坡共和國政府的安排，而該等安排的副本附錄於附表 2。

Mutual Legal Assistance in Criminal Matters (Singapore) Order

(Cap. 525, section 4)

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

[14 July 2004] L.N. 129 of 2004
(Format changes—E.R. 1 of 2020)

1. (Omitted as spent—E.R. 1 of 2020)
2. **Ordinance to apply between Hong Kong and Singapore**
 - (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 Singapore.
 - (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 Singapore, a copy of which is annexed at Schedule 2.

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 5(1) 條須予變通，加入 ——
“(ea) 該項請求關乎因某作為或不作為而對某人進行的檢控，而 ——
(i) 根據該地方的法律因時效消失而不再能夠在該地方予以檢控；或
(ii) 假使該作為或不作為是在香港發生，便會根據香港的法律因時效消失而不再能夠在香港予以檢控；*”。
3. 本條例第 17(3)(b) 條須予變通至如下所示 ——
“(b) 該人在有機會離開香港的情況下** 有機會離開香港而在自他有該機會起計的 15 天屆滿後 * 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

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

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附表 1

- (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 1

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3. Section 17(3)(b) of the Ordinance shall be modified to read as follows—

“(b) the person has had an opportunity of leaving Hong Kong, 15 days have expired since that opportunity* and the person* 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).

附表 2

[第 2 條]

《中華人民共和國香港特別行政區政府與新加坡共和國政府關於刑事事宜相互法律協助的協定》

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[s. 2]

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中華人民共和國香港特別行政區政府(“香港特別行政區”), 經中華人民共和國中央人民政府正式授權, 與新加坡共和國政府(以下稱兩者為“締約雙方”),

The Government of the Hong Kong Special Administrative Region of the People’s Republic of China (“the Hong Kong Special Administrative Region”), having been duly authorised by the Central People’s Government of the People’s Republic of China, and the Government of the Republic of Singapore, hereinafter called the ‘Parties’,

為加強締約雙方的執法機關在偵查、檢控及遏止罪案方面的效能, 協議如下:

Desiring to improve the effectiveness of the law enforcement authorities of the Parties in the investigation, prosecution and suppression of crime,

Have agreed as follows:

第一章 —— 一般條文

CHAPTER 1—GENERAL PROVISIONS

第一條

Article 1

提供協助的範圍

Scope of assistance

- (1) 締約雙方須按照本協定的條文，並在各自本地法律的規限下，在刑事事宜上提供相互協助。
- (2) 提供的協助包括：
 - (a) 提供及取得資料、自願作出的陳述、證供及文件、物品及紀錄（包括司法及官方紀錄）；
 - (b) 安排有關的人出席以就刑事事宜作證或提供協助；
 - (c) 限制及沒收或充公用於犯罪或從犯罪得來的財產；
 - (d) 執行搜查及檢取的請求；
 - (e) 追尋及辨認有關的人；
 - (f) 送達文件；及
 - (g) 就任何個別情況經雙方同意，且屬各自的本地法律所容許，並符合本協定的目的的其他形式的協助。
- (3) 提供的協助並不包括：
 - (a) 移交逃犯；及
 - (b) 執行或強制執行在請求方所判定的最後刑事判決，但在被請求方的法律和本協定所容許的範圍內者，則不在此限。

- (1) The Parties shall provide in accordance with the provisions of this Agreement and subject to their respective domestic laws, mutual assistance in criminal matters.
- (2) Assistance shall include:
 - (a) the provision and obtaining of information, voluntary statements, evidence and documents, articles and records (including judicial and official records);
 - (b) arranging the attendance of persons to give evidence or assistance in relation to criminal matters;
 - (c) restraining and confiscating or forfeiting property used in or derived from the commission of offences;
 - (d) the execution of requests for search and seizure;
 - (e) the location and identification of persons;
 - (f) the service of documents; and
 - (g) other forms of assistance consistent with the objects of this Agreement, as may be mutually agreed in any particular case and as permitted by respective domestic laws.
- (3) Assistance shall not include:
 - (a) the surrender of any fugitive offender; and
 - (b) the execution or enforcement of final criminal judgments imposed in the Requesting Party except to the extent

