

行政院 第 3822 次會議

民國111年9月29日

討論事項（三）

法務部函送「中華民國（臺灣）政府與聖文森及格瑞那丁政府刑事司法互助條約」及「中華民國（臺灣）政府與聖文森及格瑞那丁政府移交受刑人條約」，請核轉立法院審議案。

說明：

- 一、法務部函以，為促進我與聖文森及格瑞那丁司法互助、受刑人移交業務，雙方爰擬簽署「中華民國（臺灣）政府與聖文森及格瑞那丁政府刑事司法互助條約」及「中華民國（臺灣）政府與聖文森及格瑞那丁政府移交受刑人條約」，前經報奉鈞院函復准予辦理在案，嗣由本部

部長蔡清祥與聖文森及格瑞那丁總理兼司法部長龔薩福完成簽署。檢附該兩條約，擬依「條約締結法」第 8 條規定，函請立法院審議。

二、上述條約內容要點如次：

(一)有關「中華民國（臺灣）政府與聖文森及格瑞那丁政府刑事司法互助條約」部分：

- 1、協助之範圍、中央主管機關及協助之限制。（第 1 條至第 3 條）
- 2、請求之形式、內容、執行及費用。（第 4 條至第 6 條）
- 3、搜索、扣押、返還證物及交換犯罪紀錄。（第 14 條至第 16 條）

4、財產之限制處分與沒收、第三人權益及犯罪所得分享。(第 17 條至第 19 條)

5、條約之生效、修正與終止。(第 22 條)

(二)有關「中華民國（臺灣）政府與聖文森及格瑞那丁政府移交受刑人條約」部分：

1、條約之目的、相關用詞定義及雙方指定之代表。(第 1 條至第 3 條)

2、移交之條件、通知、程序、同意及執行。(第 4 條至第 8 條)

3、刑罰之執行、司法權之保留。(第 9 條、第 10 條)

4、移交之費用、受刑人之過境。(第 12 條、第 13 條)

5、條約之生效、修正及終止。(第 16 條)

三、茲將上述兩條約附後，擬請討論通過後，由院送請立法院審議，提請

核議

附件如附

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行政院第3822次院會會議
行政院

中華民國（臺灣）政府

與

聖文森及格瑞那丁政府

刑事司法互助條約

44BE57B7FA5F47D
行政院第589次院會會議
行政院

中華民國（臺灣）政府與聖文森及格瑞那丁政府

刑事司法互助條約

中華民國（臺灣）政府與聖文森及格瑞那丁政府（以下分稱「一方」，合稱「雙方」）基於相互尊重、互惠與共同利益，藉由刑事司法互助，以增進任一方所屬執法機關有效之合作，同意訂立下列條款：

第一條 協助之範圍

1. 雙方應依本條約之規定，經相關權責機關，提供有關調查、起訴、法院程序、犯罪防制及相關刑事司法程序中之相互協助。
2. 協助應包括：
 - (a) 取得證言或供述；
 - (b) 提供做為證據所用之文書、紀錄及物品；
 - (c) 確定關係人之所在或確認其身分；
 - (d) 文書送達；
 - (e) 執行搜索及扣押之請求；
 - (f) 確認物之性質及其所在；
 - (g) 協助凍結、扣押及執行罰金；及
 - (h) 其他不違反受請求方法律之任何形式之協助。
3. 除本條約另有規定外，在請求方受調查、起訴或進行司法程序之行為，不論依受請求方之法律規定是否構成犯罪，均應提供協助。

4. 本條約僅供雙方間司法互助之用，並不因而使任何私人有權獲取、隱匿、排除證據或阻礙請求之執行。

第二條 中央主管機關

1. 雙方之中央主管機關係指：
 - (a) 代表中華民國（臺灣）政府者：法務部或經該部指定之人；
 - (b) 代表聖文森及格瑞那丁政府者：司法部或經該部指定之人。
2. 中央主管機關應直接互相聯繫以實踐本條約。

第三條 協助之限制

1. 有下列情形之一者，受請求方之中央主管機關得拒絕協助：
 - (a) 請求涉及政治犯行；
 - (b) 所涉行為係觸犯軍法而非觸犯普通刑法；
 - (c) 該請求之執行將有害於受請求方之安全、公共秩序或類似之重要利益；
 - (d) 該請求與本條約不符；
 - (e) 依第十四條或第十七條規定所為之請求，其所涉行為在受請求方領域內不構成犯罪；或
 - (f) 如立即執行請求將有礙於受請求方進行之刑事調查、起訴或刑事訴訟程序時，得延緩執行。
2. 受請求方依本條規定拒絕協助前，應與請求方協商考量是否在附加必要之條件後，再提供協助。如請求方接受該附加條件，於條件符合前，受請求方不提供協助。
3. 受請求方如拒絕協助，應將拒絕之理由通知請求方。

第四條 請求之形式及其內容

1. 請求協助，應以書面為之。但在緊急情形或其他雙方事先同意之情形，得以其他方式提出；以其他方式提出請求者，除經受請求方之同意外，應於提出請求後十日內以書面確認之。請求協助除經受請求方同意外，應以受請求方所使用之語文提出。
2. 請求書應包括以下事項：
 - (a) 進行調查、起訴或相關訴訟程序之機關名稱；
 - (b) 請求事項及調查、起訴或訴訟程序性質之說明，包括請求事項涉及之特定刑事罪名及其法定刑責；
 - (c) 所要調查之證據、資料或其他請求協助之項目；
 - (d) 有關所要調查之證據、資料或其他請求協助項目目的之陳述；及
 - (e) 必要時，應受送達者之姓名及地址。
3. 在可能及必要之程度內，請求書亦應包括以下事項：
 - (a) 提供證據者之身分及其所在；
 - (b) 應受送達者之身分及其所在，與訴訟程序之關係及送達方式；
 - (c) 受調查人之身分及所在；
 - (d) 被搜索之地點、對象及應扣押物品之詳細描述；
 - (e) 有關取得及記錄證詞或供述方式之說明；
 - (f) 訊問證人或被告之問題；
 - (g) 執行請求時，應行遵守之特別程序；
 - (h) 其他有助於受請求方執行請求之相關資料。

