

立法會
Legislative Council

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Tel : 2869 9205

Date : 22 November 2007

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 5 December 2007

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

Further to LC Paper No. CB(3) 692/06-07 issued on 12 June 2007, the Secretary for Security has given fresh notice to move a proposed resolution at the Council meeting of 5 December 2007 under the Mutual Legal Assistance in Criminal Matters Ordinance. 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 Mutual Legal Assistance in Criminal Matters (Corruption) Order had been circulated vide LC Paper No. CB(3) 629/06-07 issued on 30 May 2007. 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

RESOLUTION

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

RESOLVED that the Mutual Legal Assistance in Criminal Matters
(Corruption) Order, made by the Chief Executive in Council
on 22 May 2007, be approved.

(Translation)

Mutual Legal Assistance in Criminal Matters (Corruption) Order

**Draft Speech by the Secretary for Security on the Resolution
at the Legislative Council Meeting on 5 December 2007**

Madam President,

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

2. The United Nations Convention Against Corruption has become applicable to Hong Kong since February 2006. Most of the Convention requirements can be fulfilled by existing legislation and administrative measures. New legislative measures, however, are required to give effect to other obligations under the Convention, including those in respect of mutual legal assistance.

3. Articles 46 and 57 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 return confiscated property when acting on the request made by another State Party.

4. 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.

5. Pursuant to the Ordinance, the Chief Executive in Council has made the Mutual Legal Assistance in Criminal Matters (Corruption) Order to implement the mutual legal assistance obligations under the United Nations Convention Against Corruption. By applying the Ordinance as between Hong Kong and the 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 substantially in conformity with the provisions of the Ordinance.

6. In June 2006, the Legislative Council set up a Subcommittee to scrutinize the Order. We would like to thank the Subcommittee Chairman, the Honourable Margaret Ng, and other Members for their examination of the Order.

7. To fulfil our international obligations on mutual legal assistance under the Convention and to strengthen our cooperation with foreign jurisdictions in respect of criminal justice and international law enforcement, it is important for the Order to be made.

8. I now invite Members to approve the making of the Mutual Legal Assistance in Criminal Matters (Corruption) Order.

9. Thank you, Madam President.

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