

HOST COUNTRY AGREEMENT

BETWEEN

THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

AND

THE PERMANENT COURT OF ARBITRATION

ON

THE CONDUCT OF DISPUTE SETTLEMENT PROCEEDINGS IN

THE HONGKONG SPECIAL ADMINISTRATIVE REGION

OF

THE PEOPLE'S REPUBLIC OF CHINA

The Government of the People's Republic of China (hereinafter referred to as "the Chinese Government") and the Permanent Court of Arbitration (hereinafter referred to as "the PCA"),

Whereas the PCA was established by the 1899 Convention for the Pacific Settlement of International Disputes (hereinafter referred to as "the 1899 Convention") at the first Hague Peace Conference, and the 1899 Convention was revised by the 1907 Convention for the Pacific Settlement of International Disputes (hereinafter referred to as "the 1907 Convention"), adopted at the second Hague Peace Conference;

Whereas the People's Republic of China is a Contracting Party to the 1899 Convention and the 1907 Convention;

Desiring to further the objectives of the 1899 Convention and the 1907 Convention by offering Member States in all regions of the world access to international dispute resolution services provided by the PCA;

Considering that the Chinese Government has agreed to be a host country for arbitration, mediation, conciliation, and international commissions of inquiry administered by the PCA upon the invitation of the Secretary-General of the PCA and that the Hong Kong Special Administrative Region of the People's Republic of China (hereinafter referred to as "the HKSAR") intends to provide facilities to the aforementioned services;

Taking into account the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China adopted on the 4th April 1990 by the Seventh National People's Congress at its Third Session (hereinafter referred to as "the Basic Law");

Abiding by the established principles and norms of international law,

Have agreed as follows:

Article 1 Definitions

For the purposes of the Agreement:

“Officials of the PCA” shall mean the Secretary-General and all officials of the International Bureau of the PCA;

“PCA Proceedings” shall mean any dispute resolution proceedings administered by or under the auspices of the PCA, whether or not pursuant to the 1899 Convention or the 1907 Convention or any of the PCA's optional rules of procedure;

“PCA Adjudicator” shall mean any arbitrator, mediator, conciliator, or member of an international commission of inquiry taking part in a hearing, meeting, or other activity in relation to PCA Proceedings held in the HKSAR;

“Participant in Proceedings” shall mean any counsel, party, agent, or other party representative, witness, expert, as well as any interpreter, translator, or court reporter taking part in a hearing, meeting, or other activity in relation to PCA Proceedings held in the HKSAR;

“PCA Meeting” shall mean any meeting, including hearings in the context of PCA Proceedings and conferences, convened by the PCA;

“Local Personnel” shall mean any person assigned by the Chinese Government to assist in the conduct of any PCA Proceedings or PCA Meeting.

Article 2 Legal Capacity

1. The Chinese Government acknowledges the international legal

personality of the PCA.

2. The PCA shall have the legal capacity necessary to fulfill its purposes and objectives in the People's Republic of China, including the HKSAR.

Article 3 Cooperation

The Chinese Government shall strive to facilitate the work of the PCA in the peaceful resolution of international disputes through arbitration, mediation, conciliation, and international commissions of inquiry held in the HKSAR.

Article 4 Point of Contact

1. For the purposes of this Agreement, the Chinese Government and the PCA agree to designate Points of Contact to coordinate all issues that may arise in the implementation of this Agreement.

2. For the part of the Chinese Government, the Point of Contact is the Ministry of Foreign Affairs of the People's Republic of China; for the part of the PCA, the Point of Contact is the Secretary-General of the PCA.

Article 5 Privileges and Immunities of the PCA

1. The PCA, and its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process in the People's Republic of China, including the HKSAR, except 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 operated on behalf of the PCA, where these damages are not recoverable from insurance, or in respect of a motor traffic offence or an unlawful act involving such a vehicle.

2. The PCA may expressly waive immunities provided for in paragraph 1 of this Article in any specific case. However, it is understood that no waiver shall extend to the immunity from any measure of execution unless such immunity has been expressly and separately waived by the PCA.

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

4. Should the PCA be provided with, acquire, or rent office space or hearing space, its premises shall be inviolable. The premises of the PCA shall not be used in any manner incompatible with the objectives and functions of the PCA.

5. The archives of the PCA, wherever located, and in general all documents belonging to it or held by it, shall be inviolable.

6. The PCA may hold funds, currency of any kind, or other financial assets and operate accounts in any convertible currency, and the PCA shall be free to transfer its funds, currency, and other assets to, from, or within the HKSAR, and to convert any currency held by it into any other currency.

7. The PCA, its assets, income and other property shall, within the HKSAR, be:

(a) exempt from all direct taxes;

(b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the PCA for its official use; it is understood, however, that articles imported under such exemption will not be sold in the People's Republic of China, including the HKSAR, except under conditions

agreed with the Chinese Government; and

(c) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

8. While the PCA will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the PCA is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, the Government of the HKSAR will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

9. The Chinese Government shall permit and protect free communication on the part of the PCA for all official purposes. The PCA shall enjoy in the territory of the People's Republic of China, including the HKSAR, for its official communications treatment not less favourable than that accorded to other inter-governmental organizations, in the matter of priorities, rates and taxes on mails, cables, telephones and other communications; and press rates for information to the press and radio.