4. 如受請求方認為請求書所載內容不足以致不能執行時，得要求提供補充資料。
5. 請求書及其附件無需任何形式之證明或認證。

第五條 請求之執行

1. 受請求方中央主管機關應立即執行請求，如由相關機關執行較為適當時，應移轉之。受請求方之相關機關應依其權責盡力執行請求。
2. 受請求方為執行請求而代表請求方於受請求方內進行之任何程序，應為一切必要之安排及負擔費用。
3. 除本條約另有規定外，應依受請求方法律執行請求。請求書所指定之執行方法，除違反受請求方法律者外，應予遵守。
4. 受請求方如認為執行請求有礙於在受請求方進行之刑事調查、起訴或其他訴訟程序時，得延緩執行；或依照與請求方協商後所定之必要條件執行之。請求方如接受該附加條件，則其相關機關應遵守這些條件。
5. 受請求方於請求方要求時，對於協助之請求及其內容，應盡力保密；如為執行該請求而無法保密時，受請求方應通知請求方，由請求方決定該請求是否仍應執行。
6. 受請求方對於請求方就執行請求進度所提出之合理詢問，應予回覆。
7. 受請求方應將執行結果，立即通知請求方。如該請求遭拒絕時，受請求方應將拒絕理由以書面通知請求方。

第六條 費用

1. 受請求方應支付與執行請求有關之費用，但請求方應負擔下列費用：
 - (a) 根據請求方所屬領域之規定，支付本條約第十條規定之人員津貼或旅費；
 - (b) 有關人員按照第八條第三項之規定前往、停留和離開受請求方所屬領域之津貼或旅費；
 - (c) 依本條約第十一條規定程序之建立、操作視訊會議、電視聯繫及翻譯、謄寫之費用；
 - (d) 鑑定人之費用及報酬；
 - (e) 筆譯、口譯及謄寫費用；及
 - (f) 經要求在請求方出庭者可得之津貼及旅費。
2. 如執行請求可能須支出超乎尋常之費用，雙方應協商以決定執行該請求之條件。

第七條 用途之限制

1. 請求方在未經受請求方書面同意之前，不得將依本條約而取得之資料或證據，使用於請求書所載以外用途。於此情形下，請求方之各機關應遵守進一步使用資料或證據之相關條件。
2. 受請求方對於依本條約而提供之資料或證據，得請求應予保密，或僅得依其所指定之條件使用。請求方如在該等指定條件下接受資料或證據，則應盡力遵守此條件。
3. 依本條第一或第二項規定，請求方已公開之資料或證據，得使用於任何用途。

第八條 受請求方之證言或證據

1. 受請求方內之人經依本條約請求自其取得證據者，必要時應強制其出庭、作證或提供包括供證之文書、紀錄及物品在內之證物。受請求而為虛偽證言或供述者，無論以口頭或書面方式，須在受請求方內，依其刑事法規定予以起訴及處罰。
2. 受請求方於受請求時，應先行提供有關依本條規定取得證言或證據之日期及地點之資料。
3. 受請求方在執行請求時，應准許請求書中所指明之人在場，並依照受請求方所同意之方式，准許其詢問作證或提供證據之人，並進行逐字紀錄。
4. 如第一項規定之人依請求方法律之規定主張豁免、無行為能力或特權時，受請求方仍應取得所有請求方請求之證據，但受請求方應使請求方知悉該人之主張，俾使請求方解決之。

第九條 官方紀錄

1. 受請求方應對請求方提供受請求方政府部門各所持有得公開之紀錄，包括任何形式之文書或資料。
2. 受請求方得以對待其執法機關或司法當局相同的程度及條件，就政府部門持有之任何不公開文書、紀錄或資料之副本，提供予請求方。受請求方得根據本項規定，依職權拒絕全部或部分之請求。

第十條 在請求方內作證

1. 請求方請求某人在其領域內應訊時，受請求方應要求該人至請求方之該管機關應訊。請求方應表明其願支付費用之額度。受請求方應立即通知請求方有關該人之回應。
2. 對於依本條同意至請求方內應訊之人員：
 - (a) 不得因該人於進入請求方領域前之任何作為、不作為或有罪判決而予以起訴、羈押、傳喚或以其他形式限制其人身自由；
 - (b) 不應強制該人在該請求所未涉及之任何其他偵查、起訴或訴訟程序中作證或協助，除非事先取得受請求方權責與該人之同意；及
 - (c) 除藐視法庭及偽證外，該人不因其證言而遭受追訴。
3. 如請求方不能作出上述保證，則被要求前往之人可拒絕該請求。
4. 依本條規定所賦予之安全維護行為，應於請求方通知受請求方，該人已無需應訊七日後，或於該人離開請求方而自願返回時，終止之。請求方認有正當理由時，得依職權延長該期間至十五日。

第十一條 視訊訊問

1. 在受請求方內之人，得藉由視訊方式而在請求方訴訟程序中作證。
2. 以視訊方式訊問證人時，應在受請求方該管機關處理下進行。
3. 以視訊方式進行訊問時，應在請求方權責機關監督下進行，而證據之取得如下：

- (a) 依據請求方或受請求方之國內法；及
- (b) 依據雙方所同意保護證人之任何方法。

4. 以視訊進行訊問時，受請求方之該管機關應負責：

- (a) 確保程序進行中有適當的翻譯；
- (b) 確定證人的身分；
- (c) 為保障證人的權利而於必要時中止；
- (d) 製作訊問的書面紀錄，紀錄應包括下列資料：
 - i. 訊問的日期及地點；
 - ii. 被訊問人之身分；
 - iii. 其他參與訊問者之身分與功能；
 - iv. 具結之細節及訊問處所之科技狀況；及
- (e) 依據本條進行訊問後，在實際可行之情況下儘速傳送訊問紀錄。

第十二條 人或證物之所在或其辨識

如請求方尋求在受請求方內之人或證物之所在，或為身分、物件之辨識時，受請求方應盡其最大努力以確定其所在或為人身、物件之辨識。

第十三條 文書送達

1. 受請求方應盡最大努力以有效送達請求方依本條約定規定所提出與任何協助之請求全部或部分有關之文書。
2. 請求方所請求送達之文書係要求特定人至請求方機關應訊時，應於指定應訊時間前之合理期間內提出協助送達該文書之請求。

