

《刑事事宜相互法律協助(烏克蘭)令》
(第 525 章，附屬法例 O)

Mutual Legal Assistance in Criminal Matters (Ukraine) Order
(Cap. 525 sub. leg. O)

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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	16.1.2020
附表 1 Schedule 1	S1-1—S1-4	16.1.2020
附表 2 Schedule 2	S2-1—S2-32	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 110 號法律公告 —— 2020 年第 1 號編輯修訂紀錄

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Originally L.N. 110 of 2004 — E.R. 1 of 2020

《刑事事宜相互法律協助(烏克蘭)令》

(第 525 章，附屬法例 O)

目錄

條次		頁次
1.	(已失時效而略去)	1
2.	條例在香港與烏克蘭之間適用	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 與烏克蘭關於刑事事宜相互法律協 助的協定	S2-1

Mutual Legal Assistance in Criminal Matters (Ukraine)
Order

(Cap. 525 sub. leg. O)

Contents

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

《刑事事宜相互法律協助(烏克蘭)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)

[2004 年 7 月 3 日] 2004 年第 124 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. 條例在香港與烏克蘭之間適用
 - (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，在香港與烏克蘭之間適用。
 - (2) 在第 (1) 款中，**列明的相互法律協助的安排** (scheduled arrangements for mutual legal assistance) 指適用於香港與烏克蘭的安排，而該等安排的副本附錄於附表 2。

Mutual Legal Assistance in Criminal Matters (Ukraine) Order

(Cap. 525, section 4)

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

[3 July 2004] L.N. 124 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 Ukraine**
 - (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 Ukraine.
 - (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 Hong Kong and Ukraine, 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，而假使該作為或不作為是在香港發生，便會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
(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。”。

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, if it had occurred in Hong Kong, could no longer be prosecuted in Hong Kong by reason of lapse of time;*”.
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—

S1-3
第 525O 章

附表 1

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- * 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

S1-4
Cap. 525O

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- (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).

S2-1
第 525O 章

附表 2

Schedule 2

S2-2
Cap. 525O

附表 2

[第 2 條]

中華人民共和國香港特別行政區 與 烏克蘭 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”)經中華人民共和國中央人民政府正式授權，與烏克蘭(以下提述為“締約雙方”)，

基於締約雙方有共同意願加強在防止、偵查及檢控罪案及沒收犯罪得益方面的合作效能，

協議如下：

Schedule 2

[s. 2]

Agreement between the Hong Kong Special Administrative Region of the People's Republic of China and Ukraine Concerning Mutual Legal Assistance in Criminal Matters

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 Ukraine, hereinafter referred to as “the Parties”,

Being guided by mutual intent to improve the effectiveness of co-operation of both Parties in the fields of prevention, investigation and prosecution of crime and the confiscation of criminal proceeds;

Have agreed as follows:

第一條

提供法律協助的範圍

- (1) 締約雙方須按照本協定的條文，就刑事罪行的偵查和檢控以及刑事事宜的法律程序提供法律協助。
- (2) 提供的法律協助，包括：
 - (a) 追尋有關的人及物件，包括辨認有關的人或識別有關的物件；
 - (b) 送達文件，包括尋求有關的人出席的文件；
 - (c) 提供資料、物品、紀錄及文件，包括刑事紀錄、司法文件及其他官方文件；
 - (d) 取得證據及證供；
 - (e) 搜查及檢取財產；
 - (f) 採取與追尋、限制及沒收犯罪得益有關的措施；
 - (g) 安排暫時移交被羈押的人以提供協助；
 - (h) 暫時或非暫時移交財產，包括關鍵性證據及證物。
- (3) 就關乎稅務罪行的請求而言，如請求的主要目的是評估或徵收稅項，則須拒絕提供協助。
- (4) 本協定純為締約雙方提供相互協助而設。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。