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第二條

排除第三者的權利

本協定的條文並不給予任何私人取得、隱藏或排除任何證據或阻礙執行請求的權利。

第三條

拒絕或暫緩執行請求

- (1) 被請求方如認為有以下情況，須拒絕提供協助：
- (a) 應允協助請求會損害新加坡共和國的主權、安全或公共秩序，或就香港特別行政區政府而言，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) 協助請求關乎只在軍法下才構成的罪行；
 - (d) 有充分理由相信協助請求將會引致某人因其種族、宗教、性別、族裔、國籍或政治見解而蒙受不利；
 - (e) 協助請求關乎就某罪行對某人進行偵查、檢控或懲罰，而該人已在請求方或被請求方因同一罪行被定罪、裁定無罪或赦免，或假使該人是在請求方或被請求方的司法管轄區犯該罪行，由於因時效消失，不能因此再被檢控；
 - (f) 應允請求將會嚴重損害香港特別行政區的基要利益，或違反新加坡的公眾利益(視屬何情況而定)；
 - (g) 被指稱構成罪行的作為或不作為，如在被請求方的司法管轄區發生，並不構成罪行；或

permitted by the law of the Requested Party and this Agreement.

Article 2

Exclusion of third party rights

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 a request.

Article 3

Refusal or postponement of execution of requests

- (1) The Requested Party shall refuse assistance if it is of the opinion that:
- (a) the granting of the request for assistance would impair the sovereignty, security or public order of the Republic of Singapore or, in the case of the Government of the Hong Kong Special Administrative Region, the People's Republic of China;
 - (b) the request for assistance relates to an offence of a political character;
 - (c) the request for assistance relates to an offence only under military law;
 - (d) there are substantial grounds for believing that the request for assistance will result in a person being prejudiced on account of his race, religion, sex, ethnic origin, nationality or political opinions;
 - (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,

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(h) 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。

(2) 如被請求方決定執行請求或其任何部分會不利於某刑事事宜，被請求方可拒絕請求，或暫緩執行請求，或經與請求方磋商後，在其認為必需的條件的規限下，才應允請求，如其法律有所規定，則必須如此行事。

(3) 如請求方接納在第(2)款所述條件的規限下接受協助，須遵守該等條件。

(4) 被請求方如認為有以下的情況，可拒絕提供協助，如其法律有所規定，則必須拒絕提供協助：

- (a) 請求關乎的罪行的嚴重程度不足夠；
- (b) 就有關偵查而言，所要求的物料的重要程度不足夠，或可合理地從其他途徑取得；
- (c) 提供協助會或相當可能會不利於任何人的安全；或
- (d) 提供協助會對資源造成過大的負擔。

(5) 被請求方須迅速將執行請求的結果知會請求方。如請求全部或部分不能執行，被請求方須將有關理由知會請求方。

acquitted or pardoned in the Requesting Party or Requested Party; or for which the person could no longer be prosecuted by reason of lapse of time if the offence had been committed within the jurisdiction of the Requesting Party or Requested Party;

- (f) the granting of the request would seriously impair the essential interests of the Hong Kong Special Administrative Region or be contrary to the public interest of Singapore as the case may be;
- (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; or
- (h) the Requesting Party cannot comply with conditions relating to confidentiality or limitation as to the use of material to be provided.

(2) If the Requested Party determines that the execution of the request, or any portion thereof, could prejudice a criminal matter, it may and shall, if required by its law, refuse the request or postpone execution or make the grant of the request subject to conditions determined necessary after consultations with the Requesting Party.

(3) If the Requesting Party accepts assistance subject to the conditions stated in paragraph (2), it shall comply with those conditions.

