

**TREATY BETWEEN
THE PEOPLE'S REPUBLIC OF CHINA
AND
THE KINGDOM OF BELGIUM
ON
MUTUAL LEGAL ASSISTANCE IN CRIMINAL
MATTERS**

The People's Republic of China and the Kingdom of Belgium (hereinafter referred to as "the Parties"),

With a view to improving the effective cooperation between the two countries in respect of mutual legal assistance in criminal matters on the basis of mutual respect for sovereignty, equality and mutual benefit,

Have decided to conclude this Treaty and have agreed as follows:

**Article 1
SCOPE OF APPLICATION**

1. The Parties shall, in accordance with the provisions of this Treaty, provide widest mutual legal assistance in criminal investigations, prosecutions and judicial proceedings in criminal matters.

2. Such assistance shall include:
 - (a) serving documents of criminal proceedings;

- (b) taking testimonies or statements from persons;
- (c) providing documents, records and articles of evidence;
- (d) obtaining and providing expert evaluations;
- (e) locating and identifying persons;
- (f) conducting inspections or examinations;
- (g) making persons available for giving evidence or assisting in investigations;
- (h) transferring persons in custody for giving evidence or assisting in investigations;
- (i) conducting inquiry, searches, freezing and seizures;
- (j) assistance relating to proceeds from criminal activities and instruments of crime;
- (k) notifying results of criminal proceedings and providing criminal and judicial records;
- (l) exchanging information on law; and
- (m) any other forms of assistance which is not contrary to the laws of the Requested Party.

3. This Treaty shall only apply to mutual legal assistance between both Parties. The provision of this Treaty shall deny any private person any right to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

Article 2
CENTRAL AUTHORITIES

1. For the purpose of this Treaty, the Central Authorities designated by the Parties shall communicate directly with each other for matters concerning mutual request and assistance and where necessary through diplomatic channels.

2. The Central Authorities referred to in Paragraph 1 of this Article shall be the Ministry of Justice for the People's Republic of China, and the Federal Public Service Justice for the Kingdom of Belgium.

3. Should either Party changes its designated Central Authority, it shall inform the other Party of such change through diplomatic channels.

Article 3
LIMITATIONS ON ASSISTANCE

1. The Requested Party shall refuse to provide assistance if one of the following circumstances appears:
 - (a) the Requested Party believes that the execution of the request would impair its sovereignty, security, public order or other essential public interests or would be incompatible with the fundamental principles of its laws;

 - (b) the Requested Party considers that the request relates to an offence of political nature except for terrorism offence or offence which is not regarded as

political offences under international convention to which both States are Parties;

(c) there are substantial grounds for the Requested Party to believe that the request has been made for the purpose of investigating, prosecuting, punishing or other proceedings against a person on account of that person's race, sex, religion, nationality or political opinions, or that that person's position in judicial proceedings may be prejudiced for any of those reasons;

(d) the request relates to an offence which only constitutes a military offence.

2. The Requested Party may refuse to provide assistance if one of the following circumstances appears:

(a) the request relates to conduct which would not constitute an offence under the laws of the Requested Party;

(b) the Requested Party is in the process of or has terminated criminal proceedings or has already rendered a final judgment against the same suspect or accused for the same offence as related to in the request.

3. The Requested Party shall not decline to render mutual legal assistance on the ground of banking secrecy.

4. The Requested Party may postpone to provide assistance if execution of a request would interfere with an ongoing investigation, prosecution or judicial proceedings in the Requested Party. In such a case, the Requesting Party is informed of the postponement and of the period in which the request can be granted.

5. Before refusing a request or postponing its execution, the Requested Party shall consider whether assistance may be granted subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with them.

6. If the Requested Party refuses or postpones to provide assistance, it shall inform the Requesting Party of the reasons for the refusal or postponement.

Article 4

FORM AND CONTENT OF REQUESTS

1. A request for assistance shall be made in writing and affixed with the signature or seal of the Central Authority of the Requesting Party. In urgent situations, the Requesting Party may make a request in other forms such as telegram, facsimile, or electronic mail, which are acceptable to the Requested Party, and the Requesting Party shall confirm the request in writing promptly thereafter.