3. 受請求方應依請求所指定之方式返還送達證明。

第十四條 搜索及扣押

1. 如依受請求方之法律，請求方所提出搜索、扣押及移轉證物之請求為正當時，受請求方即應執行此等請求。
2. 受請求方應提供請求方所可能需要關於搜索結果、扣押地、扣押情況及扣案物後續保管資訊。

第十五條 返還證物

受請求方得要求請求方，儘速返還任何依本條約執行請求時所提供之包括供證之文書、紀錄或物品等證物。

第十六條 交換犯罪紀錄

各方應彼此通知另一方遭判刑及被拘禁國民之後續處理情況之任何紀錄。

第十七條 財產之限制處分與沒收

1. 雙方應基於各自之國內法律，彼此協助有關犯罪所得及犯罪工具之識別、追蹤、限制處分、扣押及沒收等程序。上述協助應包括暫時凍結犯罪所得及犯罪工具以便進行後續之程序。
2. 除本條約第四條所規定者外，有關限制處分或沒收之請求應另包括以下項目：
 - (a) 請求標的之詳細說明；
 - (b) 請求標的之所在及與本請求目的之關連性；

- (c) 請求標的與請求所涉犯行之可能關連性；及
- (d) 請求方權責機關所為之限制處分或沒收命令之副本及如未於命令本身指明時，發出此命令理由之聲明。

第十八條 第三人

1. 關於本條約第十四條搜索及扣押，受請求方得要求請求方同意遵守必要條件以保護第三人對於被移轉證物之權益。
2. 在依據本條約第十七條協助限制處分或沒收犯罪所得之程序中，第三人關於該財產之利益應於請求書中詳細說明。
3. 有關依據本條約第十九條之犯罪所得分享，不僅被害人權利較雙方分享犯罪所得為優先，且第三人依誠信原則主張之權利皆應被尊重。

第十九條 犯罪所得分享

1. 受請求方如其依本條約第一條第二項第 g 款提供之協助對另一方沒收犯罪所得有所助益或預期有所助益，得請求另一方分享沒收所得。
2. 除雙方另有約定外，該請求應於完成沒收之一年內提出。
3. 請求方須基於受請求方提供協助之程度決定請求方分享財產之比例，但被沒收之財產價值過微或受請求方之協助甚小時，得不予分享。
4. 若該案件有可得確定之被害人時，雙方於分享犯罪所得時，應優先考量被害人之權利。

第二十條 與其他協定之關係

本條約所規定之協助及程序，並不禁止任一方依其他協定或各自所屬領域內之法律規定，對另一方提供協助。雙方亦得依任何可適用之安排、協定或實務做法，提供協助。

第二十一條 諮商

雙方之中央主管機關，於相互同意時，應諮商以促進本條約之有效執行。中央主管機關亦得同意採用有助於履行本條約所必要之實際方法。

第二十二條 生效、修正與終止

1. 本條約應於雙方通知對方完成使本條約生效之內國必要程序後，自最後通知日起第三十日生效。
2. 本條約適用於其生效後提出之任何請求，即使有關犯罪係發生於本條約生效之前。
3. 本條約得經雙方同意後修正。修正應完成本條第一項所定程序始生效力。
4. 任一方得以書面通知另一方後，終止本條約。該終止應自收受通知後六個月生效。
5. 若請求係於任一方通知另一方終止本條約生效前提出，則請求方終止請求協助前，雙方之合作及協助仍將依本條約持續進行或提供相關資料。在終止本條約之情形下，依本條約取得之資訊、文件或證據仍應依本條約第七條第二項規定進行保密。

為此，雙方代表各經其政府合法授權，爰於本條約簽署，以昭信守。

本條約以中文及英文簽署一式兩份，兩種文本同一作準。

中華民國（臺灣）政府代表

聖文森及格瑞那丁政府代表

蔡清祥

Roderick Williams

蔡清祥

莫薩福

法務部長

總理兼司法部長

時間：08/08/2022

時間：8th August 2022

地點：台北

地點：Taipei



**TREATY ON MUTUAL LEGAL
ASSISTANCE IN CRIMINAL MATTERS
BETWEEN
THE GOVERNMENT OF THE REPUBLIC
OF CHINA (TAIWAN)
AND
THE GOVERNMENT OF SAINT
VINCENT AND THE GRENADINES**

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE GOVERNMENT OF THE REPUBLIC OF CHINA (TAIWAN) AND THE GOVERNMENT OF SAINT VINCENT AND THE GRENADINES

The Government of the Republic of China (Taiwan) and the Government of Saint Vincent and the Grenadines (hereinafter referred to individually as a "Party" and collectively as the "Parties"), desiring to improve the effective cooperation of the law enforcement authorities of the states represented by either Party through mutual legal assistance in criminal matters on the basis of mutual respect, reciprocity, and mutual benefit, have agreed as follows:

Article 1 Scope of Assistance

1. The Parties shall provide mutual assistance through the relevant authorities, in accordance with the terms of this Treaty, in connection with the investigation, prosecution, court proceedings and prevention of offenses and in proceedings related to criminal matters.
2. Assistance shall include:
 - (a) taking the testimony or statements of persons;
 - (b) providing documents, records, and articles of evidence;
 - (c) locating or identifying persons;

- (d) serving documents;
 - (e) executing requests for searches and seizures;
 - (f) examining objects and sites;
 - (g) assisting in proceedings related to immobilization and confiscation of assets or collection of fines; and
 - (h) any other form of assistance not contrary to the laws of the Requested Party.
3. Except as otherwise provided in this Treaty, assistance shall be provided without regard to whether the conduct that is the subject of the investigation, prosecution, or proceeding in the Requesting Party would constitute an offense under the laws of the Requested Party.
4. This Treaty is intended solely for mutual legal assistance between the Parties, and shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

Article 2 Central Authorities

1. The Central Authority of the Parties are:
- (a) on behalf of the Government of Republic of China (Taiwan), the Ministry of Justice or persons designated by the Ministry of Justice;
 - (b) on behalf of the Government of Saint Vincent and the Grenadines, the Ministry of Legal Affairs or persons designated by the Ministry of Legal Affairs;

2. The Central Authorities shall directly communicate with one another for the purpose of this Treaty.

Article 3 Limitations on Assistance

1. The Central Authority of the Requested Party may refuse to provide assistance if:
 - (a) the request relates to a political offense;
 - (b) the request relates to an offense under military law that would not be an offense under ordinary criminal law;
 - (c) the execution of the request would prejudice the security, public order, or similar essential interests of the Requested Party;
 - (d) the request is not made in conformity with this Treaty;
 - (e) the request is made pursuant to Article 14 and Article 17 and relates to conduct which, if committed in the Requested Party, would not be an offense in that State; or
 - (f) Assistance may be postponed if the immediate execution of the request would interfere with an ongoing investigation, prosecution or criminal proceedings in the Requested Party.
2. Before making refusal to provide assistance pursuant to this Article, the Requested Party shall consult with the Requesting Party on certain additional conditions it deems necessary for such assistance to be provided. If the Requesting Party accepts such additional conditions, no assistance will be provided by the Requested Party before such conditions are met.

