

民國 108 年 9 月 5 日

討論事項（二）

法務部函送我與諾魯共和國簽署之「中華民國(臺灣)政府與諾魯共和國政府刑事司法互助條約」，請核轉立法院審議案。

說明：

- 一、法務部函以，為利我與國際社會共同合作追訴犯罪，並促進我與諾魯共和國間之司法互助合作，雙方爰擬簽署「中華民國(臺灣)政府與諾魯共和國政府刑事司法互助條約」，前經報奉鈞院函復同意照辦，並於雙方簽署後報院核轉立法院審議在案。茲該條約業經本部部長蔡清祥與諾魯司法及國境管理部部長亞定於本（108）年 8 月 7 日在臺北完成簽署事宜，檢附該條約，請核轉立法院審議。

二、本條約內容要點如次：

- (一) 雙方應依本條約之規定，經相關機關，提供有關調查、追訴、法院程序、犯罪防制及相關刑事司法程序中之相互協助。(第1條)
- (二) 請求協助，應以書面為之。但在情事急迫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 10 日內以書面確認之。(第4條)
- (三) 依本條約對受請求方所屬領域內之人取得證據者，必要時，受請求方應強制其出庭、作證或提供文書、紀錄及物品等證據。在執行請求時，該人無論以口頭或書面方式為虛偽證言或供述者，應依受請求方之刑事法律追訴及處罰。(第8條)

(四) 本條約於雙方各自完成使本條約生效之內部必要程序，並於相互書面通知後，應自最後之通知日起第 30 日生效。

(第 22 條)

三、依「條約締結法」第 8 條第 1 項規定，條約案經簽署後，主辦機關應於 30 日內報請本院核轉立法院審議。本案爰擬請討論通過後，由院送請立法院審議。提請

核議

附件如附

中華民國（臺灣）政府

與

諾魯共和國政府

刑事司法互助條約

A0FCB123AE9B5056
行政院第3667次會議
行政院

中華民國（臺灣）政府與諾魯共和國政府 刑事司法互助條約

中華民國（臺灣）政府與諾魯共和國政府（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，經相關機關，提供有關調查、追訴、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) 提供作為證據所用之文書、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。
 - (h) 其他不違反受請求方法律之任何形式之協助。
3. 本條約僅供雙方間司法互助之用，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，為該國法務部或該部指定之人。
 - (b) 代表諾魯共和國政府者，為該國司法及國境管理部或該部指定之人。
2. 中央主管機關應直接互相聯繫以遂行本條約之目的。

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) 請求所涉犯行僅觸犯軍法，而未構成軍事法律以外刑事法律之犯行。
 - (c) 該請求之執行將有害於受請求方安全、公共秩序或類似之重要利益。
 - (d) 該請求與本條約不符。
 - (e) 依第十四條或第十六條規定所為之請求，其所涉行為在受請求方領域內不構成犯罪。
 - (f) 如立即執行請求將有礙於受請求方進行之刑事調查、追訴或刑事訴訟程序時，得延緩執行。
2. 受請求方依前項規定拒絕協助前，應就提供協助所需附加條件與請求方進行協商。如請求方接受該附加條件，於該條件符合前，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。但在情事急迫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. 請求書應包括下列事項：

- (a) 進行調查、追訴或相關訴訟程序之機關名稱。
- (b) 請求事項及調查、追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) 所需調查之證據、資料或其他請求協助之項目。
- (d) 與所請求證據、資料或其他協助事項之目的相關之描述。
- (e) 必要時，應受送達者之姓名及地址。

3. 於必要範圍內，請求書亦應儘可能包括下列事項：

- (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致無法執行時，得要求提供補充資料。

5. 請求書及其附件無需任何形式之認證或驗證。

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，或於認適當時，轉由相關機關執行。受請求方之執行機關應盡力執行請求。
2. 受請求方為執行請求，而在己方代表請求方進行受請求之任何程序時，應為一切必要安排並負擔費用。
3. 除本條約另有規定外，應依受請求方法律執行請求。惟請求書指定之執行方法，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對於受請求方進行之刑事調查、追訴或其他訴訟程序有所妨礙時，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，則其相關機關應予遵守。
5. 受請求方於請求方要求時，應對協助之請求及其內容，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，由請求方決定是否仍執行該請求。
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. 受請求方應立即將執行結果通知請求方。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) 根據請求方規定，支付本條約第十條所定人員之旅費或補貼。
 - (b) 有關人員依本條約第八條第三項規定前往、停留和離開受請求方所屬領域之旅費或補貼。

