

**立法會**  
***Legislative Council***

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Tel : 2869 9205

Date : 11 June 2008

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

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**Council meeting of 25 June 2008**

**Proposed resolution under  
the Mutual Legal Assistance in Criminal Matters Ordinance**

Further to LC Paper No. CB(3) 572/07-08 issued on 30 April 2008, the Secretary for Security has given fresh notice to move a proposed resolution at the Council meeting of 25 June 2008 under the Mutual Legal Assistance in Criminal Matters Ordinance relating to the Mutual Legal Assistance in Criminal Matters (Transnational Organized Crime) 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 proposed resolution is attached herewith for Members’ consideration. The draft speech, in both English and Chinese versions, which the Secretary for Security will deliver when moving the proposed resolution, is also attached.

3. Please note that the above Order was circulated vide LC Paper No. CB(3) 536/07-08 issued on 18 April 2008. To economise on the use of paper, the Order is not attached.

( Mrs Justina LAM )  
for Clerk to the Legislative Council

Encl.

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS ORDINANCE

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**RESOLUTION**

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

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RESOLVED that the Mutual Legal Assistance in Criminal Matters (Transnational Organized Crime) Order, made by the Chief Executive in Council on 8 April 2008, be approved.

(Translation)

**Mutual Legal Assistance in Criminal Matters  
(Transnational Organized Crime) Order**

**Draft Speech by the Secretary for Security on the Resolution  
at the Legislative Council Meeting on 25 June 2008**

Madam President,

I move that the motion, as printed on the Agenda, on the resolution to make the Mutual Legal Assistance in Criminal Matters (Transnational Organized Crime) Order be passed by this Council.

2. The United Nations Convention Against Transnational Organized Crime came into force for Hong Kong in September 2006. Most of the requirements in the Convention can be fulfilled by existing legislation and administrative measures. New legislation, however, is required to give effect to the obligations in respect of, inter alia, mutual legal assistance in criminal matters under the Convention.

3. Articles 14 and 18 of the Convention require that States Parties shall, under their relevant laws, afford one another the widest measure of mutual legal assistance in relation to the offences covered by the Convention, and if so requested by another State Party, give priority consideration to returning confiscated proceeds of crime or property to the requesting State Party.

4. The Mutual Legal Assistance in Criminal Matters Ordinance provides the statutory framework for implementing mutual legal assistance arrangements between Hong Kong and other jurisdictions, 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.

5. Pursuant to the Mutual Legal Assistance in Criminal Matters Ordinance, the Chief Executive in Council has made the Mutual Legal Assistance in Criminal Matters (Transnational Organized Crime) Order to implement the mutual legal assistance obligations under the United Nations Convention Against Transnational Organized Crime. By applying the Mutual Legal Assistance in Criminal Matters Ordinance as between Hong Kong and other States Parties of the Convention, the Order allows assistance to be provided or obtained in accordance with the procedures set out in the Ordinance and the relevant provisions in the Convention. The mutual legal assistance arrangements under the Convention are in conformity with the provisions of the Mutual Legal Assistance in Criminal Matters Ordinance.

6. The Legislative Council set up a Subcommittee in April 2008 to scrutinize the Order. I would like to thank the Subcommittee Chairman, the Honourable James To, and other Members for their examination of the Order.

7. The Subcommittee has enquired about the effect of the Order. The Order, which recites the Convention in Schedule 1, directs that the Mutual Legal Assistance in Criminal Matters Ordinance shall, subject to the modifications specified in Schedule 2 to the Order, apply as between Hong Kong and the foreign States Parties of the Convention. Schedule 2 to the Order modifies section 17(3)(b) of the Ordinance such that the safe conduct period of a person who consents to give evidence in a proceeding in the territory of the requesting State Party will be the period agreed upon by the requesting and the requested States Parties or, if no such agreement is made between the two Parties, 15 days, as stipulated in Article 18(27) of the Convention.

8. It is important for the Order to be made. Apart from fulfilling Hong Kong's international obligations on mutual legal assistance under the Convention, it also considerably strengthens Hong Kong's cooperation with foreign jurisdictions in mutual legal assistance in criminal matters.

9. I now invite Members to approve the making of the Mutual Legal Assistance in Criminal Matters (Transnational Organized Crime) Order.

10. Thank you, Madam President.

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