ARTICLE 1

SCOPE OF LEGAL ASSISTANCE

- (1) The Parties shall provide, in accordance with the provisions of this Agreement, legal assistance in the investigation and prosecution of criminal offences and in proceedings related to criminal matters.
- (2) Legal assistance shall include:
 - (a) location of persons and objects, including their identification;
 - (b) serving of documents including documents seeking attendance of persons;
 - (c) the furnishing of information, articles, records and documents, including criminal records, judicial documents and other official documents;
 - (d) obtaining of evidence and testimony;
 - (e) search and seizure of property;
 - (f) taking measures in relation to locating, restraint and confiscation of criminal proceeds;
 - (g) effecting the temporary transfer of persons in custody to provide assistance;
 - (h) transfer of property, whether temporary or otherwise, including material evidence and exhibits.
- (3) In the case of requests relating to taxation offences assistance shall be refused if the primary purpose of the request is the assessment or collection of tax.
- (4) This Agreement is intended solely for mutual assistance between the Parties. The provisions of this Agreement shall not give rise to any

S2-5
第 525O 章

附表 2

Schedule 2

S2-6
Cap. 525O

第二條

中心機關

- (1) 締約雙方須設立中心機關。
- (2) 就正進行初步偵查的事宜而言，香港特別行政區的中心機關為律政司司長或經其正式授權的人員。烏克蘭的中心機關為烏克蘭檢察總長辦公室；就司法程序而言，其中心機關則為烏克蘭司法部。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) 就本協定下的事宜提出的請求，須由請求方的中心機關送交被請求方的中心機關。

第三條

其他協助

締約雙方可按照其他協定、安排或慣例提供協助。

第四條

履行協定的限制

- (1) 如有以下情況，被請求方須拒絕提供法律協助：

ARTICLE 2

CENTRAL AUTHORITIES

- (1) The Parties shall establish Central Authorities.
- (2) The Central Authority of Ukraine shall be the General Prosecutor's Office of Ukraine in relation to matters under preliminary investigation and the Ministry of Justice of Ukraine in relation to judicial proceedings. The Central Authority of the Hong Kong Special Administrative Region shall be the Secretary for Justice or his or her duly authorised officer. Either Party may change its Central Authority in which case it shall notify the other of the change.
- (3) Requests in relation to matters under this Agreement shall be sent by the Central Authority of the Requesting Party to the Central Authority of the Requested Party.

ARTICLE 3

OTHER ASSISTANCE

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

ARTICLE 4

LIMITATIONS ON COMPLIANCE

- (1) The Requested Party shall refuse legal assistance if:

S2-7
第 525O 章

附表 2

Schedule 2

S2-8
Cap. 525O

- (a) 提供協助或會損害烏克蘭的主權、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) 協助請求關乎只在軍法下才構成的罪行；
- (d) 有充分理由相信履行協助請求將會引致某人因其種族、宗教、國籍或政治見解而蒙受不利；
- (e) 協助請求關乎對某人進行的檢控，而該人已因同一罪行在被請求方被定罪、裁定無或赦免，或假使該人是在被請求方的司法管轄區內犯該罪行，由於時效消失，不能因此再被檢控；
- (f) 請求方不能遵守任何關乎保密或限制使用獲提供的物料的條件；
- (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
- (h) 被請求方認為如應允請求將會嚴重損害其本身的基要利益。
- (2) 如有關請求關乎在請求方屬可判死刑的罪行，但被請求方並無判死刑的規定，或通常不會執行死刑，則除非請求方作出被請求方認為充分的保證，即有關的人將不會被判死刑，或即使被判死刑亦不會執行，否則被請求方可拒絕提供協助。
- (3) 如執行請求會妨礙正在被請求方進行的偵查或檢控，被請求方可暫緩提供協助。
- (4) 凡被請求方正考慮根據本條拒絕或暫緩提供協助，被請求方須通過中心機關——
- (a) 迅速將考慮拒絕或暫緩提供協助的理由知會請求方；及
- (b) 與請求方磋商，以決定可否在被請求方認為必需的條款及條件的規限下提供協助。