3. If the Requested Party refuses to provide assistance, it shall inform the Requesting Party of the reasons for such refusal.

Article 4 Form and Contents of Requests

1. A request for assistance shall be in writing. The Requested Party may accept a request in other forms in case of emergency or any other situations agreed by the Parties in advance. In any such cases, the request shall be confirmed in writing within ten days thereafter unless the Requested Party agrees otherwise. The request shall be in the language used in the Requested Party unless otherwise agreed.
2. The request shall include the following:
 - (a) the name of the authority conducting the investigation, prosecution, or proceeding to which the request relates;
 - (b) a description of the subject matter and nature of the investigation, prosecution, or proceeding, including the specific criminal offenses that relate to the matter and any punishment that might be imposed for each offense;
 - (c) a description of the evidence, information, or other assistance sought;
 - (d) a statement of the purpose for which the evidence, information, or other assistance is sought; and
 - (e) the name and address of the person to be served, where necessary.
3. To the extent necessary and possible, a request shall also include:

- (a) information on the identity and location of any person from whom evidence is sought;
 - (b) information on the identity and location of a person to be served, that person's relationship to the proceedings, and the manner in which service is to be made;
 - (c) information on the identity and whereabouts of a person to be located;
 - (d) a precise description of the place or person to be searched and of the articles to be seized;
 - (e) a description of the manner in which any testimony or statement is to be taken and recorded;
 - (f) a list of questions to be asked of a witness or a defendant;
 - (g) a description of any particular procedure to be followed in executing the request;
 - (h) any other information that may be brought to the attention of the Requested Party to facilitate its execution of the request.
4. If the Requested Party considers the contents contained in the request not sufficient to enable the request to be dealt with, it may request additional information.
5. No form of certification or authentication shall be required for a request for assistance or its supporting documents.

Article 5 Execution of Requests

1. The Central Authority of the Requested Party shall promptly execute the request or, when appropriate, shall transmit it to the

relevant authority for execution. The relevant authorities of the Requested Party shall do everything in their power to execute the request.

2. The Requested Party shall make all necessary arrangements for and meet the costs of the representation of the Requesting Party in the Requested Party in any proceedings arising out of a request for assistance.
3. Requests shall be executed in accordance with the laws of the Requested Party except to the extent that this Treaty provides otherwise. However, the method of execution specified in the request shall be followed except insofar as it is contrary to the laws of the Requested Party.
4. If the Requested Party determines that execution of a request would interfere with an ongoing criminal investigation, prosecution, or proceeding in the Requested Party, it may postpone such execution, or make necessary additional conditions for such execution after consultations with the Requesting Party. If the Requesting Party accepts such additional conditions, relevant authorities in the Party represented by it shall comply with the conditions.
5. The Requested Party shall take their best efforts to keep any request and its contents confidential if confidentiality is requested by the Requesting Party. If any such request could not be executed without breaching such confidentiality, the Requested Party shall inform the Requesting Party of such situation. The Requesting

- Party shall then determine whether to proceed with such request.
6. The Requested Party shall respond to reasonable inquiries made by the Requesting Party concerning the progress towards the execution of any request.
 7. The Requested Party shall promptly inform the Requesting Party of any result of the execution of the request. If the request is refused, the Requested Party shall inform the Requesting Party of the reasons for the refusal in writing.

Article 6 Costs

1. The Requested Party shall pay the costs relating to the execution of the request, but the Requesting Party shall bear:
 - (a) the allowances or expenses for the travel of persons under Article 10 of this Treaty in accordance with the regulations of the Requesting Party;
 - (b) the allowances or expenses for persons to travel to and from and stay in the Requested Party under Article 8(3) of this Treaty;
 - (c) the costs of establishing and operating video conferencing or television links and the interpretation and transcription of such proceedings pursuant to Article 11 of this Treaty;
 - (d) the expenses and fees of experts;
 - (e) the costs of translation, interpretation, and transcription, and
 - (f) the allowances and expenses to which a person asked to appear in the Requesting Party shall be entitled.

2. If it becomes foreseeable that the execution of any request would require expenses of an extraordinary nature, the Parties shall consult to determine the terms and conditions under which such request could be executed.

Article 7 Limitations on Use

1. The Requesting Party shall not use the information or evidence obtained pursuant to this Treaty for purposes other than those specified in the request without the previous written consent of the Requested Party. The authorities of the Requesting Party shall comply with any conditions imposed in the further use of the information or evidence.
2. The Requested Party may request that information or evidence furnished under this Treaty be kept confidential or be used only subject to terms and conditions it may specify. If the Requesting Party accepts the information or evidence subject to such conditions, Requesting Party shall use their best efforts to comply with the conditions.
3. Information or evidence that has been made public in the Requesting Party in accordance with paragraphs 1 or 2 may thereafter be used for any purpose.

Article 8 Testimony or Evidence in the Requested Party

1. A person in the Requested Party from whom evidence is requested pursuant to this Treaty shall be compelled, if necessary, to appear

and testify or produce items, including documents, records, and articles of evidence. A person, who gives false testimony or statement, either orally or in writing, in execution of a request, shall be subject to prosecution and punishment in the Requested Party in accordance with its criminal laws.

2. Upon request, the Requested Party shall furnish information in advance about the date and place of the taking of the testimony or evidence pursuant to this Article.
3. The Requested Party shall permit the presence of such persons as specified in the request during the execution of the request, and shall allow such persons to pose questions to the person giving the testimony or evidence and to make a verbatim transcript in a manner agreed to by the Requested Party.
4. If the person referred to in paragraph 1 asserts a claim of immunity, incapacity, or privilege under the laws of the Requesting Party, the evidence, including all items requested, shall nonetheless be taken and the claim made known to the Requesting Party for resolution.

