

HOST COUNTRY AGREEMENT
BETWEEN
THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW
AND
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
RELATING TO
THE ESTABLISHMENT OF THE ASIA PACIFIC REGIONAL OFFICE OF
THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW IN THE
HONG KONG SPECIAL ADMINISTRATIVE REGION OF
THE PEOPLE'S REPUBLIC OF CHINA

The Hague Conference on Private International Law (hereinafter referred to as "the Hague Conference") and the Government of the People's Republic of China (hereinafter referred to as "the Chinese Government");

Whereas the Hague Conference has been working for the progressive unification of private international law (mainly through the preparation and promotion of international conventions in response to global needs and through measures to support their effective implementation) since its conception in 1893, and as a permanent international intergovernmental organization since its Statute entered into force on 15 July 1955;

Whereas the People's Republic of China has been a Member of the Hague Conference since 1987, and has participated actively in the work of the Hague Conference;

Taking into account that the Hague Conference has endorsed the establishment of an Asia Pacific Regional Office (hereinafter referred to as "the Office") in the Hong Kong Special Administrative Region of the People's Republic of China (hereinafter referred to as "the HKSAR") in order to facilitate the achievement of its objectives in the Asia Pacific Region;

Considering the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China adopted on 4th April 1990 (hereinafter referred to as "the Basic Law");

Desiring to determine, in light of international practice relating to the privileges and immunities of international organizations, the status, privileges, immunities and facilities of the Office, in the HKSAR;

Abiding by the established principles and norms of international law,

Have agreed as follows:

I. Establishment of the Office

Article 1

1. The Chinese Government acknowledges the international legal personality of the Hague Conference and the Office, which is an integral part of the Hague Conference.

2. Within the People's Republic of China, including the HKSAR, the Hague Conference and the Office shall have the following legal capacity necessary for carrying out its functions:

- (a) to contract;
- (b) to acquire and dispose of movable and immovable property; and
- (c) to institute legal proceedings.

Article 2

1. The Office shall have its seat in the HKSAR.

2. The Office shall be headed by a Representative appointed by the Secretary General of the Hague Conference (hereinafter referred to as "the Representative") in consultation with the Chinese Government. The Office shall be staffed with other officers, experts and interns as are appointed or assigned by the Secretary General of the Hague Conference.

3. The Office shall be entitled to lease or acquire movable or immovable property necessary for official purposes and for the accommodation of its personnel.

4. The Office shall be entitled to display the flag and other emblems of the Hague Conference on its premises.

II. Privileges, Immunities and Facilities of the Office

Article 3

1. The Office shall enjoy immunity from every form of legal process in the People's Republic of China, including the HKSAR, except:

(a) with respect to contracts relating to real estate in the HKSAR or to the supply of goods or services for the Office, which are concluded with a person resident or a body incorporated or having its principal place of business or domicile in the HKSAR at the time of the conclusion of the contract, unless otherwise agreed; or

(b) in the case of any civil action brought by a third party for damage resulting from an accident caused by a motor vehicle belonging to or used by the Office, or in respect of a motor traffic offence involving such a vehicle.

2. Property and assets of the Office shall be exempt from any measure of compulsory execution in the People's Republic of China, including the HKSAR, except for any final judgment rendered by any HKSAR court which has jurisdiction pursuant to paragraph 1 of this Article.

3. The immunities provided for above may be expressly waived by the Secretary General of the Hague Conference or any other duly authorized person, in writing or in a duly authenticated telecommunication.

Article 4

1. The premises occupied as the Office, regardless of ownership, shall be inviolable. Personnel of the Chinese Government or other authorities, including personnel of the Government of the HKSAR, shall not enter the premises of the Office to perform any official duty, except with the express consent of and under the conditions, if any, proposed by the Secretary General of the Hague Conference or any other duly authorized person. Consent from a duly authorized person may be assumed in the case of fire or other disaster requiring prompt protective action, if he or she cannot be reached in time.

2. All data, archives and records of the Office, in any form or medium whatsoever, wherever located and by whomever held, shall be inviolable.