(4) The Requested Party may and shall, if required by its law, refuse assistance if it is of the opinion that:

- (a) the offence to which the request relates is not an offence of sufficient gravity;
- (b) the material requested is of insufficient importance to the investigation or could reasonably be obtained by other means;

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第二章——特定的協助形式

第四條

取得陳述

- (1) 請求方如請求取得某人的陳述，供該方的刑事事宜的偵查或法律程序使用，被請求方須盡力在該人同意下取得有關陳述。
- (2) 就根據本條提出的請求而言，請求方須指明擬錄取的陳述所涉及的事項，包括擬提出的問題。

第五條

取得證供

- (1) 請求方如就在該方的刑事罪行的檢控或刑事事宜的法律程序提出錄取證供的請求，被請求方須在其法律的規限下安排錄取有關證供，並將取得的證供交付請求方。

- (c) the provision of the assistance would, or would be likely to, prejudice the safety of any person; or
- (d) the provision of the assistance would impose an excessive burden on resources.

(5) The Requested Party shall promptly inform the Requesting Party of the outcome of the execution of the request. If the request cannot be executed in whole or in part, the Requested Party shall inform the Requesting Party of the reasons therefor.

CHAPTER 2—SPECIFIC FORMS OF ASSISTANCE

Article 4

Obtaining statements of persons

- (1) Where a request is made to obtain the statement of a person for the purpose of an investigation or proceedings in relation to a criminal matter in the Requesting Party, the Requested Party shall endeavour, with the consent of that person, to obtain that statement.
- (2) For the purposes of a request under this Article, the Requesting Party shall specify the subject matter about which the statement is to be taken, including any question it seeks to be put.

Article 5

Obtaining of evidence

- (1) Where a request is made that evidence be taken for the purpose of the prosecution of a criminal offence or proceedings in relation to a criminal matter in the Requesting Party, the Requested Party shall, subject

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(2) 就根據本條提出的請求而言，請求方須指明擬向證人訊問的事項，亦可指明擬向證人提出的問題，以及錄取證供的方式和形式。

(3) 凡根據本條錄取證供，就向作證的人提出問題而言，在請求方的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。

(4) 凡需在被請求方作證的人，可在以下情況下拒絕作證：
(a) 假如在被請求方提起的刑事法律程序出現類似情況，被請求方的法律容許該人拒絕作證；或
(b) 假如在請求方進行該等刑事法律程序，請求方的法律容許該人拒絕作證。

(5) 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，被請求方處理此事時須以請求方的證明書為憑據。

to its law, arrange to have such evidence taken and transmitted to the Requesting Party.

(2) For the purposes of requests under this Article, the Requesting Party shall specify the subject matter about which witnesses are to be examined, and may also specify any questions to be put to them as well as the manner and form in which evidence should be taken.

(3) Where evidence is to be taken under this Article, the person to whom the prosecution or proceedings 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.

(4) A person who is required to give evidence in the Requested Party may decline to give evidence where either:
(a) the law of the Requested Party would permit that person to decline to give evidence in similar circumstances in criminal proceedings which originated in the Requested Party; or
(b) the law of the Requesting Party would permit the person to decline to give evidence in such criminal proceedings in the Requesting Party.

(5) 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 Requesting Party.

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第六條

交出物料

請求方如就在該方的任何刑事事宜提出交出文件、紀錄或其他物料的請求，被請求方須在其法律的規限下安排將該等文件、紀錄或物料交出及交付請求方。

第七條

有關的人的出席

被請求方可安排某人(但不包括被羈押的人)在請求方的領域出席，以就某刑事事宜提供證據或協助。

第八條

有關的人的同意

在根據第七條作出安排之前，被請求方須尋求該人的同意，並在尋求他的同意之前知會他請求方會向他支付的款項或津貼。

Article 6

Production of material

Where a request is made for the production of documents, records or other material for the purposes of any criminal matter in the Requesting Party, the Requested Party shall, subject to its law, arrange for such production and transmission to the Requesting Party.

Article 7

Attendance of persons

The Requested Party may arrange for the attendance of a person (not being a person who is in custody) in the territory of the Requesting Party for the purposes of providing evidence or assistance in relation to a criminal matter.

Article 8

Consent of persons

Before making any arrangement under Article 7, the Requested Party shall seek the consent of the person and inform him prior to the seeking of the consent of any payment or allowances payable to him by the Requesting Party.

