

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

**AGREEMENT ON MUTUAL LEGAL ASSISTANCE IN
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THE REPUBLIC OF CHINA (TAIWAN) AND THE
GOVERNMENT OF THE REPUBLIC OF PALAU**

The Government of the Republic of China (Taiwan) and the Government of the Republic of Palau (hereinafter referred to individually as a "Party" or together as the "Parties"),

Desiring to improve the effective cooperation of the law enforcement authorities of both countries represented 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 Agreement, 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 items of evidence;
 - (c) exchanging information;
 - (d) locating or identifying persons;
 - (e) serving documents;
 - (f) executing requests for searches and seizures;
 - (g) examining objects and sites;
 - (h) facilitating the personal appearance of a witness or expert;
 - (i) identifying, tracing, freezing, seizing, confiscating or forfeiting the proceeds and instrumentalities of crime and assistance in related proceedings;

- (j) return of assets in accordance with the domestic law of the Requested Party;
 - (k) sharing of assets in accordance with the Agreement;
 - (l) inspecting corpses and conducting autopsies; and
 - (m) any other form of assistance not contrary to the laws of the Requested Party.
3. Except as otherwise provided in this Agreement, 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 Agreement 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 Authorities of the Parties are:
 - (a) for the Republic of China (Taiwan), the Ministry of Justice or persons designated by the Ministry of Justice;
 - (b) for the Republic of Palau, the Ministry of Justice or persons designated by the Ministry of Justice.
2. The Central Authorities shall communicate directly with one another for the purposes of this Agreement.

ARTICLE 3

Refusal or Postponement of Assistance

1. The Central Authority of the Requested Party may refuse to assist if:
 - (a) the execution of the request would likely prejudice the sovereignty, security, public order or similar essential interests, or is otherwise inconsistent with its domestic law;
 - (b) the request relates to a political offense;

- (c) the request relates to an offense under military law that would not be an offense under ordinary criminal law;
 - (d) the request is not made in conformity with this Agreement; and
 - (e) the request is made pursuant to Article 14 (Search and Seizure) or Article 16 (Restraint, Confiscation and Forfeiture) and relates to conduct which, if committed in the Requested Party, would not be an offense.
2. The Requested Party may postpone execution of a request for assistance if immediate execution would interfere with an ongoing criminal investigation, prosecution, or proceeding or prejudice the safety of any person in the territory of the Requested Party.
3. Before refusing or postponing assistance pursuant to this Article, the Requested Party shall consult with the Requesting Party to consider whether assistance can be provided subject to conditions it deems necessary. If the Requesting Party accepts assistance subject to the conditions imposed, it shall comply with such conditions.
4. The Requested Party shall promptly inform the Requesting Party of the reasons for refusing to assist or for a decision not to comply in whole or in part with a request for assistance.

ARTICLE 4

Form, Language and Contents of Requests

1. A request for assistance shall be in writing. The Requested Party may accept a request in another form in an urgent case. If the request is not in writing, it shall be confirmed in writing within ten days thereafter unless the Requested Party agrees otherwise. The request shall be in the language used by 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 offense which relates to the matter and its applicable penalty;

- (c) a summary of the information giving rise to the request;
 - (d) a description of the evidence, information, or other assistance sought;
 - (e) a description of the purpose for which the evidence, information, or other assistance is sought; and
 - (f) details of any timeframe within which execution of the request is desired.
3. To the extent necessary and possible, a request shall also include:
- (a) the identity, date of birth, nationality and location of any person from whom evidence is sought;
 - (b) the identity, date of birth, nationality 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) the identity and whereabouts of a person to be located;
 - (d) a precise description of the place or identification of the 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) details of the property to be traced, restrained, seized, confiscated or forfeited, and of the grounds for believing that the property is in the Requested Party;
 - (g) a list of questions to be asked;
 - (h) a description of any particular procedures to be followed in executing the request;
 - (i) information as to the allowances and expenses related to travel and subsistence that a person asked to appear in the territory of the Requesting Party will be entitled to;
 - (j) confidentiality requirements; and
 - (k) any other information that may be brought to the attention of the Requested Party to facilitate its execution of the request.
4. Where the request involves the presence of a person in the Requesting Party, as provided for under Article 9 (Attendance of Persons in the Requesting Party) of this Agreement, the request shall include information on the extent of safe conduct, if any, to be

afforded to the person while he or she is in the Requesting Party.

5. If the Requested Party considers the contents contained in the request insufficient to enable the Requested Party to execute the request, it may request the Requesting Party to provide additional information.

6. No form of certification or authentication shall be required for a request for assistance or its supporting documents, unless otherwise necessary to enable the Requested Party to execute the request.