- (a) such assistance may impair the sovereignty, security or public order of Ukraine or, in the case 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 fulfillment of the request for assistance will result in prejudice to a person on account of his/her race, religion, nationality or political opinions;
- (e) the request for assistance relates to the prosecution of a person for an offence in respect of which the person has been convicted, acquitted or pardoned in the Requested Party or for which the person could no longer be prosecuted by reason of lapse of time if the offence had been committed within the jurisdiction of the Requested Party;
- (f) the Requesting Party cannot comply with any conditions in relation to confidentiality or limitation as to the use of material provided;
- (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) it is of the opinion that the granting of the request would seriously impair its essential interests.
- (2) The Requested Party may refuse assistance if the request relates to an offence which carries the death penalty in the Requesting Party but in respect of which the death penalty is either not provided for in the Requested Party or not normally carried out unless the Requesting Party gives such assurances as the Requested Party considers sufficient that the death penalty will not be imposed or, if imposed, not carried out.

S2-9
第 525O 章

附表 2

Schedule 2

S2-10
Cap. 525O

(5) 請求方如接納在第 (4)(b) 款所述條款及條件的規限下接受協助，則須遵守該等條款及條件。

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

(4) Where the Requested Party is considering denying or postponing assistance pursuant to this Article it shall, through the Central Authorities—
(a) promptly inform the Requesting Party of its reasons for considering denial or postponement; and
(b) consult with the Requesting Party to determine whether assistance may be given subject to such terms and conditions as the Requested Party deems necessary.

(5) If the Requesting Party accepts assistance subject to the terms and conditions referred to in paragraph (4)(b), it shall comply with those terms and conditions.

第五條

ARTICLE 5

法律協助請求的內容及形式

CONTENTS AND FORM OF REQUESTS FOR LEGAL ASSISTANCE

(1) 請求須以書面提出。在緊急情況下，則可以口頭提出，但須在隨後十天內以書面確認。

(1) Requests shall be made in writing. In urgent cases, requests may be made orally, but shall be confirmed in writing within 10 days thereafter.

(2) 法律協助請求須包括：

(2) Requests for legal assistance shall include:

- (a) 請求方代其提出請求的機關的名稱；
- (b) 請求的目的和所需的協助的性質；
- (c) 對有關偵查、檢控、罪行或刑事事宜性質的描述；
- (d) 有關事宜和有關法律條文的撮要；
- (e) 有關保密的任何要求；
- (f) 請求方希望得以遵循的任何特定程序的細節；
- (g) 履行請求的時限；及

- (a) the name of the authority on behalf of which the request is made;
- (b) the purpose of the request and the nature of the assistance requested;
- (c) a description of the nature of the investigation, prosecution, offence or criminal matter;

S2-11
第 525O 章

附表 2

Schedule 2

S2-12
Cap. 525O

- (h) 有助於執行該項請求的任何其他資料。
- (3) 請求及支持請求的文件如非以英文書寫，則須附有英文譯本。

- (d) a summary of the matter and text of the relevant provisions of the law;
- (e) any requirements for confidentiality;
- (f) details of any particular procedure the Requesting Party wishes to be followed;
- (g) the time within which the request should be complied with; and
- (h) any other information which is required to facilitate execution of the request.
- (3) A request and documents submitted in support of the request shall, if they are not in English, be accompanied by a translation into English.

第六條

執行法律協助請求

- (1) 接獲請求的中心機關須迅速執行請求，或安排通過其主管機關執行請求。
- (2) 請求須按照被請求方的法律予以執行，並須在被請求方的法律所不禁止的範圍內，按照請求所述的指示執行(並盡可能遵守請求方所提議的程序)。
- (3) 被請求方須迅速將任何可能導致嚴重延遲回應請求的情況知會請求方。
- (4) 被請求方須迅速將全部或部份不履行協助請求的決定及作出該決定的理由知會請求方。

ARTICLE 6

EXECUTION OF REQUESTS FOR LEGAL ASSISTANCE

- (1) The Central Authority to whom a request is sent shall promptly execute the request or arrange for its execution by its competent authorities.
- (2) A request shall be executed in accordance with the law of the Requested Party and, to the extent not prohibited by its law, in accordance with the directions stated in the request (with the utmost possible compliance with the procedure suggested by the Requesting Party).
- (3) The Requested Party shall promptly inform the Requesting Party of any circumstances which are likely to cause a significant delay in responding to the request.
- (4) The Requested Party shall promptly inform the Requesting Party of a decision not to comply in whole or in part with a request for assistance and the reason for that decision.