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第九條
安全通行

Article 9

Safe conduct

- (1) 凡根據第七條請求協助，請求方須向被請求方：
- (a) 以書面承諾，被尋求在請求方的領域出席的人 ——
- (i) 不得因他在離開被請求方的領域之前的作為或不作為而被拘留、檢控或懲罰，或遭受民事起訴(只限於那些假如他不在請求方的領域便不得因某事而遭受民事起訴)；
 - (ii) 不得被要求在請求所關乎的刑事事宜以外的任何刑事事宜中提供協助；
 - (iii) 不得因他的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；及
 - (iv) 須按照締約雙方協議的安排被送回被請求方的領域，及
- (b) 就被請求方認為適當的其他事宜作出書面承諾。
- (2) 如有關的人本可自由離開請求方的領域，但在接獲請求方以書面正式向其本人通知毋須再逗留後十五天內仍未離開，或在離開請求方的領域後主動返回，則第(1)款不適用。
- (3) 任何人如不同意根據第七條作證或提供協助，不得因此而根據請求方或被請求方的法律遭受處罰或負上法律責任或在其他情況下蒙受不利。

- (1) Where a request for assistance under Article 7 is made, the Requesting Party shall provide an undertaking in writing to the Requested Party:
- (a) that the person whose attendance is sought in the territory of the Requesting Party—
- (i) shall not be subject to detention, prosecution, punishment or civil suit (being a civil suit to which the person could not be subject if he were not in the territory of the Requesting Party) in respect of any act or omission which preceded the person's departure from the territory of the Requested Party;
 - (ii) shall not be required to assist in any criminal matter other than the criminal matter to which the request relates;
 - (iii) shall not be subject to any prosecution based on his testimony, other than for an offence of perjury or contempt of court; and
 - (iv) shall be returned to the territory of the Requested Party in accordance with arrangements agreed by both Parties, and
- (b) on such other matters as the Requested Party deems appropriate.
- (2) Paragraph (1) shall not apply if the person, being free to leave the territory of the Requesting Party, has not left within 15 days after he is officially and personally notified in writing by the Requesting Party that his

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第十條
沒收及充公

- (1) 締約雙方須在其各自本地法律的規限下，在沒收或充公用於犯罪或從犯罪得來的財產的法律程序中互相協助對方，包括限制或檢取財產以待進一步的法律程序、登記或強制執行法庭命令及判決、或以其他方式提起沒收或充公財產的法律程序或在該等法律程序中提供協助。
- (2) 根據本條提供的協助，只可就本協定生效後提起的法律程序而給予。
- (3) 就本條而言，“用於犯罪或從犯罪得來的財產”包括——
- (a) 在與某罪行有關連的情況下收受的款項或其他酬賞，或該等款項或酬賞的價值；
 - (b) 從在與某罪行有關連的情況下收受的款項或其他酬賞而直接或間接得來的財產或將該等款項或酬賞變現而直接或間接所得的財產，或該等財產的價值；及
 - (c) 曾在與某罪行有關連的情況下使用的財產或該等財產的價值。

presence is no longer required, or having left the territory of the Requesting Party, has voluntarily returned.

- (3) A person who does not consent to give evidence or provide assistance pursuant to Article 7 shall not by reason thereof be subject to any penalty or liability or otherwise prejudiced pursuant to the law of the Requesting Party or Requested Party.

Article 10
Confiscation and forfeiture

- (1) The Parties shall, subject to their respective domestic laws, assist each other in relation to proceedings to confiscate or forfeit property used in or derived from the commission of offences. This may include restraining or seizing property pending further proceedings, registering or enforcing court orders and judgments, or otherwise initiating or assisting in proceedings to confiscate or forfeit the property.
- (2) Assistance under this Article shall only be granted in respect of proceedings which are instituted after the coming into force of this Agreement.
- (3) In this Article, “property used in or derived from the commission of offences” includes—
- (a) payments or other rewards received in connection with an offence, or the value of such payments or rewards;
 - (b) property derived or realised, directly or indirectly, from payments or other rewards received in connection with such an offence, or the value of such property; and
 - (c) property used in connection with an offence or the value of such property.

