

Guidance Note
on the Arrangement Concerning Mutual Assistance in Court-ordered
Interim Measures in Aid of Arbitral Proceedings by the Courts of the
Mainland and of the Hong Kong Special Administrative Region
(“Arrangement”)

This Guidance Note sets out the requirements for arbitration and dispute resolution institutions to qualify under Article 2(1) of the Arrangement, the required supporting documents for applying for designation, and the validity period of designation.

Eligibility requirements under the Arrangement

2. According to the Arrangement, parties to arbitral proceedings seated in Hong Kong and administered by qualified institutions or permanent offices would be able to apply to the relevant Mainland courts for interim measures. Articles 2(1) of the Arrangement stipulates the requirements for qualified institutions or permanent offices:-

“(1) arbitral institutions established in the HKSAR or having their headquarters established in the HKSAR, and with their principal place of management located in the HKSAR;

(2) dispute resolution institutions or permanent offices set up in the HKSAR by international intergovernmental organisations of which the People’s Republic of China is a member; or

(3) dispute resolution institutions or permanent offices set up in the HKSAR by other arbitral institutions and which satisfy the criteria prescribed by the HKSAR Government (such as the number of arbitration cases and the amount in dispute, etc.). ”

Criteria prescribed under Article 2(1)(3)

3. The criteria currently prescribed by the HKSAR Government under Article 2(1)(3) of the Arrangement are as follows:-

“(a) the dispute resolution institution or permanent office has been established in Hong Kong for 5 years or more, during which period it has continuously been operating the business of administering arbitration cases; and

(b) in the past 3 years, the dispute resolution institution or permanent office has been administering not fewer than 3 arbitration cases seated in Hong Kong, at least 1 of which involves a party who is not a permanent resident or legal person of the Hong Kong Special Administrative Region; and

(c) in the past 3 years, the total amount in dispute in arbitration cases seated in Hong Kong and administered by the dispute resolution institution or permanent office was not less than HK\$12 million.”

4. The above prescribed criteria under Article 2(1)(3) of the Arrangement may be revised and published from time to time in future.

Submission of supporting documents

5. Applicants should provide supporting documents to the Department of Justice to demonstrate their satisfaction of the eligibility requirements under Article 2(1) of the Arrangement. Supporting documents required for submission shall include but not limited to:-

- (i) A copy of the registration document under the old Companies Ordinance (Cap. 32) or the new Companies Ordinance (Cap. 622) or the Societies Ordinance (Cap. 151) or any other documentary proof of the establishment of the applicant;
- (ii) The latest annual return filed with the Companies Registry, and any updates since the latest return (including changes of board of

- directors, registered address, place of business, etc.);
- (iii) In relation to Article 2(1)(1) of the Arrangement, information showing the location of the principal place of management of the applicant as follows:-
- The governing structure of the applicant showing who make the major decisions of the applicant and where (in Hong Kong and/ or elsewhere) such decisions are made;
 - The composition of the applicant's governing/ decision-making body(ies) and the ordinary residence of the member of such body(ies); and
 - Whether these decisions are subject to the supervision/ approval of other person(s)/ body(ies) and if so, whom and where located, etc.

6. The supporting documents should be signed/ submitted by the Secretary General/ Head of permanent office/ Chairman of the Board of Directors or on authority of the Board of Directors.

7. The Department of Justice ("DoJ") reserves the right to require an applicant to provide additional information or documents to support its application.

Validity period of designation

8. The designation for qualified institutions or permanent offices will be valid for a period of 2 years from the date of designation, subject to further application for designation upon expiry.

9. Designated institutions or permanent offices have the continuous obligation to immediately inform the DoJ in writing should there be any changes in the position as stated in their application and other information and documents submitted by it in support of the application which may have a bearing on their continuous eligibility to qualify as an institution or permanent office referred to in Article 2(1) of the Arrangement.

10. The DoJ reserves the right to revoke the designation at any time if the designated institution or permanent office fails to fulfil the eligibility

requirements under Article 2(1) of the Arrangement during the period of designation.

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