第七條

代表及開支

- (1) 被請求方須作出一切必需安排，使請求方在任何關乎協助請求的任何法律程序中獲得代表，及須在任何情況下代表請求方的利益。
- (2) 被請求方須承擔與執行請求有關的所有一般性開支，但下述項目除外：
 - (a) 應請求方要求而聘請的律師的費用；
 - (b) 專家的費用；
 - (c) 翻譯、傳譯及備存紀錄的開支；及
 - (d) 有關的人的交通開支及津貼。
- (3) 在執行請求期間，如察覺需支付非一般性開支，以履行有關請求，締約雙方須相互進行磋商，以決定繼續執行請求的條款及條件。

第八條

使用限制

- (1) 被請求方在與請求方磋商後，可要求將所提供的資料或證據(包括文件、物品或紀錄)保密，或只限在被請求方所指明的條款及條件的規限下方可透露或使用該等資料或證據。
- (2) 未經被請求方中心機關事先同意，請求方不得透露或使用提供的資料或證據(包括文件、物品或紀錄)作請求所述以外的用途。

ARTICLE 7

REPRESENTATION AND EXPENSES

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

ARTICLE 8

LIMITATIONS OF USE

- (1) The Requested Party may require, after consultation with the Requesting Party, that information or evidence furnished including documents, articles or records be kept confidential or be disclosed or used only subject to such terms and conditions as it may specify.

S2-15
第 525O 章

附表 2

Schedule 2

S2-16
Cap. 525O

第九條

取得證據

- (1) 請求方如就在其司法管轄區的刑事事宜的偵查、檢控或法律程序提出取證請求，被請求方須安排取得有關證據。
- (2) 就本協定而言，作證或取證包括交出文件、紀錄或其他物料。
- (3) 就根據本條提出協助請求而言，請求方須指明擬向證人提出的問題或訊問的事項。
- (4) 凡某人因應根據本條提出的協助請求而須作證，該人、有關的偵查、檢控或法律程序所關乎的人以及請求方的代表，可在締約雙方的法律的規限下，在錄取證據時出席或由法律代表出席或兩者一起出席。
- (5) 根據協助請求而需在被請求方作證的人，可在以下情況下拒絕作證：
 - (a) 假如在被請求方提起的法律程序中出現類似情況，被請求方的法例容許該人拒絕作證；或
 - (b) 假如在請求方進行該等法律程序，請求方的法例容許該人拒絕作證。
- (6) 如任何人聲稱有權根據請求方的法律拒絕作證，在決定有關問題時，被請求方須以請求方的中心機關的證明書為憑據。

ARTICLE 9

OBTAINING EVIDENCE

(2) The Requesting Party shall not disclose or use information or evidence furnished including documents, articles or records for purposes other than those stated in the request without the prior consent of the Central Authority of the Requested Party.

(1) Where a request is made that evidence be taken for the purpose of an investigation, prosecution or proceeding in relation to a criminal matter in the jurisdiction of the Requesting Party the Requested Party shall arrange to have such evidence taken.

(2) For the purposes of this Agreement the giving or taking of evidence shall include the production of documents, records or other material.

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

(4) Where pursuant to the request for assistance under this Article a person is required to give evidence, that person, the person to whom the investigation, prosecution or proceeding relates and representatives of the Requesting Party may, subject to the laws of the Parties, appear or have legal representation or both when the evidence is taken.

(5) A person who is required to give evidence in the Requested Party pursuant to a request for assistance may decline to give evidence where either:

- (a) the legislation of the Requested Party would permit that witness to decline to give evidence in similar circumstances in proceedings which originated in the Requested Party; or

S2-17
第 525O 章

附表 2

Schedule 2

S2-18
Cap. 525O

第十條

取得陳述

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

第十一條

有關的人的所在或辨認及有關物品的所在或識別

如請求方提出請求，被請求方須盡力查明請求指明的任何人的所在或身分，或任何物品的所在或識別。

第十二條

送達文件

- (1) 請求方交付送達的任何文件，被請求方須予以送達。
- (2) 如請求送達文件要求被送達人作出回應或在請求方出席，請求方須於預定回應或出席的日期前的一段合理時間內交付該請求。

- (b) where the legislation of the Requesting Party would permit him to decline to give evidence in such proceedings in the Requesting Party.