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第十一條

沒收或充公財產的歸屬

除非締約雙方就個別情況另作協議，否則根據第十條沒收或充公的財產須歸於被請求方。

第十二條

搜查及檢取

(1) 請求方如請求搜查、檢取和交付任何與在請求方的某刑事事宜有關的物件或物料，被請求方須在其法律的規限下執行該請求，但必須有合理理由相信該物件或物料與該刑事事宜有關，並且位於被請求方。

(2) 請求方如要求提供與搜查的結果、檢取財產的地點、情況以及檢獲財產的保管有關的資料，被請求方須予提供。

第十三條

物料的回交

(1) 請求方須應請求而承諾將取得的特定物件或物料，在協助請求所關乎的刑事事宜完結時，立即交回被請求方。

(2) 被請求方如把任何物件或物料交付請求方，請求方須遵循被請求方就該等物件或物料所施加的任何條件。

Article 11

Accrual of confiscated or forfeited property

Property confiscated or forfeited pursuant to Article 10 shall accrue to the Requested Party, unless otherwise agreed in a particular case between the Parties.

Article 12

Search and seizure

(1) The Requested Party shall, subject to its law, execute a request for the search, seizure and delivery of any thing or material which relates to a criminal matter in the Requesting Party if there are reasonable grounds for believing that the thing or material is relevant to the criminal matter and is located in the Requested Party.

(2) The Requested Party shall provide such information as may be required by the Requesting Party concerning the result of any search, the place of seizure, the circumstances of seizure, and the subsequent custody of the property seized.

Article 13

Return of material

(1) Upon request, the Requesting Party shall undertake to immediately return to the Requested Party any particular thing or material obtained at the conclusion of the criminal matter in respect of which the request for assistance was made.

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第十四條

追尋或辨認有關的人

被請求方須應請求而盡其最大努力以查明相信在其領域內的某人的所在或身分。

第十五條

送達法律程序文件

(1) 被請求方須應請求而協助將法律程序文件送達在其領域內的某人。

(2) 如送達文件的請求與被送達人作出回應或在請求方出席有關，則請求方須於預定的回應或出席的日期前的合理時間內交付請求。

第十六條

送達法律程序文件的效力

(1) 根據第十五條被送達法律程序文件的人，不得僅因他拒絕或沒有接收該法律程序文件或拒絕或沒有遵守該法律程序文件的規定，而根據請求方或被請求方的法律遭受處罰、負上法律責任或被施加強制措施。

(2) 請求方須在根據第十五條提出送達法律程序文件的請求時提供：

- (a) 須予送達的法律程序文件的種類或性質的細節；

Article 14

Locating or identifying persons

(2) The Requesting Party shall observe any conditions imposed by the Requested Party in relation to any thing or material which is delivered to the Requesting Party.

Upon request, the Requested Party shall use its best endeavours to ascertain the location or identity of a person who is believed to be in its territory.

Article 15

Service of service of process

(1) Upon request, the Requested Party shall assist in the service of process on a person in its territory.

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

Article 16

Effect of service of process

(1) A person on whom process is served pursuant to Article 15 shall not be subject to any penalty, liability or coercive measure pursuant to the law of the Requesting Party or the Requested Party by reason only of that person's refusal or failure to accept or comply with such process.

(2) The Requesting Party shall provide at the time a request for service of process is made pursuant to Article 15:

- (a) details of the type or nature of the process to be served;

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- (b) 一項陳述，說明因拒絕或沒有接收該法律程序文件的送達或拒絕或沒有遵守該法律程序文件的規定而在請求方所可能引致的後果；及
- (c) (如請求送達的是傳召證人出庭的傳票) 一項承諾，承諾被送達傳票的人不得僅因拒絕或沒有接收該傳票，或拒絕或沒有遵守該傳票的規定而遭受處罰或負上法律責任或於其他情況下在法律上蒙受不利。

(3) 被請求方須將第(1)及(2)款所提述的事宜知會被送達人，並可知會該人，被請求方對在請求方進行的有關法律程序的是非曲直，並無任何立場。

第十七條

法律程序文件的證明

被請求方須在其法律的規限下，按請求方要求的方式，交回送達文件證明。

第十八條

可供公眾查閱的文件和官方文件的提供

- (1) 被請求方須向請求方提供由其政府部門及機構所管有的可供公眾取閱的文件的副本。
- (2) 被請求方可在其法律的規限下提供由其政府部門及機構所管有的任何文件、紀錄或資料的副本。