Article 9 Records of the Party

1. The Requested Party shall provide the Requesting Party with copies of publicly available records, including documents or information in any form, in the possession of departments and agencies of the Requested Party.
2. The Requested Party may provide copies of any documents,

records, or information which are in the possession of a department or agency, but which are not publicly available, to the same extent and under the same conditions as such copies would be available to the law enforcement or judicial authorities of the Requested Party. The Requested Party may in its discretion deny a request pursuant to this paragraph entirely or in part.

Article 10 Attendance of Persons in the Requesting Party

1. When the Requesting Party requests the appearance of a person in the Requesting Party, the Requested Party shall invite the person to appear before the appropriate authority in the Requesting Party. The Requesting Party shall indicate the extent to which the expenses shall be paid. The Requested Party shall promptly inform the Requesting Party of the response of the person.
2. A person who consents to provide assistance pursuant to this Article:
 - (a) shall not be prosecuted, detained, subject to service of process or of any other restriction of personal liberty in the Requesting Party for any acts, omissions or convictions which preceded such person's entry into the Requesting Party;
 - (b) shall not be obliged to give evidence or assist in any investigation, prosecution, or proceeding other than that to which the request relates except with the prior consent of the

Requested Party and such person; and

(c) shall not be subject to prosecution based on his testimony except that such person shall be subject to charges for contempt or perjury.

3. The person whose presence is requested may decline to comply with the request if the Requesting Party does not grant such assurances.
4. The safe conduct provided for by this Article shall cease seven days after the Requesting Party has notified the Requested Party that the person's presence is no longer required, or when the person, having left the Requesting Party, voluntarily returns. The Requesting Party may, in its discretion, extend this period up to fifteen days if it determines that there is good cause to do so.

Article 11 Examining Witness by Video Conference

1. A person within the Requested Party may give evidence in proceedings in the Requesting Party by video conference.
2. Where a witness is to be examined by video conference, the procedures shall be conducted before an appropriate authority in the Requested Party.
3. The examining shall be supervised by a competent authority of the Requesting Party and evidence shall be given:
 - (a) in accordance with the domestic law of the Requesting Party or the Requested Party; and
 - (b) in accordance with any other measures for the protection of

the witness which have been agreed between the Parties.

4. At the examining procedure, the appropriate authority of the Requested Party shall be responsible for:
- (a) ensuring there is appropriate interpretation of proceedings;
 - (b) establishing the identity of the witness;
 - (c) intervening, where necessary, to safeguard the rights of the witness;
 - (d) drawing up a record of the examining which shall include the following information:
 - i. the date and place of the hearing;
 - ii. the identity of the person heard;
 - iii. the identities and functions of anyone else participating in the hearing;
 - iv. details of any oaths taken; and the technical conditions under which the examining took place; and
 - (e) transmitting the record of the examining as referred to in this Article as soon as is practicable after the conclusion of the examining.

Article 12 Location or Identification of Persons or Items

If the Requesting Party seeks the location or identity of persons or items in the Requested Party, the Requested Party shall use their best efforts to ascertain the location or identity.

Article 13 Service of Documents

1. The Requested Party shall use their best efforts to effect service of any document relating, in whole or in part, to any request for assistance made by the Requesting Party.
2. The Requesting Party shall transmit any request for the service of a document requiring the appearance of a person before an authority in the Requesting Party a reasonable time before the scheduled appearance.
3. The Requested Party shall return a proof of service in the manner specified in the request.

Article 14 Search and Seizure

1. The Requested Party shall obtain the execution of a request for the search, seizure, and delivery of any item to the Requesting Party if the request includes the information justifying such action under the laws of the Requested Party.
2. The Requested Party shall provide such information as may be required by the Requesting Party concerning the result of any search, the place of seizure, the circumstances of seizure and the subsequent custody of the evidence seized.

Article 15 Return of Items

The Requested Party may require that the Requesting Party return any items, including documents, records, or articles of evidence,

furnished to it in execution of a request under this Treaty as soon as possible.

Article 16 Exchange of Criminal Records

Each Party shall inform the other Party of any criminal convictions and subsequent measures recorded in respect of citizens in custody of the other Party.

Article 17 Restraint, Forfeiture and Confiscation of Property

1. The Parties shall assist each other in proceedings involving the identification, tracing, restraint, seizure and confiscation of the proceeds and instrumentalities of crime in accordance with the domestic laws of the Requested Party. This may include action to immobilize temporarily the proceeds or instrumentalities pending further proceedings.
2. In addition to the terms contained in Article 4 of this Treaty, a request for assistance in restraint or confiscation proceedings shall also include:
 - (a) details of the property in relation to which co-operation is sought;
 - (b) the location of the property and its connection with the subjects of the request;
 - (c) the connection, if any, between the property and the offenses; and
 - (d) a certified true copy of the restraint or confiscation order

made by the competent authority and statement of the grounds on the basis of which the order was made, if they are not indicated in the order itself.

Article 18 Third Party

1. As to the search and seizure set out under Article 14 of this Treaty, the Requested Party may require the Requesting Party's agreement to the terms and conditions deemed necessary to protect third party's interests over the items to be transferred.
2. In the case of assisting restraint or confiscation of proceedings set out under Article 17 of this Treaty, details of any third party's interests in the property shall be included in the request.
3. With respect to asset sharing set out under Article 19 of this Treaty, not only the right of victims may take precedence over asset sharing between the Parties but also the rights claimed by bona fide third parties over these assets shall be respected as well.

Article 19 Asset Sharing

1. Assistance offered based on Article 1(2)(g) of this Treaty provides that the Requested Party may make a request for asset sharing to the other Party of which such assistance materially led, or is expected to lead, to confiscation.
2. A request for asset sharing shall be made no later than one year from the date of final confiscation was made, unless otherwise

agreed between the Parties.

3. The Requesting Party should determine the proportion of the assets to be shared in accordance with the extent of the assistance afforded by the Requested Party unless the value of the realized assets or the assistance rendered by the Requested Party is de minimis.
4. In appropriate cases where there are identifiable victims, consideration of the rights of victims may take precedence over asset sharing between the Parties.

