立法會 Legislative Council

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Tel: 2869 9205

Date : 21 June 2005

From: Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 6 July 2005

Proposed resolutions under the Mutual Legal Assistance in Criminal Matters Ordinance

Further to LC Paper No. CB(3) 561/04-05 issued on 4 May 2005, the Secretary for Security has given fresh notice to move two resolutions at the Council meeting commencing on 6 July 2005 under the Mutual Legal Assistance in Criminal Matters Ordinance relating to:

- (a) the Mutual Legal Assistance in Criminal Matters (Belgium)
 Order; and
- (b) the Mutual Legal Assistance in Criminal Matters (Denmark) Order.

The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

- 2. The resolutions are attached herewith for Members' consideration. Please note that the above Orders have been circulated under LC Paper No. CB(3) 520/04-05 issued on 22 April 2005. For economy and environmental reasons, they are not attached.
- 3. The speeches, in both English and Chinese versions, which the Secretary for Security will deliver when moving the proposed resolutions, are also attached.

(Ray CHAN) for Clerk to the Legislative Council

RESOLUTION

(Under section 4 of the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525))

RESOLVED that the Mutual Legal Assistance in Criminal Matters (Belgium) Order, made by the Chief Executive in Council on 12 April 2005, be approved.

RESOLUTION

(Under section 4 of the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525))

RESOLVED that the Mutual Legal Assistance in Criminal Matters (Denmark) Order, made by the Chief Executive in Council on 12 April 2005, be approved.

DRAFT

Mutual Legal Assistance in Criminal Matters (Belgium) Order

Speech by the Secretary for Security for the Resolution on 6 July 2005

Madam President,

I move that the resolution to make the Mutual Legal Assistance in Criminal Matters (Belgium) Order be passed by this Council. I shall move another resolution to make the Mutual Legal Assistance in Criminal Matters (Denmark) Order in a short while.

- 2. The Hong Kong Special Administrative Region is fully committed to international cooperation in combating serious crimes. In this connection, we have established a network of bilateral agreements with foreign jurisdictions on mutual legal assistance in criminal matters. These agreements ensure reciprocity between contracting parties in providing assistance in criminal matters and enhance international cooperation in the fight against transnational crimes. We have so far signed bilateral agreements with 18 foreign jurisdictions, namely Australia, France, New Zealand, the United Kingdom, the United States, Italy, South Korea, Switzerland, Canada, the Philippines, Portugal, Ireland, the Netherlands, Ukraine, Singapore, Belgium, Denmark and Poland.
- 3. The Mutual Legal Assistance in Criminal Matters Ordinance provides the necessary statutory framework for implementing mutual legal assistance arrangements, enabling assistance to be provided to or obtained from foreign jurisdictions in the investigation and prosecution

of criminal offences, which includes the taking of evidence, search and seizure, production of material, transfer of persons to give evidence and confiscation of the proceeds of crime.

- 4. Pursuant to section 4(2) of the Ordinance, the Chief Executive in Council has made two Orders to implement the bilateral arrangements on mutual legal assistance in criminal matters with Belgium and Denmark respectively. These two Orders apply the arrangements prescribed in the Ordinance between Hong Kong and Belgium, and between Hong Kong and Denmark, thus allowing assistance under the agreements to be provided or obtained in accordance with the procedures set out in the Ordinance. The Orders are substantially in conformity with the provisions in the Ordinance. However, as legislation and arrangements on mutual legal assistance in criminal matters vary from jurisdiction to jurisdiction, it is necessary for the relevant orders to modify some of the provisions of the Ordinance to reflect the practices of individual negotiation partners. modifications are necessary to enable Hong Kong to comply with its obligations in the agreements concerned. The modifications made for the bilateral agreements with Belgium and Denmark are summarised in Schedule 1 to each of the two Orders.
- 5. The Legislative Council set up a Subcommittee to scrutinize the two Orders on 29 April 2005. The Subcommittee completed the examination of the Orders at its meeting on 13 June 2005. At the meeting, the Administration had responded in detail to Subcommittee members' questions on a number of provisions in the Orders, including those concerning the scope of assistance, grounds for refusing assistance, taking of evidence and temporary transfer of persons in custody for purposes of assistance. The Subcommittee subsequently reported to

the House Committee on 17 June 2005. I would like to thank the Chairman, the Honourable James To, and other Members of the Subcommittee for their support of my submission of the Orders to the Legislative Council for approval.

- 6. To strengthen our cooperation with foreign jurisdictions in respect of criminal justice and international law enforcement, it is important for the two Orders to be made to enable the bilateral agreements to be brought into force.
- 7. I now invite Members to approve the making of the Mutual Legal Assistance in Criminal Matters (Belgium) Order. I shall in a moment move the resolution to make the Mutual Legal Assistance in Criminal Matters (Denmark) Order.
- 8. Thank you, Madam President.

DRAFT

Mutual Legal Assistance in Criminal Matters (Denmark) Order

Speech by the Secretary for Security for the Resolution on 6 July 2005

Madam President,

I move that the resolution to make the Mutual Legal Assistance in Criminal Matters (Denmark) Order be passed by this Council.

- 2. In moving the resolution to make the Mutual Legal Assistance in Criminal Matters (Belgium) Order earlier, I have explained the purpose and importance of making orders on mutual legal assistance in criminal matters. I now invite Members to approve the making of the Mutual Legal Assistance in Criminal Matters (Denmark) Order.
- 3. Thank you, Madam President.