ARTICLE 5

Execution of Requests

1. The Requested Party shall not be obligated to execute a request for assistance that the Requesting Party would not be able to execute under its own criminal laws.

2. The Central Authority of the Requested Party shall endeavor to promptly execute the request or, when appropriate, transmit it to the competent authority having jurisdiction to do so. The competent authorities of the Requested Party shall use all measures available to the authority as permitted by its domestic laws to execute the request. The Courts of the Requested Party shall have authority to issue subpoenas, search warrants, or other orders necessary to execute the request.

3. When execution of the request requires judicial or administrative action, the request shall be presented to the appropriate authority by persons designated by the Central Authority of the Requested Party. The Requested Party shall make appropriate arrangements to ensure the interests of the Requesting Party are adequately represented in judicial or administrative proceedings related to the request.

4. Requests shall be executed in accordance with the laws of the Requested Party and, to the extent not prohibited by its domestic law, in the manner specified by the Requesting Party.

5. The Central Authority of the Requested Party may facilitate the participation in the execution of the request of such persons as specified in the request.

6. The Central Authority of the Requested Party may ask the Central Authority of the Requesting Party to provide information in such

form as may be necessary to enable it to execute the request or to undertake any steps which may be necessary under the laws and practices of the Requested Party in order to give effect to the request received from the Requesting Party.

7. The Requested Party shall promptly inform the Requesting Party of any circumstances which are likely to cause a significant delay in responding to a request.

8. The Central Authority of the Requested Party shall respond to reasonable inquiries made by the Central Authority of the Requesting Party concerning the progress of the execution of the request.

9. The Central Authority of the Requested Party shall promptly inform the Central Authority of the Requesting Party of the outcome of the execution of the request. If the request is denied, the Central Authority of the Requested Party shall inform the Central Authority of the Requesting Party of the reasons for the denial.

10. After the request has been executed, the competent authority shall forward to the Central Authority of the Requesting Party the information and evidence gathered.

ARTICLE 6

Confidentiality, Limitations on Use and Data Protection

1. The Requested Party shall use their best efforts to keep confidential a request and its contents, if such confidentiality is requested by the Requesting Party. If the request cannot be executed without breaching confidentiality, the Central Authority of the Requested Party shall so inform the Central Authority of the Requesting Party, which shall then determine whether, and the extent to which, the request should be executed.

2. The Requesting Party shall not use or disclose any information or evidence obtained under this Agreement for any purpose other than for the proceedings stated in the request without the prior written consent of the Requested Party. The Requested Party may impose such terms and conditions it deems necessary. If the Requesting Party accepts the information or evidence subject to such terms and conditions, the Requesting Party shall use its best efforts to comply.

3. Nothing in this Article shall preclude the use or disclosure of

information to the extent that there is an obligation under the domestic law of the Requesting Party to use or disclose such information for the purpose of judicial proceedings. The Requesting Party shall, wherever possible, notify the Requested Party in advance of any such disclosure.

4. Either Party may refuse to transfer personal data obtained as a result of the execution of a request made under this Agreement where the transfer of such data is prohibited under its domestic law.

5. Either Party that transfers personal data obtained as a result of the execution of a request made under this Agreement may require the other Party to which the data has been transferred to give information on the use made of such data.

6. Unless otherwise indicated by the Requested Party when executing the request, information or evidence, the contents of which have been disclosed in a public judicial hearing related to the request, may thereafter be used for any purpose.

ARTICLE 7

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 Agreement may be compelled, if necessary, to appear and testify or produce items, including documents, records, and articles of evidence by summons or such other method as may be permitted under the domestic law of the Requested Party.

2. Upon request, the Central Authority of 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 may permit the presence of such persons as specified in the request under Article 5 (Execution of Requests) during the execution of the request and, subject to the domestic law of the Requested Party, the parties may mutually agree that such persons shall be permitted to present questions to the person giving the testimony or evidence.

4. A person from whom testimony or evidence is to be taken in the Requested Party pursuant to a request under this Article may decline

to give testimony or produce evidence where the domestic law of the Requested Party so provides and shall not be subject to any legal penalty as a result.

5. If the person referred to in paragraph 1 of this Article asserts a claim of right, immunity, incapacity, or privilege under the laws of the Requesting Party, the Requested Party shall notify and request the Requesting Party to provide a written statement whether the person's refusal was well-founded under the law of the Requesting Party.

ARTICLE 8

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, to the extent such assistance is permissible, if it is not possible or desirable for the person to appear in the territory of the Requesting Party.

2. Where a witness is to be examined by video conference, the hearing shall be conducted before an appropriate authority in the Requested Party.