Article 20 Compatibility with Other Agreements

Assistance and procedures set forth in this Treaty shall not prevent either of the Parties from granting assistance to the other Party through the terms of other applicable agreements, or through the terms of the laws applicable of the Parties. The Parties may also provide assistance pursuant to any arrangement, agreement, or practice which may be applicable.

Article 21 Consultation

The Central Authorities of the Parties shall consult, at times mutually agreed to by them, to promote the most effective use of this Treaty. The Central Authorities may also agree on such practical measures as may be necessary to facilitate the implementation of this Treaty.

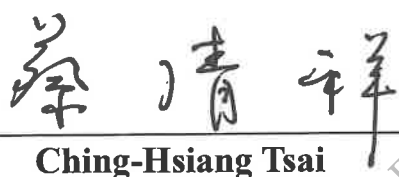
Article 22 Entry into Force; Amendment and Termination

1. This Treaty shall enter into force on the thirtieth day after the date of the last notification on the fulfillment by the Parties of their internal procedures necessary for its entry into force.
2. This Treaty applies to any request presented after its entry into force even if the relevant offenses occurred before this Treaty enters into force.
3. This Treaty may be amended by the mutual consent of the Parties. The amendments shall enter into force in accordance with the procedure set out in paragraph 1 of this Article.
4. Either Party may terminate this Treaty by means of written notice to the other Party. Termination shall take into force six months following the date of receipt of such notification.
5. If either Party gives a termination notice, cooperation and assistance in accordance with this Treaty shall continue or information provided, for requests submitted before the effective date of notification until the Requesting Party terminates the requested assistance. In the event of the termination of this Treaty, information, documents or items of evidence obtained under this Treaty shall continue to be treated confidentially in the manner prescribed under Article 7(2) of this Treaty.

IN WITNESS WHEREOF, the undersigned, being duly authorized
by their respective Governments, have signed this Treaty.

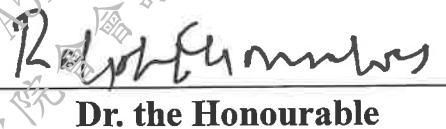
DONE IN DUPLICATE in the Chinese and English languages, both
texts being equally authentic.

**FOR THE GOVERNMENT
OF THE REPUBLIC
OF CHINA (TAIWAN)**


Ching-Hsiang Tsai

Minister of Justice

**FOR THE GOVERNMENT
OF SAINT VINCENT AND
THE GRENADINES**


Dr. the Honourable

Ralph Gonsalves

Prime Minister and
Minister of Legal Affairs

Date: 08/08/2022

Date: 8th August 2022

Place: Taipei

Place: Taipei

中華民國（臺灣）政府
與
聖文森及格瑞那丁政府

移交受刑人條約

441BE57B2A5F47D
行政院第3822次院會會議
行政院

中華民國（臺灣）政府與聖文森及格瑞那丁政府

移交受刑人條約

中華民國（臺灣）政府與聖文森及格瑞那丁政府（以下分稱「一方」，合稱「雙方」），為合作進行移交受刑人，給予受刑人返回其本國服刑機會，以助受刑人重返社會，同意訂立下列條款：

第一條 目的

1. 雙方承諾，依本條約規定，關於移交受刑人等事項，提供最大範圍之合作。
2. 經遣送方法院判刑之受刑人得依本條約規定，自遣送方移交至接收方執行該刑罰。

第二條 定義

本條約用詞，定義如下：

- a) 刑罰：指經法院宣告之無期或有期徒刑；
- b) 受刑人：指因犯罪經法院判處刑罰確定而受執行及應受執行者；
- c) 遣送方：指已經或即將移交之受刑人之一方；
- d) 接收方：指已經或即將接回受刑人以執行刑罰之一方。

第三條 指定之代表

雙方所指定之代表如下：

- a) 中華民國（臺灣）政府：法務部或其指定之人；

- b) 聖文森及格瑞那丁政府：司法部或其指定之人。

第四條 移交之條件

依本條約移交受刑人應符合下列條件：

- a) 受刑人為接收方國民；
- b) 在遣送方無其他偵查或審判中之刑事案件；
- c) 遣送方、接收方、受刑人均表示同意。但有權代表受刑人之
人之表示不得與受刑人明示之意思相反；
- d) 受刑人被判刑之行為，如發生在接收方領域內亦構成犯罪；
及
- e) 移交請求提出時，受刑人之殘餘刑期尚餘一年以上。但經雙
方同意者，不在此限。

第五條 移交事項之通知

- 1. 雙方應告知在己方領域內之他方受刑人有關本條約之內容。
- 2. 受刑人希望移交返回本國執行時，得向任一方表示其意願，
該方應及時通知他方。

第六條 移交之程序

- 1. 移交請求得由任一方以書面向他方提出。
- 2. 前項請求書應記載下列事項：
 - a) 受刑人之姓名、性別、國籍、出生年月日及護照或其他身分
證明文件之號碼；及
 - b) 已知之受刑人出生地、所在地及在接收方之永久地址。
- 3. 遣送方提出移交請求書等，並應提供下列資料：

- a) 據以判刑之相關事實說明；
 - b) 刑事裁判書及所適用之法律規定；
 - c) 刑罰起算及期滿日、已服刑日數及受刑人因羈押、服刑表現或其他原因所應得之減免處遇；及
 - d) 其他接收方請求提供之資料。
4. 一方審酌是否提出移交請求或同意移交需要他方提供相關資訊、文件或說明時，他方應儘量配合。
5. 第二項及第三項文件及資料，應經權責機關驗證。

第七條 同意之確認

1. 遣送方應依其法律規定確認受刑人或有權代表受刑人之人之同意移交係出於自願，並瞭解移交後之法律效果。
2. 遣送方於接收方請求時，應同意其於移交前指定人員確認受刑人或有權代表受刑人之人所為之同意係出於自願，並已瞭解移交後之法律效果。

第八條 移交之執行

受刑人之移交，應於雙方所同意之日期、地點及方式為之。

第九條 刑罰之執行

1. 受刑人移交後，刑罰之執行應依接收方之法律及程序為之。
2. 雙方刑罰之類型或執行期間之法律規定不同時，接收方得依其法律就同一犯罪行為所規定之相類似罪名據以執行。接收方之權責機關應受遣送方有關有罪認定、裁判或刑罰等所認定事實之拘束。