2. A request for assistance shall include the following:

(a) the name of the competent authority conducting the investigation, prosecution or judicial proceedings to which the request relates;

(b) a description of the nature of the case to which the request relates, a summary of its facts and the text of the provisions of the applicable law;

(c) a description of the assistance sought, its purpose and its relevance to

the case; and

(d) the time limit within which the request is desired to be executed.

3. To the extent necessary and possible, a request for assistance shall also include the following:

(a) the identity, address or location and nationality of any person concerned and that person's relationship to the proceedings;

(b) a description of the object to be inspected or examined;

(c) a description of the object to be inquired, searched, frozen and seized;

(d) a description of any particular procedure desirous to be followed in executing the request and reasons;

(e) a description of the requirement of confidentiality and the reasons;

(f) information as to the allowances and expenses to which a person invited to appear in the Requesting Party to give evidence or assist in investigation will be entitled;

(g) question list to be answered by witness;

(h) such other information which may facilitate execution of the request.

4. If the Requested Party considers the contents contained in the request not sufficient to enable it to deal with the request or the assistance requested lacks substantial connection with the case, it may request additional information.

Article 5
LANGUAGE

Requests and supporting documents submitted pursuant to this Treaty shall be accompanied by a translation into the official language or one of the official languages of the Requested Party, except that the two Parties have agreed otherwise.

Article 6
EXECUTION OF REQUESTS

1. The Requested Party shall execute a request for assistance in accordance with its national laws.

2. Insofar as not contrary to its national laws, the Requested Party may execute the request for assistance in the manner requested by the Requesting Party.

3. The Requested Party shall promptly inform the Requesting Party of the outcome of the execution of the request. If the assistance requested can not be provided, the Requested Party shall promptly inform the Requesting Party of the reasons.

Article 7

CONFIDENTIALITY AND LIMITATION ON USE

1. The Requested Party, shall keep confidential a request, including its contents, supporting documents and any action taken in accordance with the request, if so requested by the Requesting Party. If the request cannot be executed without breaching such confidentiality, the Requested Party shall so inform the Requesting Party, which shall then determine whether the request should nevertheless be executed.
2. The Requesting Party shall keep confidential the information and evidence provided by the Requested Party, if so requested by the Requested Party, or shall use such information or evidence only under the terms and conditions specified by the Requested Party.
3. The Requesting Party shall not use any information or evidence obtained under this Treaty for any purpose other than for the case stated in the request without the prior consent of the Requested Party.

Article 8

SERVICE OF DOCUMENTS

1. The Requested Party shall, in accordance with its national laws and upon request, effect service of documents that are transmitted by the Requesting Party.
2. The Requested Party shall, after effecting service, provide the Requesting Party a proof of service that shall indicate the date, place, and manner of service,

and be signed or sealed by the authority which served the document.

Article 9

TAKING OF EVIDENCE

1. The Requested Party shall, in accordance with its national laws and upon request, take evidence and transmit it to the Requesting Party.

2. When the request concerns the transmission of documents or records, the Requested Party may transmit certified copies or photocopies thereof. However, where the Requesting Party explicitly requires transmission of originals, the Requested Party, shall meet such requirement to the extent possible.

3. Insofar as not contrary to the laws of the Requested Party, the documents and other materials to be transmitted to the Requesting Party in accordance with this Article shall be certificated in such forms as may be requested by the Requesting Party in order to make them admissible according to the laws of the Requesting Party.

4. Insofar as not contrary to its laws, 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, through personnel of competent authorities of the Requested Party, to the person from whom evidence is to be taken. For this purpose, the Requested Party shall promptly inform the Requesting Party of the time and place of the execution of the request.

5. If the Requesting Party desires witnesses or experts to give evidence on oath, it shall expressly so request, and the Requested Party shall comply with the request insofar as not contrary to its laws.

