

**AGREEMENT
BETWEEN
THE MACAO SPECIAL ADMINISTRATIVE REGION
OF THE PEOPLE'S REPUBLIC OF CHINA
AND
THE REPUBLIC OF KOREA
CONCERNING MUTUAL LEGAL ASSISTANCE IN
CRIMINAL MATTERS**

The Macao Special Administrative Region of the People's Republic of China ("Macao SAR"), having been duly authorized to conclude this Agreement by the Central People's Government of the People's Republic of China, and the Republic of Korea (hereinafter referred to as the "Parties"),

Desiring to improve cooperation between the two Parties in respect of mutual legal assistance in criminal matters,

Have agreed as follows:

ARTICLE 1

Scope of Assistance

1. The Parties shall, in accordance with this Agreement, provide each other with mutual legal assistance in criminal matters.
2. Assistance under this Agreement shall include:
 - (a) identifying and locating persons or items;
 - (b) effecting service of documents;
 - (c) taking evidence or statements from persons;
 - (d) executing searches and seizures;
 - (e) assisting in the availability of detained persons and others to give evidence or assist in investigations;
 - (f) tracing, restraining, and confiscating the instrumentalities and proceeds

of crime;

(g) providing information, documents and records, including judicial or official records;

(h) delivering property, including the lending of items; and

(i) other forms of assistance not prohibited by the law of the Requested Party.

3. For the purposes of this Agreement, “criminal matters” means investigations, prosecutions or proceedings in respect of offences the punishment of which, at the time of a request for assistance, falls within the jurisdiction of the Requesting Party.

4. This Agreement shall not apply to:

(a) the surrender of fugitive offenders;

(b) the execution in the Requested Party of criminal judgments imposed in the Requesting Party except to the extent permitted by the law of the Requested Party and by Articles 15 and 16 of this Agreement;

(c) the transfer of prisoners to serve sentences; and

(d) the transfer of proceedings in criminal matters.

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

6. Pursuant to the law of each Party, both Parties shall do their best endeavour to provide assistance in connection with offences related to taxation, customs duties, foreign exchange control or other revenue matters.

7. Nothing in this Agreement entitles a Party to exercise jurisdiction in the other Party or perform functions that are reserved exclusively for the authorities of that Party.

ARTICLE 2

Central Authorities

1. For the purposes of this Agreement, the Parties shall communicate with each other through the Consulate General of the Republic of Korea in the Hong Kong

Special Administrative Region or through their respectively designated Central Authorities.

2. The Central Authority for the Macao SAR shall be the Public Prosecutions Office of the Macao SAR. The Central Authority for the Republic of Korea shall be the Ministry of Justice.

3. Each Party may change its Central Authority, in which case it shall promptly notify the other Party of such change in writing.

ARTICLE 3

Refusal of Assistance

The Requested Party may, in accordance with its law, refuse assistance if:

(a) the Requested Party is of the opinion that the execution of the request for assistance, if granted, impairs the sovereignty, security, public order or other essential public interest of the People's Republic of China or the security, public order or other essential public interest of the Macao SAR, or impairs the sovereignty, security, public order or other essential public interest of the Republic of Korea;

(b) the Requested Party has substantial grounds for believing that the offence for which the assistance is requested is a political offence or an offence connected with a political offence. Reference to a political offence shall not include:

(i) the taking or attempted taking of the life or an attack on the person of a Head of State or Head of Government or a member of the person's immediate family;

(ii) any offence which, by reason of an international multilateral treaty applicable to both Parties, the Parties must not treat as a political offence or an offence connected with a political offence;

(c) the request for assistance relates to an offence regarded by the law of the Requested Party as an offence only under military law, which is not an offence under ordinary criminal law;

(d) the Requested Party has substantial grounds for believing that the request for assistance has been made with a view to prosecuting or punishing a

person on account of his or her origin, race, gender, religion, nationality, language, political beliefs, ideological beliefs, educational level, economic status, social condition or belonging to a given social group, or that such person's position may be prejudiced for any of those reasons;

(e) the Requested Party is in the process of or has terminated criminal proceedings or has already rendered a final judgement against the same person for the same offence to which the request relates;

(f) the conduct alleged to constitute the offence would not, if it had taken place within the jurisdiction of the Requested Party, have constituted an offence;

(g) the request relates to the prosecution of a person for an offence 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; or

(h) the request relates to an offence which is punishable according to the law of the Requesting Party by death penalty, and if, in respect of such an offence, such penalty is not provided for by the law of the Requested Party or is not normally carried out, unless the Requesting Party gives such assurances as the Requested Party considers sufficient that such penalty will not be imposed or, if imposed, will not be carried out.