3. 接收方執行刑罰之期間不得超過遣送方原宣告刑罰之刑期，並不得將遣送方法院宣告之自由刑轉換為罰金刑。
4. 接收方經遣送方通知已特赦受刑人或已採取任何其他減輕或免除刑罰之決定或措施時，接收方應減輕或免除刑罰之執行。
5. 接收方應提供遣送方下列有關刑罰執行之資訊：
 - a) 刑罰已執行完畢；
 - b) 受刑人假釋出獄；
 - c) 受刑人逃獄或在刑罰執行完畢前，受刑人因任何原因無法完成刑罰之執行；或
 - d) 遣送方請求提供之事項。

第十條 司法權之保留

1. 受刑人依據本條約返國執行後，僅遣送方有權檢視其法院裁判，並宣告裁判違背遣送方法令或發現新事實、新證據。
2. 接收方經遣送方同意後，得依接收方法律對受刑人大赦、特赦及減刑。

第十一條 語言

移交請求併同所需文件應以中文或英文撰寫，並檢附英文或中文譯本。

第十二條 費用

因移交受刑人而產生之費用由接收方負擔。但雙方另有約定者，依其約定。

第十三條 受刑人之過境

任一方移交受刑人至雙方領域外之第三地或自雙方領域外之第三地接收受刑人，而有經過他方領域之必要時，應事先通知他方，他方應依其國內法，協助該受刑人過境其領域之事宜。

第十四條 諮商

雙方指定之代表得相互諮商以促進本條約之有效執行，亦得同意採取有助於履行本條約所必要之實際方法。

第十五條 爭議之解決

因解釋、適用或履行本條約所產生之爭議，應由雙方指定之代表協商解決。

第十六條 生效、修正與終止

1. 本條約於雙方完成使本條約生效所必要之國內程序後，以書面通知對方，並應自最後通知日起第三十日生效。
2. 本條約適用於其生效前與生效後所判處刑罰之執行。
3. 本條約得經雙方同意後修正。修正應完成本條第一項所定程序始生效力。
4. 任一方得隨時以書面通知他方後，終止本條約。該終止應自收受通知後六個月生效。條約之終止不應影響終止前已進行之移交程序。

為此，雙方代表各經合法授權於本條約簽字，以昭信守。

本條約以中文及英文簽署一式兩份，兩種文本同一作準。

中華民國（臺灣）政府代表

聖文森及格瑞那丁政府代表

蔡清祥

Ralph Gonsalves

蔡清祥

吳薩福

法務部長

總理兼司法部長

時間：

08/08/2022

時間：

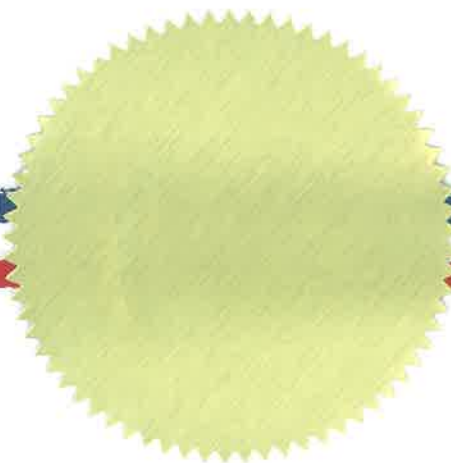
8th August 2022

地點：

台北

地點：

Taipei



**TREATY
BETWEEN
THE GOVERNMENT OF THE REPUBLIC
OF CHINA (TAIWAN)
AND
THE GOVERNMENT OF SAINT
VINCENT AND THE GRENADINES
ON THE TRANSFER OF SENTENCED
PERSONS**

行政院第382次院會
行政院

**TREATY BETWEEN THE
GOVERNMENT OF THE REPUBLIC OF
CHINA (TAIWAN) AND THE
GOVERNMENT OF SAINT VINCENT
AND THE GRENADINES
ON THE TRANSFER OF SENTENCED
PERSONS**

The Government of the Republic of China (Taiwan) and the Government of Saint Vincent and the Grenadines, hereinafter referred to individually as a "Party" and collectively as "the Parties";

Desiring to cooperate in the transfer of sentenced persons and to provide sentenced persons opportunities to serve the sentences imposed on them in their homeland, with a view to facilitating the successful reintegration of sentenced persons into society;

Have agreed as follows:

ARTICLE 1

PURPOSE

1. The Parties undertake to afford each other the widest measure of cooperation in respect of the transfer of sentenced persons in accordance with provisions of this Treaty.
2. A sentenced person may be transferred from the territory of the transferring Party to the territory of the receiving Party in accordance with the provisions of this Treaty in order to serve the sentence imposed on him or her by the transferring Party.

ARTICLE 2

DEFINITIONS

For the purposes of this Treaty:

- a) “sentence” means any punishment or measure involving deprivation of liberty ordered by a court for a limited or unlimited period of time on account of a criminal offense;
- b) “sentenced person” means a person who has been convicted of an offense by a final judgment of a court in the transferring Party and has been imprisoned or is required to be imprisoned;
- c) “transferring Party” means the Party by which the sentence was imposed and from which the sentenced person may be, or has been, transferred;
- d) “receiving Party” means the Party to which the sentenced person may be, or has been, transferred in order to serve the sentence.

ARTICLE 3

DESIGNATED REPRESENTATIVES

The designated representatives represented by the Parties are:

- a) For the Government of the Republic of China (Taiwan): the Ministry of Justice or a person designated by the Ministry of Justice;
- b) For the Government of Saint Vincent and the Grenadines: the Ministry of Legal Affairs or persons designated by the Ministry of Legal Affairs.

ARTICLE 4

CONDITIONS FOR TRANSFER

A sentenced person may be transferred under this Treaty only on the following conditions:

- a) the sentenced person is a national of the receiving Party;
- b) no other offense under investigation or at trial in the transferring Party;
- c) the transferring Party, the receiving Party and the sentenced person all agree to the transfer, the statement of a person entitled to act on the sentenced person's behalf shall not be contrary to that of the sentenced persons expressed explicitly;
- d) the acts on account of which the sentence has been imposed constitute the essential elements of a criminal offense according to the law of the receiving Party, or would constitute such essential elements of a criminal offense if committed within the territory of the receiving Party; and
- e) at the time the request for transfer is received, the sentenced person has at least one year of the sentence to serve, unless a term is agreed by the Parties.