- (b) a statement of any possible consequences in the Requesting Party of refusal or failure to accept or comply with service of the process; and
- (c) where the request is for the service of a summons to appear as a witness, an undertaking that the person on whom the summons is to be served shall not be subject to any penalty or liability or otherwise prejudiced in law by reason only of the person's refusal or failure to accept or comply with the summons.

(3) The Requested Party shall inform the person to be served of the matters referred to in paragraphs (1) and (2) and may inform the person that it takes no position with respect to the merits of the proceedings in the Requesting Party.

Article 17

Proof of process

The Requested Party shall, subject to its law, return a proof of service in the manner required by the Requesting Party.

Article 18

Provision of public and official documents

- (1) The Requested Party shall provide the Requesting Party with copies of publicly available documents in the possession of government departments and agencies.
- (2) The Requested Party may, subject to its law, provide copies of any document, record or information in the possession of government departments and agencies.

第三章 —— 程序事宜

CHAPTER 3—PROCEDURAL MATTERS

第十九條

Article 19

請求的形式及內容

Form and contents of requests

- (1) 所有請求均須以書面提出。
- (2) 任何請求須 ——
 - (a) 指明請求的目的，以及所尋求的協助的性質；
 - (b) 指明提起請求的人或機關；及
 - (c) 連同以下文件或資料 ——
 - (i) 一份證明請求是就某刑事事宜而提出的證明書；
 - (ii) 對該刑事事宜性質的描述，及列出有關事實及法律的撮要的陳述；
 - (iii) 如請求關乎 ——
 - (A) 追尋被懷疑涉及犯罪或曾經從犯罪中得益的人；或
 - (B) 追查被懷疑與罪行有關連的財產，
該人的姓名、身分、國籍、所在或對該人的描述，或該財產的所在及對該財產的描述(如知道的話)，以及一份內載說明懷疑(A)或(B)節所提述事宜的理據的陳述；
 - (iv) 對該刑事事宜所關乎的罪行的描述，包括說明該罪行的最高刑罰；
 - (v) 請求方冀望在執行該項請求時須遵循的程序的細節，包括根據該項請求而提供任何資料或物件的方式及形式的細節；

- (1) All requests shall be made in writing.
- (2) A request shall—
 - (a) specify the purpose of the request and the nature of the assistance being sought;
 - (b) identify the person or authority that initiated the request; and
 - (c) be accompanied by—
 - (i) a certificate that the request is made in respect of a criminal matter;
 - (ii) a description of the nature of the criminal matter and a statement setting out a summary of the relevant facts and laws;
 - (iii) where the request relates to—
 - (A) the location of a person who is suspected to be involved in or to have benefited from the commission of an offence; or
 - (B) the tracing of property that is suspected to be connected with an offence,
the name, identity, nationality, location or description of that person, or the location and description of the property, if known, and a

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- (vi) 如根據第十條請求協助，但尚未在請求方就取得沒收令而提起司法程序，一份指出相當可能提起該等司法程序的時間的陳述；
- (vii) 一份列出請求方在該項請求的保密方面的冀望以及該等冀望所據的理由的陳述；
- (viii) 請求方冀望順應該項請求的時限的細節；
- (ix) 如該項請求涉及某人前往請求方，該人有權獲得的津貼的細節，以及該人根據該項請求逗留在請求方期間的住宿安排的細節；及
- (x) 可協助執行該項請求的任何其他資料。

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- statement setting forth the basis for suspecting the matter referred to in sub-paragraph (A) or (B);
- (iv) a description of the offence to which the criminal matter relates, including its maximum penalty;
- (v) details of the procedure that the Requesting Party wishes to be followed in giving effect to the request, including details of the manner and form in which any information or thing is to be supplied pursuant to the request;
- (vi) where the request is for assistance pursuant to Article 10 and judicial proceedings to obtain a confiscation order have not been instituted in the Requesting Party, a statement indicating when they are likely to be instituted;
- (vii) a statement setting out the wishes of the Requesting Party concerning the confidentiality of the request and the reason for those wishes;
- (viii) details of the period within which the Requesting Party wishes the request to be met;
- (ix) if the request involves a person travelling to the Requesting Party, details of allowances to which the person will be entitled, and of the arrangements for accommodation for the person while he is in the Requesting Party pursuant to the request; and
- (x) any other information that may assist in giving effect to the request.