10. The official correspondence of the PCA shall be inviolable. The consent of the relevant authorities of the Government of the HKSAR regarding technical requirements is required if wireless transmitter is used.

Article 6 Privileges and Immunities of PCA Officials and Adjudicators

1. Officials of the PCA and PCA Adjudicators shall enjoy:

(a) immunity from legal process of every kind in respect of words spoken or written and acts performed by them in the course of the discharge of their duties even after they have ceased to exercise their functions in connection with the PCA, except in the event of legal proceedings

- arising from an accident caused by a vehicle belonging to or driven by them;
- (b) inviolability for all papers and documents for the purpose of their communications with the PCA and in relation to PCA Proceedings or PCA Meetings;
 - (c) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of other inter-governmental organizations;
 - (d) exemption from taxation on any fees, salaries, and emoluments paid to them by or through the PCA for work completed in their official capacity;
 - (e) immunity from national service obligations;
 - (f) immunity from immigration restrictions and alien registration;
 - (g) the same repatriation facilities in time of international crises as representatives of other inter-governmental organizations; and
 - (h) the right to import free of duty their furniture and personal effects at the time of first taking up their post.

2. In addition to the privileges and immunities provided for in paragraph 1 of this Article, the Secretary-General of the PCA, the Deputy Secretary-General of the PCA and PCA Adjudicators shall enjoy immunity from personal arrest or detention and from seizure of their personal baggage.

3. Officials of the PCA and PCA Adjudicators who are either Chinese citizens or permanent residents of the People's Republic of China including permanent residents of the HKSAR shall only enjoy the privileges and immunities provided for by paragraph 1(a), (b) and (d) of this Article.

Article 7 Immunity of Local Personnel

Local Personnel shall enjoy immunity from legal process in respect of words spoken or written and any act performed by them in their official

capacity in connection with the PCA, which immunity shall continue after they have ceased to exercise their functions in connection with the PCA, except in the event of legal proceedings arising from an accident caused by a vehicle belonging to or driven by them.

Article 8 Privileges and Immunities of Participants in Proceedings

1. Participants in Proceedings shall be accorded the following privileges, immunities and facilities that are necessary for the independent exercise of their functions, subject to the production of the document referred to in paragraph 2 of this Article:

- (a) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their participation in PCA Proceedings or PCA Meetings, which immunity shall continue after they have ceased to exercise their functions in connection with the PCA, except in the event of legal proceedings arising from an accident caused by a vehicle belonging to or driven by them;
- (b) inviolability of all papers, documents in whatever form and materials relating to their participation in PCA Proceedings or PCA Meetings, which immunity shall continue after they have ceased to exercise their functions in connection with the PCA;
- (c) for purposes of their communications in relation to PCA Proceedings or PCA Meetings, the right to receive and send papers and documents in whatever form by duly identified couriers or in sealed bags;
- (d) exemption from immigration restrictions or alien registration when they travel for purposes of their participation in PCA Proceedings or PCA Meetings; and
- (e) the same repatriation facilities in time of international crises as representatives of other inter-governmental organizations.

2. A participant in Proceedings shall be provided by the PCA with a document certifying that his or her participation is required by the PCA and specifying a time period during which such participation is necessary.

This document shall be withdrawn prior to its expiry if the Participant's appearance in PCA Proceedings or PCA Meetings or his or her presence within the People's Republic of China, including the HKSAR, is no longer required.

3. The privileges, immunities and facilities referred to in paragraphs 1 of this Article shall cease to apply after fifteen consecutive days following the date on which the presence of the Participant in Proceedings is no longer required by the PCA, provided such Participant has had an opportunity to leave the People's Republic of China, including the HKSAR during that period.

4. Participants in Proceedings who are either Chinese citizens or permanent residents of the People's Republic of China including permanent residents of the HKSAR shall only enjoy the immunities and provided for by paragraph 1(a), (b) and (c) of this Article.

Article 9 Acquisition and Waiver of Privileges and Immunities

1. When an Official of the PCA or a PCA Adjudicator will be present in the People's Republic of China, including the HKSAR, or may have need to invoke privileges and immunities under this Agreement, a certification of the status of such person shall be provided to the Chinese Government under the signature of the Secretary-General. The Chinese Government shall accord the privileges and immunities provided for in Article 6 upon production of this certification.

2. When Local Personnel are assigned to assist in the conduct of PCA Proceedings or PCA Meetings in the HKSAR, they shall enjoy immunities under this Agreement from the moment of their assignment.

3. Upon receipt of notification from parties to PCA Proceedings as to the appointment of a Participant in Proceedings, a certification of the status of such person shall be provided to the Chinese Government under the

signature of an Official of the PCA. The authorities of the Chinese Government shall accord the privileges and immunities provided for in Article 8 upon production of this certification.

