

**AGREEMENT BETWEEN THE GOVERNMENT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE
PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT
OF THE PORTUGUESE REPUBLIC CONCERNING
SURRENDER OF FUGITIVE OFFENDERS**

**ARTICLE BY ARTICLE COMPARISON
WITH THE HKSAR MODEL AGREEMENT**

Title and Preamble:

In conformity with bilateral Agreements signed after the resumption of sovereignty.

Article 1: Obligation to Surrender:

Substantially the same as corresponding Articles in the signed Agreements [Article 1 of Australia is the same].

Article 2: Offences:

Substantially the same as corresponding Articles in the signed agreements [e.g. Article 2 Australia]. Note that the list of offences in paragraph (1) is the same as the list of offences in the Fugitive Offenders Ordinance [which comprehends the offences listed in the signed agreements] with the addition of item 47 [Similar items to Item 47 are included in almost all the signed agreements].

Article 3: Surrender of Nationals:

Portugal wished to reserve the right to refuse the surrender of its citizens and permanent residents. This Article accordingly gives the right reciprocally to the HKSAR to refuse the surrender of its permanent residents and nationals of PRC.

Article 4: Death Penalty, Life and Indeterminate Sentences:

The Portuguese Constitution prohibits the extradition of persons for offences which attract the death penalty or detention for life or an indeterminate term. This Article reflects the constraints placed on Portugal by its Constitution.

Article 5: Basis for Surrender:

Same as Articles in the signed Agreements [e.g. Article 5 Australia].

Article 6: Mandatory Refusal of Surrender:

Substantially the same as Articles in the signed Agreements [Article 5 Canada is the same].

Article 7: Discretionary Refusal of Surrender:

Substantially the same as Articles in the signed Agreements [Article 7 Australia is the same].

Article 8: Postponement of Surrender:

Same as Articles in most of the signed Agreements [Article 7 of Canada is the same].

Article 9: The Request and Supporting Documents:

Substantially similar to Articles in the signed Agreements. Note that paragraph (1) specifically provides for requests to be made through the consular channel. This is consistent with section 6 of the Fugitive Offenders Ordinance.

Article 10: Authentication:

Substantially the same as Articles in the signed Agreements [Article 11 of Indonesia is substantially the same].

Article 11: Language of documentation:

Similar to Articles in the signed agreements. Requests must be in or translated into an official language of the requested Party whereas documents supporting a request need only be translated if the requesting Party so requires.

Article 12: Additional Information:

Substantially the same as Articles in the signed Agreements [Article 13 of Australia is the same].

Article 13: Provisional Arrest:

Substantially the same as Articles in the signed Agreements. Note that paragraph (3) permits applications for provisional arrest to be made through the consular channel or directly between the HKSAR Department of Justice and the Procuradoria-Geral da República of Portugal which, broadly speaking, corresponds to the HKSAR Department of Justice.

Article 14: Concurrent Requests:

Substantially the same as Articles in the signed Agreements [Article 14 Australia is the same].

Article 15: Representation and Costs:

Substantially the same as Articles in the signed Agreements [Article 15 Australia is the same].

Article 16: Arrangements for Surrender:

Substantially the same as Articles in the signed Agreements [Article 16 Australia is the same].

Article 17: Surrender of Property:

Substantially the same as Articles in the signed Agreements [Article 16 Canada is the same].

Article 18: Speciality and Resurrender:

Substantially the same as Articles in the signed Agreements [Article 16 Netherlands is the same].

Article 19: Entry into Force Suspension and Termination:

Substantially the same as Articles in the signed Agreements [e.g. Article 20 Canada].