3. The hearing 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 Requested Party, taking into consideration the necessary procedural requirements of the Requesting Party; and

(b) in accordance with any measures for the protection of the witness which have been agreed between the Parties.

4. At the hearing, 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 hearing 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
 - v. 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 9

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 :

- (a) to assist in the investigation in relation to a criminal matter;
- or
- (b) to appear in proceedings to give or provide evidence in relation to a criminal matter in the Requesting Party, unless that person is the person charged.

The Requested Party shall promptly inform the Requesting Party of the person's response.

2. A person who consents to provide assistance pursuant to this Article shall:

- (a) not be prosecuted, detained, subject to service of process, or subjected to any other restriction of personal liberty in the territory of the Requesting Party for any acts, omissions, or convictions which preceded the person's departure from the Requested Party;
- (b) not be obliged to give evidence or assist in any investigation, prosecution, or proceeding in the Requesting Party other than that to which the request relates except with the prior consent of the Requested Party and the person; and

(c) not be subject to prosecution in the Requesting Party based on his testimony, except for perjury.

3. The person shall be informed of details of any safe conduct as required by Article 4(4) (Form, Language and Contents of Requests) and by this Article and any expenses or allowances payable. A person who agrees to appear may ask that the Requesting Party advance money to cover these expenses. This advance may be provided through the Embassy or a consulate of the Requesting Party.

4. A person whose presence is requested may decline the request for any reason, including if the Requesting Party does not grant safe conduct provided for by this Article.

5. The safe conduct provided for by this Article shall cease after a central authority of the Requesting Party has notified, in writing, the Requested Party and the person appearing pursuant to this Agreement that the person's presence is no longer required, and that person, being free to leave, has not left within ten (10) days thereafter or, having left, has voluntarily returned.

ARTICLE 10

Records of Government Agencies

1. The Requested Party shall, upon request, provide the Requesting Party with copies of publicly available records in possession of government departments and agencies of the Requested Party.

2. The Requested Party may provide copies of any records, including documents and information in any form, that are in the possession of a government department or agency in the Requested Party but not publicly available, to the same extent and under the same conditions as such copies would be available to its own law enforcement or judicial authorities. The Requested Party may in its discretion refuse to execute entirely or in part a request for records not publicly available.

ARTICLE 11

Service of Documents

1. The Requested Party shall use their best efforts to effect service of any document relating to or forming part of any request for

assistance made by the Requesting Party under the provisions of this Agreement, including any subpoena or other process requiring the appearance of any person in any criminal proceeding in the territory of the Requesting Party.

2. Service of any subpoena or other process by virtue of paragraph (1) of this Article shall not impose any additional obligation under the law of the Requested Party to comply with it.

3. 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.

4. A person who has failed to answer a subpoena or other process to appear, service of which has been requested, shall not, even if the subpoena or other process contains a notice of penalty, be subjected to any punishment or measure of restraint, unless subsequently he voluntarily enters the territory of the Requesting Party and is there again duly subpoenaed or served with other process.

5. The Requested Party may effect service of any document by mail or, if the Requesting Party so requests, in any other manner required by the law of the Requesting Party that is not prohibited by the law of the Requested Party.

6. The Requested Party shall, wherever possible, return a proof of service in the manner specified in the request.

ARTICLE 12

Location or Identification of Persons or Items

If a request by 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 of persons or items and promptly notify the results of its inquiries to the Central Authority of the Requesting Party.

ARTICLE 13

Exchange of Criminal Records

Each Party shall, upon request, inform the other of any criminal

convictions and subsequent measures recorded in respect of citizens of the other Party.

ARTICLE 14

Search and Seizure

1. The Requested Party shall carry out a request for the search, seizure, and delivery of any item to the Requesting Party if the request includes the information that would justify such action under the laws of the Requested Party and if it is carried out in accordance with the laws of that 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.
3. The Requested Party may require that the Requesting Party agree to any terms and conditions which the Requested Party may deem necessary to protect third party's interests in the items to be transferred.

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 Agreement as soon as possible unless the Requested Party waives the return of said items.

ARTICLE 16

Restraint, Confiscation and Forfeiture

1. The Parties shall assist each other to the extent permitted by their respective laws in proceedings and enforcement of judgments relating to the restraint, confiscation and forfeiture of the proceeds or instrumentalities of criminal offenses. This may include identifying, tracing, and provisionally freezing, seizing, or otherwise temporarily immobilizing the proceeds or instrumentalities pending further proceedings.

