

立法會
Legislative Council

LC Paper No. LS6/03-04

**Paper for the House Committee Meeting
on 17 October 2003**

**Legal Service Division Report on
proposed resolution under section 4 of the
Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525)**

Mutual Legal Assistance in Criminal Matters (Netherlands) Order

The Secretary for Security (the Secretary) has given notice to move a motion at the meeting of the Legislative Council on 29 October 2003. The motion seeks the Legislative Council's approval of the Mutual Legal Assistance in Criminal Matters (Netherlands) Order (the Netherlands Order) made under section 4 of the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525). The purpose of the Order is to implement the bilateral arrangements for mutual legal assistance (MLA) in criminal matters between the Governments of the Hong Kong Special Administrative Region (HKSAR) and the Kingdom of the Netherlands signed in Hong Kong on 26 August 2002. The said arrangements are contained in the MLA Agreement (the Agreement) between the two Governments exhibited in Schedule 1 to the Netherlands Order.

2. Members may recall that the then Secretary for Security intended to move a motion on the MLA in Criminal Matters (Netherlands) Order (the original Order) at the Legislative Council meeting on 12 February 2003. The notice of that motion was subsequently withdrawn to allow time for the Subcommittee set up to scrutinize the original Order. The Subcommittee reported to the House Committee on 13 June 2003. In the course of scrutiny, the Subcommittee noted that there was an error in the Chinese translation of the "Requesting Party" and "Requested Party" in Article 14(5) of the Agreement. The Administration informed Members that the translation error would be rectified by way of an exchange of notes between the Governments of HKSAR and the Kingdom of the Netherlands, and a fresh Order would be submitted to the Legislative Council.

3. The translation error mentioned in paragraph 2 above has now been rectified by an exchange of notes between the Governments of HKSAR and the Kingdom of the Netherlands dated 23 and 24 July 2003. The corrected Chinese text of Article 14(5) of the Agreement is set out in Schedule 2 to the Netherlands Order.

4. Under the original Order, the Agreement is applicable as between Hong Kong and the Kingdom of the Netherlands. Article 22 of the Agreement provides that the Agreement may be extended to the Netherlands Antilles and/or to Aruba at the request of the Kingdom of the Netherlands. According to the LegCo Brief (Ref: SBCR3/5691/95 Pt. 25) issued by the Security Bureau in October 2003, the Government of the Kingdom of the Netherlands has recently made the request for extending the territorial application of the Agreement to these two areas. This extension is reflected in section 2 of the Netherlands Order.

5. Except for the correction in the Chinese text and the extension of the territorial application of the Agreement, the Netherlands Order is the same as the original Order.

6. The Netherlands Order will come into operation on a day to be appointed by the Secretary by notice published in the Gazette.

7. No difficulties relating to the legal and drafting aspects of the proposed resolution and the Netherlands Order have been identified.

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