- (c) 依本條約第十一條規定建立及操作視訊會議、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。
 - (f) 被要求在請求方出庭者可得請求之費用或補貼。
2. 執行請求如須支出超乎一般範圍之費用時，雙方應協商決定執行該請求之條件。

第七條 用途之限制

1. 請求方於未經受請求方書面同意前，不得將依本條約所取得之資料或證據，使用於請求書所載目的以外之用途。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及證據，得請求應予保密或僅得依其所指定之條件使用。請求方如在前述條件下接受資料或證據，應盡力遵守此條件。
3. 符合本條第一項或前項規定而在請求方公開之資料或證據，得在公開後使用於任何用途。

第八條 受請求方之證言或證據

1. 依本條約對受請求方所屬領域內之人取得證據者，必要時，受請求方應強制其出庭、作證或提供文書、紀錄及物品等證據。在執行請求時，該人無論以口頭或書面方式為虛偽證言或供述者，應依受請求方之刑事法律追訴及處罰。
2. 受請求方於受請求時，應先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. 受請求方執行請求時，應准許請求書中所指明之人在場，並准許該人依受請求方同意之方式，詢問證人或提供證據之人，並進行逐字紀錄。
4. 第一項所定之人依請求方法律之規定，提出有豁免權、無行為能力或特權之主張時，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，以供後續處理。

第九條 官方紀錄

1. 請求方提出請求時，受請求方對其政府部門所持有得公開之紀錄，包括任何形式之文書或資料，應提供予請求方。
2. 受請求方經受請求時，就其政府部門持有之不公開文書、紀錄或資料之副本，得在與提供本國執法、司法機關相同程度及條件下，提供予請求方。受請求方得依本項規定，拒絕全部或部分之請求。

第十條 人員至請求方作證

1. 請求方請求特定人員至其領域內應訊時，受請求方應要求該人員至請求方之適當機關應訊。請求方應表明其願意支付之範圍。受請求方應立即通知請求方有關該人員之回應。
2. 對於依前項同意至請求方領域內應訊之人員：
 - (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、追訴或訴訟程序中作證或協助，除非事先取得受請求方與該人之同意。

- (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. 依本條第二項所定之保證，應於請求方通知受請求方該人已無需應訊之七日後，或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. 在受請求方所屬領域內之人，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，相關程序應由受請求方之適當機關為之。
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，而證據取得方法應依下列規定：
 - (a) 依受請求方之國內法，並參酌請求方所要求之方式與程序。
 - (b) 雙方所同意保護證人之其他方法。
4. 以視訊進行訊問時，受請求方之適當機關應負責下列事項：
 - (a) 確保程序進行中有適當的翻譯。
 - (b) 確定證人身分。
 - (c) 為保障證人權利而於必要時中止。
 - (d) 製作訊問之書面紀錄，紀錄應包括下列資訊：
 - i. 訊問之日期及地點。
 - ii. 被訊問人之身分。
 - iii. 其他參與訊問者之身分及職稱。

iv. 具結之細節及訊問處所之科技狀況。

(e) 依本條進行訊問後，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

如請求方請求查明、辨識在受請求方內之人或證物之所在或特徵，受請求方應盡力查明之。

第十三條 文書送達

1. 受請求方應盡力有效送達請求方所提出，與請求全部或部分有關之文書。
2. 請求方請求送達之文書係要求特定人員至請求方機關應訊時，應於指定應訊時間前之合理期間內，提出送達該文書之請求。
3. 受請求方應依請求所指定之方式檢還送達證明。

第十四條 搜索及扣押

1. 請求方所提出搜索、扣押及移轉證物之請求，符合受請求方之法律規定時，受請求方即應執行此等請求。
2. 受請求方應依請求方之請求，提供有關搜索結果、扣押地、扣押情況及扣案證物之後續保管資訊。

第十五條 返還證物

受請求方得要求請求方，儘速返還依本條約執行請求時所提供之任何物證，包括文書、紀錄或得作為證物之物品。

第十六條 交換犯罪紀錄

雙方應互相通知，受對方拘禁之己方國民遭受判刑及受相關處分之資訊。

第十七條 財產之禁止處分、扣押及沒收

1. 雙方應依各自國內法律，彼此協助有關犯罪所得及犯罪工具之特徵識別、追蹤、禁止處分、扣押及沒收程序。上述協助應包括後續程序終結前對犯罪所得及犯罪工具所為之暫時扣押。
2. 除本條約第四條所規定者外，有關禁止處分或沒收之請求應另包括下列項目：
 - (a) 該財產之詳細說明。
 - (b) 該財產之所在及與本請求事項之關連性。
 - (c) 該財產與所涉犯行所具之可能關連性。
 - (d) 請求方權責機關所核發之限制處分或沒收命令之副本，並應敘明核發此處分或命令之理由。