Article 10

TAKING TESTIMONY OR STATEMENT BY VIDEO CONFERENCE

Wherever possible and consistent with fundamental principles of the laws of the Requested Party, when an individual is in the territory of the Requested Party and has to be heard as a witness or expert by the competent authorities of the Requesting Party, the Requested Party may, at the request of the Requesting Party, permit the taking of testimony or statement to take place by video conference in accordance with the conditions and modalities to be mutually agreed upon by the Parties, if it is not possible or desirable for the individual in question to appear in person in the territory of the Requesting Party.

Article 11

AVAILABILITY OF PERSONS TO GIVE EVIDENCE OR ASSIST IN INVESTIGATION

1. The Requested Party, at the request of the Requesting Party, shall invite the person concerned to appear before relevant authorities in the territory of the Requesting Party to give evidence or assist in investigations. The Requesting Party shall indicate the extent to which allowances and expenses will be paid to the person. The Requested Party shall promptly inform the Requesting Party of the person's response.

2. The Requesting Party shall transmit request for the appearance of a person to give evidence or assist in investigations in its territory no less than sixty days before the scheduled appearance. The Requested Party may consent to a shorter period of time in case of emergency.

Article 12

TEMPORARY TRANSFER OF PERSONS IN CUSTODY FOR GIVING EVIDENCE OR ASSISTING IN INVESTIGATIONS

1. The Requested Party may, at the request of the Requesting Party, temporarily transfer a person in custody in its territory to the Requesting Party for giving evidence or assisting in investigations, provided that the person to be transferred so consents and the Parties have previously reached a written agreement on the conditions of the transfer. The Requesting Party shall return the person transferred to the Requested Party within the period stipulated by the written agreement.

2. If the person transferred is required to be kept in custody under the laws of the Requested Party, the Requesting Party shall hold that person in custody.

3. For the purpose of this Article, the person transferred shall receive credit for service of the sentence imposed in the Requested Party for the period of time served in the custody of the Requesting Party.

Article 13

PROTECTION OF WITNESSES AND EXPERTS

1. Any witness or expert including those referred to in article 12, present in the territory of the Requesting Party shall not be investigated, prosecuted, detained, punished or subject to any other restriction of personal liberty by the Requesting Party for any acts or omissions which preceded that person's entry into its territory, nor shall that person be obliged to give evidence or to assist in any investigation, prosecution or other proceedings other than that to which the request relates without the prior consent of the Requested Party and that person.

2. Paragraph 1 of this Article shall cease to apply if the person referred to in Paragraph 1 of this Article has stayed on in the territory of the Requesting Party fifteen days after that person has been officially notified that his/her presence is no longer required or, after having left, has voluntarily returned. But this period of time shall not include the time during which the person fails to leave the territory of the Requesting Party for reasons beyond his/her control.

3. A person who declines to give evidence or assist in investigations in accordance with Articles 11 or 12 shall not be subject to any penalty or mandatory restriction of personal liberty for such decline.

Article 14

INQUIRY, SEARCH, FREEZING AND SEIZURE

1. The Requested Party shall, to the extent its national law permits, execute a request for inquiry, search, freezing and seizure of evidential materials, articles

and assets.

2. The Requested Party shall provide the Requesting Party results of executing the request, including results of inquiry or search, the place and circumstances of freezing or seizure, and the subsequent custody of such materials, articles or assets.

3. The Requested Party may transmit the seized materials, articles or assets to the Requesting Party if the Requesting Party agrees to the terms and conditions for such transmission as proposed by the Requested Party.

Article 15

HANDING OVER OF OBJECTS AND DOCUMENTS

1. Articles of evidence, as well as original records or documents, handed over in execution of a request for mutual assistance shall be kept by the Requesting Party.

2. When requested by the Requested Party, the Requesting Party shall as soon as possible return the materials provided under this treaty.

3. The Requested Party may delay the handing over of the articles of evidence, records or documents requested, if it requires the said articles of evidence, records or documents in connection with pending criminal proceedings.