ARTICLE 5

NOTIFICATION FOR TRANSFER

1. The Parties shall inform sentenced persons of the substance of this Treaty.

2. If a sentenced person wishes to be transferred, he or she may express such a wish to either Party which shall promptly inform the other Party.

ARTICLE 6

PROCEDURE FOR TRANSFER

1. A request for transfer may be made in writing by either Party to the other Party.
2. Requests for transfer shall be in writing and shall include:
 - a) the full name, gender, nationality, date of birth and passport or other identification document number of the sentenced person; and
 - b) the place of birth and current address of the sentenced person, and permanent address in the receiving Party, if available.
3. Where a request for transfer has been made, the transferring Party shall provide the receiving Party with the following information:
 - a) a statement of the facts upon which the conviction and sentence were based;
 - b) a copy of all convictions concerning the sentenced person and the laws on which they are based;
 - c) the initial and termination date of the sentence, the length of time already served by the sentenced person and any remission to which he or she is entitled on account of pre-trial confinement, good behaviour or other reasons; and
 - d) any other information requested by the receiving Party.

4. Either Party shall, as far as possible, provide the other Party, if it so requests, with any relevant information, documents or statements before making a request for transfer or taking a decision on whether to agree to the transfer.
5. The documents set forth in paragraph 2 and 3 shall be validated by the relevant authorities

ARTICLE 7

VERIFICATION OF CONSENT

1. The transferring Party governed by its law shall ensure that the sentenced person or the person entitled to act on his or her behalf consents to the transfer voluntarily and with full knowledge of the legal consequences thereof.
2. The transferring Party shall afford an opportunity to the receiving Party, if the receiving Party so desires, to verify through an official designated by the receiving Party, prior to the transfer, that the necessary consent of the sentenced person or of a person entitled to act on his or her behalf has been given voluntarily and with full knowledge of the legal consequences thereof.

ARTICLE 8

EXECUTION OF TRANSFER

Transfer of the sentenced person shall occur on a date, at a place and process agreed upon by the Parties.

ARTICLE 9

EXECUTION OF SENTENCE

1. The continued execution of the sentence after transfer shall be governed by the laws and procedures of the receiving Party.
2. If the sentence is by its nature or duration incompatible with the law of the Parties, the receiving Party may adapt the sentence in accordance with the sentence prescribed by its own law for a similar offense. When adapting the sentence, the competent authorities of the receiving Party shall be bound by the findings of fact, insofar as they appear from any conviction, judgment, or sentence imposed in the transferring Party.
3. The adapted sentence shall be no more severe than that imposed by the transferring Party in terms of duration. When adapting the sentence, the competent authority of the receiving Party may, however, not convert a sanction involving deprivation of liberty to a pecuniary sanction.
4. The receiving Party shall reduce or terminate execution of the sentence as soon as it is informed of any decision by the transferring Party to pardon the sentenced person, or of any other decision or measure of the transferring Party that results in reduction or cancellation of the sentence.
5. The receiving Party shall provide the following information to the transferring Party concerning the execution of the sentence:
 - a) when the sentence has been completed;
 - b) if the sentenced person is granted conditional release;

- c) if the sentenced person has escaped from custody, or if the sentenced person is unable to serve the sentence completely for any reason, before the sentence has been served completely; or
- d) if the transferring Party requests an object.

ARTICLE 10

RETENTION OF JURISDICTION

1. After the sentenced persons have been received and the imprisonment has been executed pursuant to this Treaty, the transferring Party alone is entitled the right to process any application for review of the judgments of its courts when the judgment is found against the laws of the transferring Party, or new facts or evidence are discovered.
2. With the consent of the transferring Party, the sentenced persons received to serve sentences within the territory of the receiving Party may be granted amnesties, pardons and remission of sentences according to the laws of receiving Party.

ARTICLE 11

LANGUAGE

The transfer request as well as the documents shall be written either in the Chinese or the English language, with a translation into the English language or into the Chinese language.

ARTICLE 12

EXPENSES

The expenses incurred in relation to the transfer of the sentenced person shall be borne by the receiving Party except otherwise agreed by the Parties.

ARTICLE 13

TRANSIT OF SENTENCED PERSONS

If either Party transfers or receives a sentenced person to or from a place outside of its territory, the other Party shall, subject to its domestic law, cooperate in facilitating the transit through its territory of such a sentenced person. The Party intending to make such a transfer shall give advance notice to the other Party of such transit.

ARTICLE 14

CONSULTATION

The Designated Representatives for the parties may consult with each other to promote the most effective use of this Treaty and to agree upon such practical measures as may be necessary to facilitate the implementation of this Treaty.

ARTICLE 15

SETTLEMENT OF DISPUTES

Any dispute arising from the interpretation, application, or implementation of this Treaty shall be settled through consultation of the Designated Representatives for the Parties.

ARTICLE 16

ENTRY INTO FORCE; AMENDMENT AND TERMINATION

1. This Treaty shall enter into force thirty days after the date on which the Parties have notified each other in writing that their respective requirements for the entry into force of this Treaty have been completed.
2. This Treaty shall apply to the enforcement of sentences imposed either before or after its entry into force.
3. This Treaty may be amended by the mutual consent of the Parties. The amendments shall enter into force in accordance with the procedure set out in paragraph 1 of this Article.
4. Either Party may terminate this Treaty at any time by giving notice in writing to the other. Termination shall take effect six months following the date of receipt of such notification. Termination of this Treaty shall not affect the transfer proceeding commenced prior to the termination.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Treaty.

DONE IN DUPLICATE in the Chinese and English languages, both texts being equally authentic.

**FOR THE GOVERNMENT OF
THE REPUBLIC OF CHINA
(TAIWAN)**

**FOR THE GOVERNMENT OF
SAINT VINCENT AND THE
GRENADINES**



Ching-Hsiang Tsai

Minister of Justice



Dr. the Honourable

Ralph Gonsalves

Prime Minister and

Minister of Legal Affairs

Date: 08/08/2022

Date: 8th August 2022

Place: Taipei

Place: Taipei