

**DEPARTMENT OF FOREIGN AFFAIRS AND TRADE  
CANBERRA**

**PROTOCOL**

**BETWEEN**

**THE GOVERNMENT OF AUSTRALIA**

**AND**

**THE GOVERNMENT OF THE HONG KONG SPECIAL  
ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA**

**AMENDING**

**THE AGREEMENT FOR THE SURRENDER OF ACCUSED AND  
CONVICTED PERSONS OF 15 NOVEMBER 1993**

**Hong Kong, 19 March 2007**

Not yet in force  
[2007] ATNIF 8

**PROTOCOL BETWEEN THE GOVERNMENT OF  
AUSTRALIA AND THE GOVERNMENT OF THE HONG  
KONG SPECIAL ADMINISTRATIVE REGION OF THE  
PEOPLE'S REPUBLIC OF CHINA AMENDING THE  
AGREEMENT FOR THE SURRENDER OF ACCUSED AND  
CONVICTED PERSONS, DONE AT HONG KONG ON  
15 NOVEMBER 1993**

The Government of Australia and the Government of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong Special Administrative Region") having been authorised by the Central People's Government of the People's Republic of China to conclude this Protocol with the Government of Australia (hereinafter referred to as "the Parties").

Recalling the Agreement between the Government of Australia and the Government of Hong Kong for the surrender of accused and convicted persons, done at Hong Kong on 15 November 1993 (hereinafter referred to as "the Agreement"),

Recognizing that the People's Republic of China resumed the exercise of sovereignty over Hong Kong with effect from 1 July 1997 and in accordance with its constitution has on that date established the Hong Kong Special Administrative Region of the People's Republic of China,

Noting that the Government of the People's Republic of China has confirmed the continued application of the Agreement to the Hong Kong Special Administrative Region and its recognition as an agreement entered into between the Government of Australia and the Government of the Hong Kong Special Administrative Region under the authorisation of the Government of the People's Republic of China,

Desiring to amend the Agreement,

Have agreed as follows :

### **Article 1**

This Protocol amends the Agreement and the Agreement and this Protocol shall be read and interpreted together as one single instrument.

### **Article 2**

Article 5 of the Agreement shall be removed.

### **Article 3**

The text of Article 9(3) of the Agreement shall be replaced by the following:

“If the request relates to an accused person it shall also be accompanied by a copy of the warrant of arrest issued by a judge, magistrate or other competent authority of the requesting Party. In the case of requests to Hong Kong, the request shall also be accompanied by such evidence as, according to the law of Hong Kong, would justify committal for trial if the offence had been committed within the jurisdiction of Hong Kong.”

### **Article 4**

The text of Article 16(1) of the Agreement shall be replaced by the following:

“The requested Party shall, as soon as a decision on the request for surrender has been made, communicate that decision to the requesting Party. Reasons shall be given for any complete or partial refusal of the request.”

## **Article 5**

(1) This Protocol 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 the Protocol have been complied with.

(2) This Protocol shall remain in force so long as the Agreement remains in force.

**IN WITNESS WHEREOF** the undersigned, being duly authorised by their respective Governments have signed this Protocol.

**DONE** in duplicate at Hong Kong this nineteenth day of March, two thousand and seven in the English and Chinese languages, each text being equally authentic.

For the Government of  
Australia:

For the Government of the  
Hong Kong Special  
Administrative Region of The  
People's Republic of China:

Murray A Cobban  
Consul-General

Ambrose S K Lee  
Secretary for Security