3. The premises of the Office shall not be used in any manner incompatible with the objectives and functions of the Hague Conference, or in any other manner detrimental to the security of the People's Republic of China, including HKSAR. The premises of the Office shall not be used as refuge for persons who are liable to arrest in

accordance with the laws of the People's Republic of China, including the HKSAR, or subject to extradition or surrender to other countries.

4. The Office shall be accorded the same protection against any intrusion or damage and any disturbance of law and order as is granted by the Chinese Government to any other international intergovernmental organization in the HKSAR.

Article 5

1. All official correspondence and communications to or from the Office, by whatever means and in whatever form transmitted or received, shall be immune from censorship, monitoring, and any other form of interception or interference.

2. The Office may, with the consent of the relevant HKSAR authorities regarding technical requirements, use a wireless transmitter in the HKSAR.

Article 6

1. The Office may, consistent with the objectives of the Hague Conference and within the scope of its functions, produce and disseminate publications, data or data media in conformity with the laws and regulations of the People's Republic of China, including the HKSAR, with regard to publication and intellectual property, and in accordance with applicable international Conventions.

2. The importation of publications, data or data media by the Office for official use, and the exportation of the Office's publications, data or data media, shall not be subject to any restriction.

Article 7

1. The Office, its assets, income and other property within the HKSAR shall be exempt from all direct taxes and other taxes, dues, duties or rates of any kind except:

(a) excise duties, taxes on the sale of movable and immovable property and taxes on the provision of services which form part of the price to be paid; nevertheless when the Office makes purchases for property or services intended for official use on which such duties and taxes have been charged or are chargeable, the HKSAR

authorities may, whenever possible, make appropriate administrative arrangements for exemption or reimbursement of the amount of such duty or tax;

(b) charges for specific services rendered to the Office, provided such charges are non-discriminatory and generally levied; and

(c) the government rent levied by the Government of the HKSAR under Article 121 of the Basic Law or the terms of land leases if such fees assessed pursuant to this Article are explicitly set forth in any lease agreement entered into by the Office.

2. The Office shall be exempt in the HKSAR from all customs duties, license fees, taxes and other levies, and from economic restrictions on imports and exports, on all goods and articles, including motor vehicles, spare parts, publications, data and data media, which are imported or exported by the Office for its official uses, and from any obligation for the payment, withholding or collection of any customs duty. Goods or articles imported into the HKSAR by the Office under such exemptions can be disposed of locally in accordance with applicable laws or administrative regulations.

3. The Office shall not be subject to taxation on the rent or lease for any premises rented by it and occupied by its personnel.

Article 8

1. The Office may hold and dispose freely all funds, currency and other financial assets, and may open and operate accounts in any convertible currency.

2. The Office may transfer freely its funds, currency and other financial assets to and from the HKSAR or within the HKSAR, and may convert them into any other convertible currency.

III. Privileges, Immunities and Facilities Granted to the Personnel of the Office

Article 9

1. The Representative, as well as other officers and experts appointed or assigned by the Secretary General of the Hague Conference, who are neither Chinese citizens nor permanent residents of the HKSAR, upon the notification of their designation to the relevant HKSAR authorities, shall:

(a) be immune from the jurisdiction of any court or tribunal of the People's Republic of China, including the HKSAR, with respect to words spoken or writings and all acts performed by them in their official capacity even after their missions have been accomplished, except in the event of legal proceedings arising from an accident caused by a vehicle belonging to or driven by them;

(b) be exempt from any Chinese national or local tax on salaries, fees, emoluments and allowances paid to them for work completed in their official capacity;

(c) be exempt from any obligation relating to national services of any kind in the HKSAR;

(d) enjoy the same immigration facilities within the HKSAR for the term of their appointment for themselves, their spouses, and dependent children under the age of 21, who are neither Chinese citizens nor permanent residents of the HKSAR, as those granted to personnel of any other international intergovernmental organization in the HKSAR, and shall not be subject to any restriction on conditions of stay, to any formality concerning the registration of aliens, or to any restriction regarding employment or access to educational institutions, and shall promptly be provided by the HKSAR authorities with any clearance or document which may be required by the usual immigration procedures;

(e) enjoy the same customs privileges and facilities as those granted by the Chinese Government to the personnel of any other international intergovernmental organization in the HKSAR;

(f) enjoy the same currency and exchange facilities as those granted by the Chinese Government to the personnel of any other international intergovernmental organization in the HKSAR;

(g) enjoy the same repatriation facilities as those granted by the Chinese Government to the personnel of any other international intergovernmental organization in the HKSAR.