(6) If any person claims that there is the right to decline to give evidence under the law of the Requesting Party, the Requested Party shall with respect thereto rely on a certificate of the Central Authority of the Requesting Party.

ARTICLE 10

OBTAINING STATEMENTS OF PERSONS

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

ARTICLE 11

LOCATION OR IDENTIFICATION OF PERSONS AND ARTICLES

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

ARTICLE 12

SERVICE OF DOCUMENTS

- (1) The Requested Party shall serve any document transmitted to it for the purpose of service.

S2-19
第 525O 章

附表 2

Schedule 2

S2-20
Cap. 525O

- (3) 如請求送達文件要求被送達的人在請求方的出席，則請求方的中心機關須在合理情況下盡可能在請求內提供在刑事事宜中針對被送達人的待執行手令或其他法庭命令的有關通知。
- (4) 被請求方須在其法律的規限下，按請求方要求的形式，交回送達證明。
- (5) 任何請求不可引致任何人因不出席而被處罰或被施加強制措施。

- (2) The Requesting Party shall transmit a request for the service of a document that requires a response or appearance in the Requesting Party within a reasonable time before the scheduled response or appearance.
- (3) A request for the service of a document that requires an appearance in the Requesting Party shall include such notice as the Central Authority of the Requesting Party is reasonably able to provide of outstanding warrants or other judicial orders in criminal matters against the person to be served.
- (4) The Requested Party shall, subject to its law, return a proof of service in the manner required by the Requesting Party.
- (5) No request may result in any penalty or coercive measure for non-appearance.

第十三條

ARTICLE 13

可供公眾取閱的文件和官方文件

PUBLICLY AVAILABLE AND OFFICIAL DOCUMENTS

- (1) 如請求方提出請求，被請求方須在其法律的規限下，提供可供公眾取閱的文件的副本。
- (2) 被請求方的政府部門或機構所管有但不供公眾取閱的文件、紀錄或資料，被請求方可按照其向本身的執法和司法機關提供該類文件、紀錄或資料的相同範圍和條件，提供副本。

- (1) Subject to its law the Requested Party shall, if requested, provide copies of publicly available documents.
- (2) The Requested Party may provide copies of any document, record or information in the possession of a government department or agency, but not publicly available, to the same extent and under the same conditions as such document, record or information would be available to its own law enforcement and judicial authorities.

第十四條

認證

- (1) 交付請求方的文件或其他物料，只有在請求方提出要求的情況下，才會予以核證或認證。除非請求方的法律有特別規定，否則該等物料毋須以任何特定形式核證或認證。
- (2) 請求方為支持請求而提供的文件，只有在被請求方提出要求的情況下，才會予以核證或認證。除非被請求方的法律有特別規定，否則該等文件毋須以任何特定形式核證或認證。

第十五條

移交被羈押的人

- (1) 請求方如請求把羈押在被請求方的人移交給請求方，以按本協定提供協助，而被請求方及該人均同意，且請求方又保證把該人繼續羈押及在事後送還給被請求方，則須把該人移交給請求方以提供有關的協助。
- (2) 如根據本條被移交的人的監禁刑期於該人身在請求方時屆滿，被請求方須就此事告知請求方，而請求方須確保把該人釋放。

ARTICLE 14

AUTHENTICATION

- (1) Documents or other material which are to be transmitted to the Requesting Party shall only be certified or authenticated if the Requesting Party so requests. Such material shall not require any particular form of certification or authentication unless the law of the Requesting Party specifically so requires.
- (2) Documents furnished by the Requesting Party in support of a request shall only be certified or authenticated if the Requested Party so requests. Such documents shall not require any particular form of certification or authentication unless the law of the Requested Party specifically so requires.