2. If the Central Authority of the Requesting Party becomes aware that proceeds or instrumentalities are located in the territory of the Requested Party and may be subject to seizure, confiscation or forfeiture under the laws of the Requested Party, it may so inform the Central Authority of the Requested Party. If the Requested Party has jurisdiction, it may present this information to its authorities for a determination as to whether any action is appropriate. The said authorities of the Requested Party shall issue their decision in accordance with the laws of their country and the Central Authority of the Requested Party shall ensure that the Requesting Party is notified of the action taken.

3. Upon request, the Party that has instituted provisional measures pursuant to paragraph 2 shall secure, to the extent permitted by its laws, an order authorizing the transfer of the property concerned to the jurisdiction of the Requesting Party.

4. In addition to the provisions contained in Article 4 (Form, Language and Contents of Requests) of this Agreement, a request for assistance in proceedings or enforcement of judgments relating to the restraint, confiscation or forfeiture 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 subject of the request;
- (c) the connection, if any, between the property and the offenses;
- (d) details of any third party interests in the property; and
- (e) a certified true copy of the restraint, confiscation or forfeiture order made by the central authority and statement of the grounds on which the order was made, if they are not indicated in the order itself.

5. The Requested Party in control of restrained, confiscated or forfeited proceeds or instrumentalities shall dispose them in accordance with its laws. Either Party may transfer or share assets or the proceeds of their sale with the other Party to the extent permitted by their respective laws as it deems appropriate or by mutual agreement. The rights claimed by victims and bona fide third parties over these assets shall be respected.

ARTICLE 17

Inspections and Autopsies of Corpses by Forensic Pathologists in the Requesting Party

1. The Requesting Party may request the Requested Party to appoint a forensic pathologist to inspect corpses, conduct autopsies and testify on such forensic examinations in the territory of the Requesting Party.
2. The implementation rules of the request and assistance in paragraphs 1 of this Article shall be stipulated by the parties by signing a Memorandum of Understanding.

ARTICLE 18

Costs

1. The Requested Party shall pay the costs relating to the execution of the request, except for the following which shall be paid by the Requesting Party:
 - (a) the fees and reasonable expenses of expert witnesses;
 - (b) the costs of translation, interpretation, and transcription;
 - (c) the allowances and expenses related to travel and subsistence of persons travelling either in the Requested Party or pursuant to Articles 7 (Testimony or Evidence in Requested Party) and 9 (Attendance of Persons in the Requesting Party) of this Agreement.
 - (d) the costs of establishing, operating, and servicing video conferencing, video transmission or television links and the interpretation and transcription of such proceedings pursuant to Article 8 (Examining Witness by Video Conference) of this Agreement;
 - (e) the allowances and expenses for forensic pathologists to inspect corpses, conduct autopsies, and testify on such forensic examinations in the territory of the Requesting Party pursuant to Article 17 (Forensic Pathologist Inspection and Autopsy in Requesting Party) of this Agreement; and
 - (f) other costs or resources as agreed.
2. If prior to or during the execution of a request it becomes apparent that execution of the request will require expenses of a

substantial or extraordinary nature, the Parties shall consult to determine the terms and conditions under which the request could be executed, as well as the manner in which costs shall be borne.

ARTICLE 19

Compatibility with Other Agreements

Nothing in the Agreement shall prevent either Party from requesting from or providing assistance to the other Party in accordance with other applicable international agreements, or pursuant to its laws that may be applicable. The Parties may also provide assistance pursuant to any bilateral arrangement, agreement, or practice which may be applicable.

ARTICLE 20

Consultation

The Central Authorities of the Parties shall consult, at times mutually agreed to by them, on the application or implementation of this Agreement. The Central Authorities may also agree on such practical measures as may be necessary to facilitate the implementation of this Agreement.

ARTICLE 21

Dispute Resolution

Any dispute regarding the interpretation, application or implementation of this Agreement shall be resolved through the diplomatic channels if the Central Authorities are themselves unable to reach an agreement.

ARTICLE 22

Application, Ratification, Entry into Force, Amendment and Termination

1. This Agreement applies to any request presented after its entry into force even if the relevant offenses occurred before this Agreement enters into force.

2. This Agreement shall be subject to ratification, and the instruments of ratification shall be exchanged as soon as possible.
3. This Agreement shall enter into force on the thirtieth (30) day after the date of the exchange of the instruments of ratification.
4. This Agreement 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 2 of this Article.
5. Either Party may terminate this Agreement by means of written notice to the other Party. Termination shall enter into force six (6) months following the date of receipt of such notification.

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

DONE IN DUPLICATE, at Taipei on August 30, 2022 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 the
Republic of Palau



J. Uduch Sengebau Senior
Vice President and
Minister of Justice