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Secretary for Security
(Attention: Miss Jane Lee, Assistant Secretary)
Security Bureau
6/F Main and East Wings
Central Government Offices
Hong Kong

22 April 2005

BY FAX

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Dear Miss Lee,

Mutual Legal Assistance in Criminal Matters (Belgium) Order
Mutual Legal Assistance in Criminal Matters (Denmark) Order

I am scrutinising the above Orders with a view to advising Members and should be grateful if you would clarify the following matters:

The Belgium Order

Article X(5)

The second part of Article X(5) provides that any privilege under the laws of the Requesting Party from giving testimony shall not be taken into consideration in the execution of requests, but any such claim shall be noted in the record. What procedures will be adopted by the Requested Party for taking evidence from a witness asserting a claim for such privilege?

Article XI(5)

If a person who fails to comply with any process served on him, is he liable to any penalty or coercive measure pursuant to the law of the Requesting Party?

The Denmark Order

Article 13(2)

If a person in custody transferred under Article 11 is subsequently released from custody pursuant to Article 11(3) and if he has chosen not to leave the Requesting Party within 15 days after being notified that his presence is no longer required, is he entitled to the immunity provided in Article 13(1)? Please explain the scope of the immunity concerned in the light of the provision in Article 13(2).

I would appreciate it if you could let us have the Administration's reply in both languages on or before the House Committee meeting on 29 April 2005.

Yours sincerely,

(Connie Fung)
Assistant Legal Adviser

c.c.: DoJ (Attn: Miss Frances HUI, SGC and Mr Vidy CHEUNG, SGC)
LA