2. Other Office personnel, other than those mentioned in paragraph 1 of this Article, shall only enjoy the immunity provided for by paragraph 1(a) of this Article.

Article 10

1. All other experts on mission of the Office not specified in Article 9, who are neither Chinese citizens nor permanent residents of the HKSAR, shall, in connection with their mission, enjoy the privileges, immunities and facilities specified in paragraph 1

of Article 9 when performing such mission.

2. All other experts on mission of the Office not specified in Article 9, who are Chinese citizens or permanent residents of the HKSAR, shall, in connection with their mission, enjoy the immunities specified in paragraph 1(a) of Article 9 when performing such mission.

IV. Waiver of, and No Abuse of Privileges and Immunities

Article 11

1. The privileges, immunities and facilities referred to in this Agreement are solely granted to ensure, in all circumstances, effective performance of the Office's official functions and are not granted for the personal benefit of those persons.

2. Without prejudice to the privileges, immunities and facilities conferred by this Agreement, it is the duty of all persons enjoying such privileges, immunities and facilities to respect the laws and regulations in force in the People's Republic of China, including the HKSAR.

3. The Secretary General of the Hague Conference or any other duly authorized person shall have the duty to waive the immunity of any member of the personnel of the Office or expert on mission of the Office where he or she considers that the immunity would impede the normal course of justice and can be waived without prejudice to the interests of the Office.

Article 12

1. The Office shall cooperate with the Chinese Government and the Government of the HKSAR to facilitate the proper administration of justice, ensure the observance of laws and regulations, and take measures to prevent the occurrence of any abuse of the privileges, immunities, facilities, and exemptions provided for in this Agreement.

2. Should the Chinese Government or the Government of the HKSAR consider that an abuse of a privilege, immunity or facility provided for in this Agreement has occurred, consultation shall be held between the Representative and the appropriate authorities of the Chinese Government or the Government of the HKSAR in a timely manner to determine whether any such abuse has occurred. If such abuse has indeed occurred,

the Office shall take prompt measures to cease such abuse, and ensure that no repetition of similar abuse occurs.

V. General and Final Provisions

Article 13

The Chinese Government shall not assume any responsibility for any act or omission by the Office or its personnel.

Article 14

1. Nothing in this Agreement shall affect the right of the Chinese Government to apply any appropriate safeguard for the national security of the People's Republic of China, including the security of the HKSAR. If any such safeguard is considered necessary, the Chinese Government shall immediately contact the Office to determine jointly with the Office any appropriate measure to protect the interests of the Office.

2. The Office and the Chinese Government shall cooperate to prevent any prejudice, as a result of any activity of the Office, to the national security of the People's Republic of China, including the security of the HKSAR.

Article 15

For the purpose of implementation of this Agreement, the Government of the HKSAR and the Hague Conference shall make necessary administrative arrangements between them in the form of a memorandum of understanding on administrative arrangements.

Article 16

In case of any dispute arising from the interpretation or application of this Agreement, the Hague Conference and the Chinese Government shall resolve the dispute by consultation.

Article 17

1. This Agreement shall enter into force on the date of signature, and shall remain in force until it is terminated pursuant to paragraph 4 of this Article.

2. This Agreement may be amended at the request of either Party through consultations by the Parties. Any amendments shall be made by mutual consent, in writing.

3. The Parties may, by written agreement, amend or supplement this Agreement. Such written agreement shall form part of this Agreement and enter into force in the same manner as this Agreement.

4. Either Party may terminate this Agreement upon giving the other Party six (6) months' written notice of termination. The termination of this Agreement shall not affect the activities already commenced by the Office and the disposal of its property in the HKSAR, as well as the resolution of any dispute arising from the interpretation or application of this Agreement between the Parties.

Done at *Hong Kong* in duplicate, in both English and Chinese languages, on *13 December*, 2012, both texts being equally authentic.

For the Hague Conference on
Private International Law

For the Government of the
People's Republic of China