ARTICLE 15

TRANSFER OF PERSONS IN CUSTODY

- (1) A person in custody in the Requested Party whose presence is requested in the Requesting Party for the purposes of providing assistance pursuant to this Agreement shall if the Requested Party consents be transferred from the Requested Party to the Requesting Party for that purpose, provided the person consents and the Requesting Party has guaranteed the maintenance in custody of the person and his subsequent return to the Requested Party.
- (2) Where the sentence of imprisonment of a person transferred pursuant to this Article expires whilst the person is in the Requesting Party the Requested Party shall so advise the Requesting Party which shall ensure the person's release from custody.

第十六條

移交其他人

- (1) 請求方可請求被請求方協助安排某人按本協定提供協助。
- (2) 如請求方在該人的保安方面會作出妥善安排，則被請求方須請求該人前往請求方提供協助。

第十七條

安全通行

- (1) 為了根據第十五或十六條提供協助而在請求方的人，在身處該方時——
 - (a) 除第十五條另有規定外，不得因其在離開被請求方之前所犯的任何刑事罪行而被檢控、拘留或被限制人身自由；
 - (b) 不得因他在離開被請求方之前的作為或不作為而被民事起訴，但假使他並非身處請求方而有關的民事起訴仍可針對他而提出，該等民事起訴則不在此限。
- (2) 如有關的人在接獲通知毋需再逗留後十五天內仍未離開請求方，則第(1)款不適用；但如該人因他無法控制的情況以致他不能離開請求方則不在此限。
- (3) 同意根據第十五或十六條作證的人，不得因其所作證供而遭受檢控，但犯偽證罪則不在此限。
- (4) 同意根據第十五或十六條提供協助的人，除與該項請求有關的法律程序外，不得被要求在任何其他法律程序中提供協助。

ARTICLE 16

TRANSFER OF OTHER PERSONS

- (1) The Requesting Party may request the assistance of the Requested Party in making a person available for the purpose of providing assistance pursuant to this Agreement.
- (2) The Requested Party shall, if the satisfactory arrangements for that person's security will be made by the Requesting Party, request the person to travel to the Requesting Party to provide assistance.

ARTICLE 17

SAFE CONDUCT

- (1) A person who is in the Requesting Party for the purpose of providing assistance pursuant to Articles 15 or 16 shall not, whilst there:
 - (a) be prosecuted, detained, or restricted in his personal liberty for any criminal offence which preceded his departure from the Requested Party, except as provided in Article 15;
 - (b) be subject to any civil suit in respect of acts or omissions which preceded his departure from the Requested Party unless the civil suit could have been instituted against him even if he were not present in the Requesting Party.
- (2) Paragraph (1) shall not apply if the person has not left the Requesting Party within a period of 15 days after being notified that his presence is no longer required, except for cases when such person is unable to leave the Requesting Party due to circumstances beyond that person's control.

S2-25
第 525O 章

附表 2

Schedule 2

S2-26
Cap. 525O

(5) 任何人如不同意根據第十五或十六條提供協助，請求方或被請求方的法院不得因此而處罰該人或向其施加強制措施。

(3) A person who consents to give evidence under Articles 15 or 16 shall not be subject to prosecution based on his testimony, except for perjury.

(4) A person who consents to provide assistance pursuant to Articles 15 or 16 shall not be required to provide assistance in any proceedings other than the proceedings to which the request relates.

(5) A person who does not consent to provide assistance pursuant to Articles 15 or 16 shall not by reason thereof be liable to any penalty or coercive measure by the courts of the Requesting Party or Requested Party.

第十八條

搜查及檢取

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

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

(3) 被請求方如把檢獲財產交付請求方，請求方須遵循被請求方就該等財產所施加的任何條件。

ARTICLE 18

SEARCH AND SEIZURE

(1) The Requested Party shall, insofar as its law permits, carry out requests for search, seizure and delivery of any material to the Requesting Party which is relevant to an investigation, prosecution or proceeding in relation to a criminal matter.