ARTICLE 4

Requests

1. Requests for assistance shall be made in writing. In urgent cases, the Requested Party may accept a request in other forms, but such request shall be confirmed in writing within fifteen (15) days thereafter.

2. Requests for assistance shall include:

(a) the name of the competent authorities of the Parties to which the request relates;

(b) the purpose of the request and a description of the assistance sought;

(c) a description of the nature of the investigation or proceedings, including a summary of relevant facts and laws;

(d) any requirement for confidentiality and the reasons therefor;

(e) any particular manner desired to be taken in executing the request by

the Requested Party; and

(f) the period within which the request should be complied with.

3. Requests for assistance, to the extent necessary, shall also include:

(a) information on the identity, nationality and location of the person from whom evidence is sought;

(b) a list of questions to be asked and the subject matter about which the person is to be examined;

(c) information on the identity and location of the person to be served and that person's relationship to the investigation or proceedings, and the manner in which service is to be made;

(d) information as to the allowances and expenses to which a person asked to appear in the Requesting Party will be entitled;

(e) information on the identity and whereabouts of a person to be located;

(f) a description of the place or person to be searched and of the items to be seized and delivered; and

(g) such other information as is necessary for the proper execution of the request.

4. If the information communicated by the Requesting Party is found to be insufficient, the Requested Party may request additional information.

5. All documents submitted in accordance with this Agreement shall be accompanied by translation into the official language of the Requested Party or into the English language.

ARTICLE 5

Execution of Requests

1. The Requested Party shall promptly execute a request for assistance in accordance with its law. Insofar as it is not contrary to the law of the Requested Party, the request for assistance may be executed in a manner requested by the Requesting Party.

2. The Requested Party may postpone the execution of the request for assistance if such execution would interfere with on-going investigations or proceedings in the Requested Party.

3. The Requested Party shall promptly inform the Requesting Party of any circumstances, when they become known to the Requested Party, which are likely to cause a significant delay in executing the request.

4. The Requested Party shall promptly inform the Requesting Party of a decision not to execute in whole or in part a request for assistance and the reason for that decision.

5. When refusing or postponing a request for assistance, the Requested Party shall:

(a) promptly inform the Requesting Party of the reason for the refusal 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.

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

7. Upon request of the Requesting Party, the Requested Party shall inform the Requesting Party of the date and place of execution of the request for assistance so that the appropriate authorities of the Requesting Party may be present, if the Requested Party so agrees.

8. The Requested Party shall promptly inform the Requesting Party of the outcome of the execution of the request for assistance.

ARTICLE 6

Limitations on Use

The Requesting Party shall not use or transfer any information or evidence obtained under this Agreement for any other purposes other than the investigation, prosecution or proceedings described in the request without a prior consent of the Requested Party.

ARTICLE 7

Protection of Confidentiality

1. The Requested Party, if so requested, shall use its best efforts to keep confidential a request for assistance, its contents, relevant documents and any action taken pursuant to the request. If the request cannot be executed in confidence, the Requested Party shall so inform the Requesting Party, which shall then determine whether the request should nevertheless be executed.

2. The Requesting Party, if so requested, shall keep confidential the information and evidence provided by the Requested Party, except to the extent the information and evidence are needed for the investigation or proceedings described in the request.

ARTICLE 8

Obtaining of Evidence, Articles and Documents

1. The Requested Party shall, in conformity with its law and upon request, take evidence, including statements of persons, or require them to produce items of evidence or other materials for transmission to the Requesting Party.