第十八條 第三人

1. 關於本條約第十四條之搜索及扣押，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扣押及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敘明。
3. 依本條約第十九條分配犯罪所得時，應以實現被害人之權利為優先，並尊重善意第三人之權利主張。

第十九條 犯罪所得分享

1. 受請求方依本條約第 1 條第 2 項第 g 款提供之協助，如對另一方沒收犯罪所得有所助益或將有助益，得請求另一方分配沒收所得。
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. 請求方應基於受請求方提供協助之程度，決定請求方分配財產之比例，但被沒收之財產價值低微，或受請求方之協助程度輕微時，得不予分配。
4. 若該案件有可得確定之被害人時，雙方於分配犯罪所得時，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，並不禁止任何一方依其他協定或各自法律規定，對另一方提供協助。雙方亦得依任何可行之安排、協定或實務作法，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取有助於履行本條約所必要之作法。

第二十二條 生效、修正與終止

1. 本條約於雙方各自完成使本條約生效之內部必要程序，並於相互書面通知後，應自最後之通知日起第三十日生效。
2. 本條約適用於生效後提出之所有請求，縱有關犯行係發生於本條約生效前，亦同。
3. 本條約得經雙方同意後修正。修正規定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。本條約應自收受通知日起六個月後失效。
5. 若請求係於任一方通知另一方終止本條約生效前提出，在請求方終止請求協助前，雙方之合作及協助仍應依本條約持續進行，或提供相關資料。在終止本條約之情形下，依本條約取得之資料、文書或物證仍應依本條約第 7 條第 2 項規定予以保密。

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行政院第3667次院會會議
行政院

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。

本條約於西元 2019 年 8 月 7 日，在中華民國(臺灣)首都臺北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

諾魯共和國政府代表

蔡清祥

蔡清祥
法務部長



亞定
司法及國境管理部長

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行政院第3667次院會會議
行政院



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

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THE GOVERNMENT OF
THE REPUBLIC OF NAURU**

The Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru (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 provisions 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. 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 the Republic of China (Taiwan), the Ministry of Justice or persons designated by the Ministry of Justice;
- (b) on behalf of the Government of the Republic of Nauru, the Ministry of Justice and Border Control or persons designated by the Ministry of Justice and Border Control.
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 deny assistance if:
- (a) the request relates to a political offence;
- (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 or Article 16 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 denying assistance pursuant to paragraph 1 of 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 denies assistance, it shall inform the Requesting Party of the reasons for such denial.

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 urgent circumstances 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 description 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, transmit it to relevant authorities for execution. The executing 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 set 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 make 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 such request.

6. The Requested Party shall respond to reasonable inquiries made by the Requesting Party concerning the progress of 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 denied, the Requested Party shall inform the Requesting Party of the reasons for the denial 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 territory of 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 expert witness;
 - (e) the costs of translation, interpretation, and transcription; and
 - (f) the allowances or expenses to which a person asked to appear in the Requesting Party shall be entitled.
2. If it becomes apparent that the execution of the 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, the Requesting Party shall make 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 territory of 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 States

1. The Requested Party shall provide, as requested, 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 requested 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 territory of 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 the preceding paragraph of this Article:
 - (a) shall not be prosecuted, detained, subject to service of process or of any other restriction of personal liberty in the territory of 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 assurances provided for by paragraph 2 of 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 territory of 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 laws of the Requesting Party, taking into account the formalities and the procedures set out by 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 make their best efforts to ascertain the location or identity.

Article 13 Service of Documents

1. The Requested Party shall make 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 provisions 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 cooperation 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 offences; and
 - (d) a true copy of the restraint or confiscation order made by the competent authority and statement of the grounds on 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 shall determine the proportion of the assets to be shared in accordance with the extent of the assistances 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 shall 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 provisions of other applicable agreements, or through the provisions 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. Such notification shall be made in writing.
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 enter 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.

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行政院第3667次院會會議
行政院

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

DONE IN DUPLICATE, on this *7th* day of *August*, 2019 in the City of Taipei in the Chinese and English languages, both texts being equally authentic.

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

**FOR THE GOVERNMENT
OF THE REPUBLIC OF
NAURU**

Shawn C. h Tsai

**Ching-Hsiang Tsai
Minister of Justice**

Hon. David Adeang

**Hon. David Adeang
Minister of Justice and Border
Control**