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第二十條

中心機關

- (1) 新加坡的中心機關為新加坡的總檢察長或獲其正式授權的人員。香港特別行政區的中心機關為律政司司長或獲其正式授權的人員。締約任何一方均可更改其中心機關，但須將有關更改通知對方。
- (2) 就本協定而言，締約雙方的中心機關須交付及接收所有請求。
- (3) 中心機關之間可就本協定的事宜直接通訊。
- (4) 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。
- (5) 請求須在被請求方的法律的規限下執行，並在可行的情況下按照請求所述的指示執行。
- (6) 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。

Article 20

Central Authorities

- (1) The Central Authority for Singapore is the Attorney-General of Singapore or his duly authorised officer. The Central Authority of the Hong Kong Special Administrative Region is the Secretary for Justice or his duly authorised officer. Either Party may change its Central Authority in which case it shall notify the other of the change.
- (2) The Central Authorities of the Parties shall transmit and receive all requests for the purposes of this Agreement.
- (3) The Central Authorities may communicate directly with each other for the purposes of this Agreement.
- (4) The Central Authority of the Requested Party shall promptly execute the request or arrange for its execution through its competent authorities.
- (5) A request shall be executed subject to the law of the Requested Party and if practicable, in accordance with the directions stated in the request.
- (6) 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.

第二十一條

保密

- (1) 未經被請求方的中心機關事先書面同意，請求方不得透露或使用根據本協定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。
- (2) 被請求方的中心機關可同意獲提供的資料或證據(包括文件、物品或紀錄)，在其指明的條款及條件的規限下，用作有關請求所述以外的用途。
- (3) 除非獲請求方授權，被請求方須盡其所能，將請求、其內容及應允請求一事保密。倘若無法在不違反保密的情況下執行請求，則被請求方須將此事知會請求方，由請求方決定是否仍須執行請求。

第二十二條

認證

締約任何一方須應要求而認證根據本協定交付另一方的任何文件。符合以下說明的文件即屬已予認證：

- (a) 文件看來是由被要求作出認證的一方的法官、裁判官或官員，或由在該方的法官、裁判官或官員簽署或核證；及
- (b) 符合以下其中一項說明——

Article 21

Confidentiality

- (1) The Requesting Party shall not disclose or use the information or evidence furnished, including documents, articles or records, pursuant to this Agreement for purposes other than those stated in the request without the prior written consent of the Central Authority of the Requested Party.
- (2) The Central Authority of the Requested Party may consent to the information or evidence furnished, including documents, articles or records, being used for purposes other than those stated in the request subject to such terms and conditions as it may specify.
- (3) The Requested Party shall use its best efforts to keep confidential a request, its contents and the fact that it has been granted, except when otherwise authorised by the Requesting Party. If the request cannot be executed without breaching confidentiality, the Requested Party shall so inform the Requesting Party which shall then determine whether the request should nevertheless be executed.

Article 22

Authentication

Upon request, each Party shall authenticate any documents to be transmitted to the other Party under this Agreement. Documents are authenticated if:

- (a) they purport to be signed or certified by a judge, magistrate or official in or of the Party requested; and
- (b) they are either—

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- (i) 由被要求作出認證的一方的證人或官員藉宗教式或非宗教式的宣誓而核實；或
- (ii) 看來是由被要求作出認證的一方的主管機關蓋上正式印章。

- (i) verified by the oath or affirmation of a witness or official of the Party requested; or
- (ii) purport to be sealed with an official seal of a competent authority of the Party requested.