2. The Requested Party shall, to the extent permitted by its law and upon request, permit such persons as specified in the request to be present during the execution of the request and, may allow such persons, in a manner agreed to by the Requested Party, to question the person from whom evidence is being taken. In the event that such direct questioning is not permitted, such persons may be allowed to submit questions to be posed through the Requested Party to the person from whom evidence is being taken.

3. A person who is required to provide evidence may decline to provide evidence where the law of the Requested Party either permits or requires that person not to provide evidence in similar circumstances.

4. Where a person who is required to provide evidence claims that there is a right or obligation to decline to provide evidence under the law of the Requesting Party, the Requested Party shall request the Requesting Party to provide a certificate as to the existence of that right or obligation.

5. Where the Requested Party receives a certificate from the Requesting Party as to the existence of the right or obligation claimed by the person, that certificate, in the

absence of evidence to the contrary, shall provide sufficient evidence as to the existence of the right or obligation.

ARTICLE 9

Service of Documents

1. The Requested Party shall, subject to its law, insofar as is possible, effect service of any document transmitted to it for this purpose by the Requesting Party.

2. The Requesting Party shall transmit a request for the service of a document pertaining to the appearance of a person in the Requesting Party not less than thirty (30) days before the scheduled appearance. In urgent cases, the Requested Party may waive the time requirement.

3. The Requested Party shall, after effecting service, forward to the Requesting Party a proof of service that shall include information on the date, place and manner of service, and be signed or sealed by the competent authority which served the document and be signed by the person served with the document. Reasons shall be given if service cannot be effected.

4. A person who fails to comply with any requirement stated in the document shall thereby not be liable to any penalty or coercive measure pursuant to the law of either Party.

ARTICLE 10

Return of Items to the Requested Party

Where required by the Requested Party, the Requesting Party shall return as soon as possible any item provided under this Agreement.

ARTICLE 11

Available Official Documents

1. Subject to its law the Requested Party shall provide copies of publicly available official documents or records.

2. The Requested Party may provide any other official documents or records, in the possession of a government department or agency but not publicly available, to the same extent and under the same conditions as such documents or records would be

available to its own law enforcement and judicial authorities.

ARTICLE 12

Availability of Persons in Custody to Provide Evidence or Assist in Investigations

1. A person in custody in the Requested Party whose presence is requested in the Requesting Party for the purposes of providing evidence or assisting in investigations shall be temporarily transferred to the Requesting Party for that purpose, provided that both the person and the Requested Party consent in writing and the Requesting Party has guaranteed the maintenance in custody of the person and his or her subsequent return to the Requested Party.

2. The Requested Party shall inform the person in custody that he or she has the right to decline to appear and about the immunity in accordance with Article 14 of this Agreement.

3. 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 release the person in custody.

4. For the purpose of this Article, the person transferred shall receive credit toward service of the sentence imposed in the Requested Party for time served in the custody of the Requesting Party.

ARTICLE 13

Availability of Other Persons to Provide Evidence or Assist in Investigations

1. The Requesting Party may request the assistance of the Requested Party in inviting a person to appear in the Requesting Party for the purposes of providing evidence in proceedings or assisting in investigations. That person shall be informed of any expenses and allowances payable.

2. The Requested Party shall, if satisfied that appropriate arrangements for that person's safety will be made by the Requesting Party, invite the person to travel to the Requesting Party to provide evidence in proceedings or assist in investigations.

3. The Requested Party shall inform the person invited that he or she has the right to decline to appear and about the immunity in accordance with Article 14 of this Agreement.

4. The Requested Party shall promptly inform the Requesting Party of the person's response. If the person consents, the Requested Party shall take necessary measures to facilitate that person's appearance in the Requesting Party.

ARTICLE 14

Safe Conduct

1. A person who consents to provide evidence or assist in investigations pursuant to Article 12 or 13 shall not be prosecuted, detained or subjected to any restriction of personal liberty for any acts or omissions or convictions which preceded that person's departure from the Requested Party, nor shall that person be required by the Requesting Party to provide evidence or assist in any investigation, or proceeding other than that to which the request relates.

