

**立法會**  
**Legislative Council**

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Tel : 2869 9205

Date : 7 May 2004

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

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**Council meeting of 2 June 2004**

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

Further to LC Paper No. CB(3) 309/03-04 issued on 13 January 2004, the Secretary for Security has given fresh notice to move two resolutions under the Mutual Legal Assistance in Criminal Matters Ordinance relating to:

- (a) the Mutual Legal Assistance in Criminal Matters (Ukraine) Order;  
and
- (b) the Mutual Legal Assistance in Criminal Matters (Singapore) 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) 273/03-4 issued on 27 December 2003 and are not attached.

2. 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

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 (Ukraine) Order, made  
by the Chief Executive in Council on 9 December 2003, be approved.

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 (Singapore) Order, made by the Chief Executive in Council on 9 December 2003, be approved.

**Mutual Legal Assistance in Criminal Matters (Ukraine) Order**

**Speech by the Secretary for Security  
for the Resolution on 2 June 2004**

Madam President,

I move that the resolution to make the Mutual Legal Assistance in Criminal Matters (Ukraine) Order be passed. I shall move another resolution to make the Mutual Legal Assistance in Criminal Matters (Singapore) Order in a short while.

2. The Hong Kong Special Administrative Region (HKSAR) is fully committed to international cooperation in combating serious crime. In this connection, we have embarked on a programme to establish a network of bilateral agreements with other jurisdictions on mutual legal assistance in criminal matters. These agreements enhance international cooperation in the fight against transnational crime. Including Ukraine and Singapore, we have so far signed fifteen agreements on mutual legal assistance in criminal matters with other jurisdictions.

3. The Mutual Legal Assistance in Criminal Matters Ordinance (the Ordinance) provides the necessary statutory framework for implementing mutual legal assistance agreements by providing statutory powers for the provision of assistance to overseas 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 agreements for mutual legal assistance in criminal matters with Ukraine and Singapore. These two Orders apply the Ordinance between Hong Kong and Ukraine, and Hong Kong and Singapore respectively thus allowing procedures in this Ordinance to be used to satisfy requests for assistance under the agreements. The Orders are substantially in conformity with the provisions in the Ordinance. Modifications to some of the provisions of the Ordinance have however been made by the Orders to reflect the mutual legal assistance practices of our negotiating partners. These are necessary to enable Hong Kong to comply with its obligations in these agreements. Such modifications are summarised in Schedule 1 to each of the Orders.

5. The Legislative Council set up a subcommittee scrutinize the two Orders in February this year. The Subcommittee has completed the examination of the Orders in two meetings. I would like to thank the Chairman, the Honourable James To, and other Members of the Subcommittee for their careful scrutiny of the Orders and their support of our submission of the Orders to the Legislative Council for approval.

6. At the Subcommittee meetings, Member have made enquiries about the interpretation and application of a number of specific articles of the Orders. Issues discussed at the Subcommittee meetings include the compulsory powers to be invoked for the execution of requests for location of persons, the definition of proceeds from crime, the confidentiality obligation, etc. The Administration has responded to

these enquiries in detail at the meetings. The Subcommittee's deliberations on these issues are summarized in its report submitted to the House Committee on 23 April 2004.

7. During the scrutiny of the scope of assistance under one of the Orders, we have explained to Members that the legislation governing the provision of legal assistance varies from jurisdiction to jurisdiction. The scope of assistance that can be rendered by different jurisdictions is not the same. The bilateral agreement signed between two jurisdictions will set out clearly the scope of assistance which the contracting parties are obliged to provide. The contracting parties however have discretion to provide assistance outside the scope of the agreement if their own law empowers them to do so. Members have asked how HKSAR Government would handle requests for assistance outside the scope of the bilateral agreement signed with a foreign jurisdiction if the requesting jurisdiction cannot reciprocate under similar circumstances because of the limitations in its law. I would like to emphasize that "reciprocity" is the underlying principle for the entire programme of mutual legal assistance in criminal matters. The HKSAR Government will carefully consider requests outside the scope of the agreements with foreign jurisdictions on a case-by-case basis, and we will attach great importance to the principle of reciprocity in the process.

8. To strengthen our cooperation with other jurisdictions in criminal justice and international law enforcement, it is essential that the two Orders be made to enable the relevant bilateral agreements to be brought into force.

9. I now invite Members to approve the making of the Mutual Legal Assistance in Criminal Matters (Ukraine) Order. I shall in a moment move the resolution to make the Mutual Legal Assistance in Criminal Matters (Singapore) Order.

10. Thank you, Madam President.

**Security Bureau**

**May 2004**

**Mutual Legal Assistance in Criminal Matters (Singapore) Order**

**Speech by the Secretary for Security  
for the Resolution on 2 June 2004**

Madam President,

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

2. In moving the resolution to make the Mutual Legal Assistance in Criminal Matters (Ukraine) Order earlier, I have explained the importance of making the Order on mutual legal assistance in criminal matters.

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

4. Thank you, Madam President.

Security Bureau

May 2004