4. Whenever a determination is required as to whether a person enjoys status under this Agreement entitling him or her to privileges and immunities, or whether words or acts are connected to the discharge of that person's official duties, such determination shall be made by the competent authority in consultation with the Chinese Government.

5. The privileges and immunities provided for in Articles 6 to 8 of this Agreement are granted in the interests of the PCA and the good administration of justice, and not for the personal benefit of the individuals themselves. The competent authority has the right and the duty to waive the immunity in any case where, in the opinion of such authority, the immunity would impede the course of justice and can be waived without prejudice to the interests of the PCA or to any PCA Proceedings in connection with which those immunities are granted.

6. For the purposes of this Article, the competent authority shall be:

- (a) in the case of PCA Adjudicators and Officials of the PCA (other than the Secretary-General), the Secretary-General;
- (b) in the case of the Secretary-General, the Administrative Council of the PCA;
- (c) in the case of Local Personnel, the Secretary-General;
- (d) in the case of Participants in Proceedings representing or designated by a State which is a party to the relevant PCA Proceedings, that State; and
- (e) in the case of other individuals appearing at the instance of a party to PCA Proceedings, the Secretary-General.

Article 10 Abuse of Privileges and Immunities

1. Without prejudice to the privileges and immunities provided for in

Articles 6 to 8 of this Agreement, the individuals referred to in those Articles shall observe the laws and regulations of the People's Republic of China including the HKSAR, and they shall not interfere in the internal affairs of the Chinese Government.

2. The PCA shall take every precaution to ensure that no abuse of the privileges and immunities provided for in this Agreement shall occur. If the Chinese Government considers that there has been abuse of privileges or immunities provided for in this Agreement, consultations shall be held between the PCA and the relevant authorities of the Chinese Government to determine whether such abuse has occurred. If the PCA and the Chinese Government find that such abuse has indeed occurred, the PCA shall take prompt measures to cease such abuse and, if applicable, be liable for any resulting damages in an amount to be agreed by the PCA and the Chinese Government, and ensure that no repetition of similar abuse occurs.

Article 11 Security

1. The Chinese Government shall take all appropriate steps to protect PCA Proceedings and PCA Meetings conducted in the HKSAR. The Appropriate Authorities shall ensure the security and tranquility of PCA Proceedings and PCA Meetings and protect against any intrusion, disturbance of the peace, or impairment of the dignity of PCA Proceedings and PCA Meetings. Security arrangements shall be made in consultation with the Secretary-General or an Official of the PCA designated as his or her representative.

2. The Chinese Government shall treat PCA Adjudicators, Officials of the PCA, Participants in Proceedings and other persons attending PCA Meetings with due respect and shall take all appropriate steps to prevent any attack on their person, freedom, or dignity.

3. 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 PCA to determine jointly with the PCA any appropriate measure to protect the interests of the PCA.

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

5. For the purposes of this Article, Appropriate Authorities shall mean such central or local authorities of the People's Republic of China as may be appropriate in the context of the relevant provisions of this Agreement and in accordance with the laws applicable in the People's Republic of China including the HKSAR.

Article 12 Entry into Host Country and Facilitation of Travel

1. The Chinese Government shall take all reasonable measures to facilitate the entry into the territory of the People's Republic of China, including the HKSAR, of those non-nationals and non-permanent residents of the People's Republic of China, including non-permanent residents of the HKSAR, who enter as PCA Adjudicators, Officials of the PCA, Participants in Proceedings, and other persons attending PCA Meetings.

2. The Chinese Government shall take all reasonable measures to facilitate the issuing of visas which may be required for any of the persons referred to in paragraph 1 of this Article as promptly as possible, in order to allow the timely conduct of official business pertaining to the PCA.

3. No activity performed by any person referred to in paragraph 1 of this Article in his or her capacity as relating to the PCA shall constitute a

reason for preventing his or her entry into or departure from the territory of the People's Republic of China including the HKSAR, or for requiring him or her to leave such territory.

4. Subject to its laws and regulations concerning zones into which entry is prohibited or regulated for reasons of national security, the Chinese Government shall ensure freedom of movement and travel in its territory to the persons referred to in paragraph 1 of this Article when discharging his or her functions.

Article 13 International Responsibility

The Chinese Government shall not incur any international responsibility for acts or omissions of the PCA or of Officials of the PCA acting or abstaining from acting within the scope of their functions, other than the international responsibility which the Chinese Government would incur as a Contracting Party to the 1899 Convention or the 1907 Convention.

Article 14 Dispute Settlement

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

Article 15 Administrative Arrangement

For the purpose of implementation of this Agreement, the Government of the HKSAR and the PCA shall make necessary administrative arrangements between them in appropriate form.

Article 16 Final Provisions

1. This Agreement shall enter into force upon signature, and shall remain in force until it is terminated pursuant to paragraph 3 of this Article.

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

3. This Agreement may be terminated by mutual consent of the Chinese Government and the PCA, or by either Party by giving notice to the other Party at least one year in advance of the effective date of termination.

Done in duplicate in Beijing on January, 2015, in the Chinese and English languages, both texts being equally authentic.

For the Government of the
People's Republic of China

For the Permanent
Court of Arbitration