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

(3) The Requesting Party shall observe any conditions imposed by the Requested Party in relation to any seized property which is delivered to the Requesting Party.

第十九條

犯罪得益

- (1) 如請求方提出請求，被請求方須盡力查明是否有任何請求方法律下的犯罪得益處於其司法管轄區，並須把調查結果通知請求方。請求方在提出請求時，須把相信這些得益可能處於被請求方司法管轄區的理由通知被請求方。
- (2) 被請求方如根據第(1)款尋獲涉嫌犯罪得益，則須採取其法律容許的措施，防止任何人處理、轉讓或處置這些犯罪得益，以待請求方的法院就這些得益作出最後裁定。
- (3) 有關協助沒收犯罪得益的請求，須根據被請求方的法律執行。協助的方法可包括就請求關乎的得益強制執行請求方法院作出的命令、提起法律程序或在有關的法律程序中提供協助。
- (4) 除非締約雙方另有協議，否則根據本協定沒收的得益須由被請求方保留。
- (5) 就本協定而言，“犯罪得益”包括——
 - (a) 在與刑事罪行有關連的情況下收受的款項或其他酬賞，或其價值；
 - (b) 從在與刑事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或變現的財產，或該等財產的價值；
 - (c) 曾在或擬在與刑事罪行有關連的情況下使用的財產，或該等財產的價值；及
 - (d) 在與刑事罪行有關連的情況下獲取的金錢利益。

ARTICLE 19

PROCEEDS FROM CRIME

- (1) The Requested Party shall, upon request, endeavour to ascertain whether any proceeds from crime according to the law of the Requesting Party are located within its jurisdiction and shall notify the Requesting Party of the result of its inquiries. In making the request, the Requesting Party shall notify the Requested Party of the basis of its belief that such proceeds may be located in its jurisdiction.
- (2) Where pursuant to paragraph (1) suspected proceeds from crime are found the Requested Party shall take such measures as are permitted by its law to prevent any dealing in, transfer or disposal of, those suspected proceeds from crime, pending a final determination in respect of those proceeds by a Court of the Requesting Party.
- (3) Where a request is made for assistance in securing the confiscation of proceeds such request shall be executed pursuant to the laws of the Requested Party. This may include enforcing an order made by a court in the Requesting Party and initiating or assisting in proceedings in relation to the proceeds to which the request relates.
- (4) Proceeds confiscated pursuant to this Agreement shall be retained by the Requested Party unless otherwise agreed upon between the Parties.
- (5) For the purpose of this Agreement “proceeds from crime” includes—
 - (a) payments or other rewards received in connection with a criminal offence or their value;

S2-29
第 525O 章

附表 2

Schedule 2

S2-30
Cap. 525O

第二十條

解決爭議

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

第二十一條

生效及終止

- (1) 本協定將於締約雙方以書面通知對方已各自履行為使本協定生效的規定的日期起計三十天後生效。
- (2) 本協定沒有就一段預定的期間而訂立，但須在締約任何一方通知締約另一方終止本協定起計六個月後終止。然而，在協定終止前已接獲的協助請求，則仍須按照協定的條款處理。

- (b) property derived or realized directly or indirectly from payments or other rewards received in connection with a criminal offence or the value of such property;
- (c) property used or intended to be used in connection with a criminal offence or the value of such property; and
- (d) a pecuniary advantage obtained in connection with a criminal offence.

ARTICLE 20

SETTLEMENT OF DISPUTES

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

ARTICLE 21

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 requirements for the entry into force of the Agreement have been complied with.
- (2) This Agreement is concluded for an indefinite term and shall terminate six months after either of the Parties has given notice to the other of such termination. 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.

S2-31
第 525O 章

附表 2

Schedule 2

S2-32
Cap. 525O

本協定於二零零三年四月二日在香港特別行政區簽訂，每份均用中文、英文及烏克蘭文寫成，各文本均同等真確。如有釋義上的分歧，則以英文文本為準。

Done at the Hong Kong Special Administrative Region, this Second Day of April Two Thousand and Three in the Chinese, English and Ukrainian languages, each text being equally authentic. In case of divergence in interpretation the English text shall prevail.