2. Paragraph 1 of this Article shall not apply if the person, being free to leave, has not left the Requesting Party within a period of fifteen (15) consecutive days after that person has officially been notified that his or her presence is no longer required, except under circumstances beyond his or her control, or has returned voluntarily to that jurisdiction after having left it.

3. A person who does not consent to provide evidence or assist in investigation pursuant to Article 12 or 13 shall not by reason thereof be liable to any penalty or coercive measure pursuant to the law of either Party.

ARTICLE 15

Search and Seizure

1. The Requested Party shall, subject to its law, carry out requests for search and seizure and shall provide information concerning the result of the search, the place of any seizure, the circumstances of the seizure, and the subsequent custody of the materials seized.

2. The Requested Party may transmit the seized materials to the Requesting Party if the Requesting Party agrees to the terms and conditions for such transmission as proposed by the Requested Party.

3. The provisions of this Article shall not prejudice the rights and interests of the Requested Party and of bona fide third parties.

ARTICLE 16
Proceeds of Crime

1. The Requested Party shall, subject to its law and upon request, endeavour to ascertain whether any proceeds of crimes are located within its jurisdiction and shall notify the Requesting Party of the results 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 the jurisdiction of the Requested Party.

2. Where, pursuant to paragraph 1 of this Article, suspected proceeds of crime are found, the Requested Party shall, upon request, take such measures as are permitted by its law to prevent any transfer or disposal of those suspected proceeds of crime, pending a final judgement 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 of crime, such assistance shall be given by whatever means appropriate within the limits permitted by the law of the Requested Party. This may include giving effect to the enforcement of a final judgement made by a court in the Requesting Party which has been confirmed by a court in the Requested Party.

4. The Requested Party in control of confiscated proceeds of crime shall dispose of them in accordance with its law. To the extent permitted by its law and upon such terms as it deems appropriate, the Requested Party may transfer the confiscated proceeds to the Requesting Party.

5. The rights and interests of the Parties and of bona fide third parties shall be respected in the application of this Article.

ARTICLE 17
Certification and Authentication

1. Subject to paragraph 2 of this Article, a request for assistance and documents in support thereof, as well as documents or other material supplied in response to such a request, shall not require any form of certification or authentication.

2. Insofar as not prohibited by the law of the Requested Party, documents, records or other materials shall be transmitted in such a form or accompanied by such certification as may be requested by the Requesting Party in order to make them admissible according to the law of the Requesting Party.

ARTICLE 18

Representation and Expenses

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

2. The Requested Party shall assume all ordinary expenses of executing a request within its jurisdiction, except for:

(a) the expenses associated with conveying any person to or from the Requested Party, and any fees, allowances or expenses payable to that person while in the Requesting Party pursuant to a request under Article 12 or 13 of this Agreement;

(b) the fees and reasonable expenses of experts;

(c) the fees of counsel incurred at the request of the Requesting Party;

(d) the expenses of translation;

(e) the costs related to the delivery of any property.

3. If, during the execution of the request, 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 or whether assistance shall be discontinued.

ARTICLE 19

Consultations

The Parties shall, at the request of either Party, promptly hold consultations concerning the interpretation, application or implementation of this Agreement.

ARTICLE 20

Entry into Force and Termination

1. This Agreement shall enter into force on the thirtieth (30th) day after the date of the later notification by the Parties in writing that their respective requirements for the entry into force of the Agreement have been complied with.

2. The provisions of this Agreement shall apply to any requests presented after its entry into force even if the relevant acts or omissions occurred prior to the entry into force of this Agreement.

3. Either Party may terminate this Agreement at any time by giving notice in writing to the other Party. In that event, the Agreement shall cease to have effect six (6) months after the receipt of the notice.

4. Requests for assistance which have been received prior to the termination of this Agreement shall nevertheless continue to be processed in accordance with the provisions of the Agreement until their execution is concluded.

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

Done in duplicate at the Macao SAR, on this 23rd day of October 2019, in the Chinese, Korean and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

**FOR THE MACAO SPECIAL
ADMINISTRATIVE REGION OF THE
PEOPLE'S REPUBLIC OF CHINA**

FOR THE REPUBLIC OF KOREA