Article 16

PROCEEDS FROM CRIMINAL ACTIVITIES AND INSTRUMENTS OF CRIME

1. The Requested Party shall, upon request, endeavor to ascertain whether any proceeds and yields from criminal activities or instruments of crime are deposited within its territory and shall notify the Requesting Party of the result. In making the request, the Requesting Party shall notify the Requested Party of the reasons why the proceeds or instruments mentioned-above may be deposited in the latter's territory.
2. Once the suspected proceeds and yields or instruments of crime are found in accordance with Paragraph 1 of this Article, the Requested Party shall take measures to freeze, seize and forfeit such proceeds or instruments according to its national laws.
3. At the request of the Requesting Party, the Requested Party shall retain and may, to the extent permitted by its national laws and under the terms and conditions agreed by the Parties, transfer all or part of the proceeds and yields or instruments of crime, or the proceeds from the sale of such assets to the Requesting Party.
4. In applying this Article, the legitimate rights and interests of the Requested Party and any third party to such proceeds or instruments shall be respected.

Article 17

**NOTIFICATION OF RESULTS OF PROCEEDINGS IN CRIMINAL
MATTERS**

The Requesting Party shall, upon request, inform the Requested Party of the results of the criminal proceedings to which the request of assistance relates.

Article 18

PROVISION OF CRIMINAL AND JUDICIAL RECORDS

If a person is being investigated or prosecuted in the Requesting Party, The Requested Party shall provide, upon request, that person's criminal records in the Requested Party.

Article 19

EXCHANGE OF INFORMATION ON LAW

The Parties shall, upon request, furnish each other with the laws and information on judicial practice in their respective countries related to the implementation of this Treaty.

Article 20

EXCHANGE OF INFORMATION FROM JUDICIAL RECORDS

Each Party shall, upon request, inform the other Party of all criminal convictions in respect of nationals of the latter Party, entered in the judicial records.

Article 21

AUTHENTICATION

Evidence and documents transmitted pursuant to this Treaty shall not require any form of authentication, unless either Party requests it expressly.

Article 22

EXPENSES

1. The Requested Party shall meet the cost for executing the request, but the Requesting Party shall bear the following:

(a) expenses for persons to travel to, stay in and leave from the Requested Party, under Article 9 (4) of this Treaty;

(b) allowances or expenses for persons to travel to, stay in and leave from the Requesting Party under Articles 11 or 12 of this Treaty in accordance with the standards or regulations of the place where such allowances or expenses have been incurred;

(c) expenses for expert evaluations; and

(d) expenses for translation and interpretation.

2. The Requesting Party shall, upon request, pay in advance the expenses it shall bear.

3. If it becomes apparent that the execution of a request requires extraordinary expenses, the Parties shall consult to determine the terms and conditions under which the request can be executed.

Article 23

OTHER BASIS FOR COOPERATION

This Treaty shall not prevent either Party from providing assistance to another Party according to other applicable international agreements or its national law. The Parties may also provide assistance in accordance with any other arrangement, agreement or practices.

Article 24

CONSULTATIONS

1. The Parties shall consult each other promptly, at the request of either Party, concerning the interpretation and application of this Treaty.

2. Every dispute in this matter shall be settled through diplomatic channels, if the Central Authorities cannot reach an agreement.

Article 25

ENTRY INTO FORCE, AMENDMENT AND TERMINATION

1. Each Party shall inform the other by diplomatic note when all necessary steps have been taken under its laws for entry into force of this Treaty. This Treaty shall enter into force upon the thirtieth day from the date on which the later diplomatic note is sent.

2. This Treaty may be amended at any time by written agreement between the Parties. Any such amendment will enter into force in accordance with the same procedure prescribed in Paragraph 1 of this Article and will form part of this Treaty.

3. Either Party may terminate this Treaty at any time by notice in writing to the other Party through diplomatic channels. Termination shall take effect on the one hundred and eightieth day after the date on which the notice is given.

4. This Treaty applies to any requests presented after its entry into force even if the relevant acts or omissions occurred before this Treaty enters into force.

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

DONE in duplicate at Brussels on this 31 (day) of March (month) 2014 (year), in the Chinese, Dutch, French and English languages, all texts being equally authentic. In case there is any divergence of interpretation of this Treaty, the English text is the reference.

For the People's Republic of China



For the Kingdom of Belgium