第二十三條

Article 23

語文

Language

在被請求方的要求下，請求方須將請求及支持該項請求的文件翻譯為被請求方的法定語文。

The request and supporting documents shall be translated, if so required by the Requested Party, into an official language of the Requested Party.

第二十四條

Article 24

代表及開支

Representation and expenses

(1) 被請求方須作出一切必需安排，使請求方在因協助請求而引起的任何法律程序中獲得代表，並須在其他情況下代表請求方的利益。

(1) The Requested Party shall make all necessary arrangements for the representation of the Requesting Party in any proceedings arising out of a request for assistance and shall otherwise represent the interests of the Requesting Party.

(2) 被請求方須支付執行協助請求的一般性開支，但下述項目則須由請求方負擔：

(2) The Requested Party shall meet the ordinary costs of executing the request for assistance, except that the Requesting Party shall bear:

- (a) 專家的開支及費用；
- (b) 翻譯、傳譯及謄寫的費用；
- (c) 應請求方要求而聘請的律師的費用；及
- (d) 有關的人的交通開支及津貼。

- (a) the expenses and fees of experts;
- (b) the expenses of translation, interpretation and transcription;
- (c) the fees of counsel retained at the request of the Requesting Party; and
- (d) travel expenses and allowances of persons.

(3) 如察覺須支付屬特殊性質的開支以執行請求，則締約雙方須進行磋商，以決定提供所要求的協助的條款和條件。

(3) If it becomes apparent that the execution of the request requires expenses of an extraordinary nature, the Parties shall consult to determine

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第 525P 章

附表 2

Schedule 2

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第四章 —— 最後的條文

第二十五條

其他形式的協助

本協定的條文並不妨礙締約雙方根據任何其他適用的國際及雙邊協定、安排及慣例，就刑事事宜提供協助。而在該等情況下，提供或拒絕協助須受該等其他協定、安排或慣例的條文規管。

第二十六條

磋商

- (1) 締約雙方的中心機關在締約任何一方要求下，須迅速就關乎本協定的解釋、適用及履行的事宜，進行磋商。
- (2) 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。

the terms and conditions under which the requested assistance can be provided.

CHAPTER 4—FINAL PROVISIONS

Article 25

Other forms of assistance

The provisions of this Agreement shall not prevent the Parties from providing assistance in criminal matters pursuant to any other applicable international and bilateral agreements, arrangements and practices. In such a case, the provisions in such other agreements, arrangements or practices shall regulate the provision or refusal of assistance.

Article 26

Consultations

- (1) The Central Authorities of the Parties shall consult promptly at the request of either Party on any matter concerning the interpretation, application and implementation of this Agreement.
- (2) Any dispute arising out of the interpretation, application or implementation of this Agreement shall be resolved through diplomatic channels if the Central Authorities are unable to reach agreement.

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各自法律規定已予履行的日期起計三十天後開始生效。
- (2) 本協定適用於協定的生效日期後提出的請求，即使有關的作為或不作為是在該日期前發生，本協定仍適用於該等請求。
- (3) 締約的任何一方藉書面通知另一方終止本協定。在此情況下，本協定須於該另一方接獲通知的日期起計三個月後失效。但在協定終止前已接獲的協助請求，則仍須按照協定的條款辦理，如同協定仍然生效。

下列簽署人，經其各自政府正式授權，已在本協定簽字為證。

本協定於 2003 年 7 月 23 日在香港特別行政區簽訂，每份均用中文及英文寫成。各文本均具同等效力。如文本之間有分歧，以英文文本為準。

Article 27

Entry into force and termination

- (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 legal requirements have been complied with.
- (2) This Agreement shall apply to requests presented after its entry into force even if the relevant acts or omissions occurred before that date.
- (3) Either Party may terminate this Agreement by giving written notification to the other Party. In that event the Agreement shall cease to have effect three months after the date of the receipt of that notice. Requests for assistance which have been received prior to termination of the Agreement shall nevertheless be processed in accordance with the terms of the Agreement as if the Agreement was still in force.

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

Done at the Hong Kong Special Administrative Region, on the 23rd day of July 2003 in the Chinese and English languages each text being equally authentic. In case of divergence between the texts, the English text shall prevail.