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TREATY ON JUDICIAL ASSISTANCE IN CIVIL AND COMMERCIAL MATTERS BETWEEN THE REPUBLIC OF SINGAPORE AND THE PEOPLE'S REPUBLIC OF CHINA

The Republic of Singapore and the People's Republic of China (hereinafter referred to as the Contracting Parties) in order to strengthen the ties of friendship and co-operation between their two countries are desirous of concluding a treaty on judicial assistance in civil and commercial matters on the basis of mutual respect for sovereignty, equality and mutual benefit of the two countries:

With the above objective in mind, the Contracting Parties have agreed as follows:

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1

JUDICIAL PROTECTION

1. In civil and commercial matters, citizens of one Contracting Party shall enjoy in the territory of the other Contracting Party the same judicial protection as the citizens of the other Contracting Party and shall have access to the courts of the other Contracting Party under the same conditions as the citizens of the other Contracting Party.

2. Unless otherwise provided by a Contracting Party's written laws, its courts shall not order the citizens of the other Contracting Party to provide security for litigation costs on the ground that they are non-citizens.

3. The provisions in paragraphs 1 and 2 of this Article shall also apply to any legal entities or persons established or permitted to exist according to the laws and regulations of either Contracting Party.

ARTICLE 2

SCOPE OF JUDICIAL ASSISTANCE

The judicial assistance in civil and commercial matters to be provided mutually by both Contracting Parties pursuant to this Treaty shall include —

(*a*) service of judicial documents;

(*b*) the taking of evidence;

(*c*) the recognition and enforcement of arbitral awards; and

(*d*) the provision of information between the Contracting Parties on their civil and commercial law, as well as their judicial practice in civil and commercial proceedings.

ARTICLE 3

CENTRAL AUTHORITY

1. Unless otherwise provided in this Treaty, judicial assistance shall be rendered through the Central Authority appointed or set up by each Contracting Party.

2. The Central Authority of each Contracting Party shall be responsible for communicating the various requests and the results of execution of the requests pursuant to paragraphs (*a*), (*b*) and (*d*) of Article 2.

3. The Central Authority for the Republic of Singapore is the Supreme Court and the Central Authority for the People's Republic of China is the Ministry of Justice. In the event of any change in a Contracting Party's Central Authority, notice of such change shall be given to the other Contracting Party through diplomatic channels.

ARTICLE 4

APPLICABLE LAW FOR JUDICIAL ASSISTANCE

Unless otherwise provided in this Treaty, each Contracting Party shall apply its own laws when executing requests for judicial assistance within its territory.

CHAPTER 2

SERVICE OF JUDICIAL DOCUMENTS

ARTICLE 5

IMPLEMENTATION

The request for service of judicial documents shall be made by way of a Request for Service issued by the Central Authority of the requesting party. The Central Authority of the requested party, if it is not the judicial authority of the requested party, shall cause the said documents to be served by the judicial authorities on the person concerned resident in the territory of the requested party.

ARTICLE 6

FORM AND LANGUAGE

The Request for Service shall be made in the official language of the requesting party in the form as provided in Annexure 1 of this Treaty accompanied by a translation in the official language of the requested party. Two copies of the judicial documents together with two copies of the translation in the official language of the requested party shall be sent with the request.

ARTICLE 7

MANNER OF EXECUTION

1. The judicial documents shall be served either —

(*a*) by a method prescribed by the requested party's internal law for the service of documents in domestic actions upon persons who are within its territory; or

(*b*) by a particular method requested by the requesting party, unless such a method is incompatible with the law of the requested party.

2. Each Contracting Party may effect service of judicial documents on its own citizens residing in the territory of the other Contracting Party through its diplomatic or consular agencies, provided that, in effecting such service, the laws of the other Contracting Party are not violated and no compulsion of any kind is taken.

ARTICLE 8

INCOMPLETE OR INACCURATE ADDRESS

If the address of a person on whom judicial documents are to be served ("the addressee") is incomplete or inaccurate, the Central Authority of the requested party may ask the requesting party to provide additional information to locate the addressee. If the Central Authority of the requested party is still unable to locate the addressee with the additional information given to it, or for any other reason unable to serve the judicial documents, it shall notify the requesting party accordingly, state the reasons for not being able to effect service and return the judicial documents.

ARTICLE 9

CERTIFICATE OF SERVICE

The Central Authority of the requested party shall forward to the Central Authority of the requesting party the Certificate of Service issued by the judicial authorities which effected or attempted the service at the request of the requesting party. The Certificate shall —

(*a*) identify the Request for Service and the judicial documents requested to be served;

(*b*) state the name and designation of the person who effected the service and the manner, date and place of service;

(*c*) if service is unsuccessful, state the reason for not being able to effect the service; and

(*d*) certify the cost of effecting the service or attempted service.

ARTICLE 10

FEES FOR EFFECTING SERVICE

The Central Authority of the requesting party shall pay to the Central Authority of the requested party the expenses incurred in effecting or attempting to effect service of judicial documents pursuant to the request for service.

ARTICLE 11

REFUSAL OF REQUEST

1. A requested party may refuse to comply with a request for service of judicial documents if it is of the view that the execution of such request is or will be contrary to its sovereignty, security or national interest and shall promptly give the requesting party the reasons for the refusal.

2. The requested party may not refuse to comply solely on the ground that, under its internal laws, it claims exclusive jurisdiction over the subject-matter of the action or that its internal law would not permit the action upon which the application is based.

CHAPTER 3

TAKING OF EVIDENCE

ARTICLE 12

SCOPE OF APPLICATION

1. In civil and commercial matters, the court of one Contracting Party may request the other Contracting Party to take evidence which it deems necessary such as the examination of parties, witnesses and experts and the production of documents.

2. The evidence may be taken before the court of the requested party or any fit and proper person named in the Letter of Request or such other person as the court of the requested party thinks fit.

ARTICLE 13

FORM AND LANGUAGE

1. The Letter of Request shall be in the official language of the requesting party and include the following information:

(*a*) the title and address of the court making the request;

(*b*) the nature of the proceedings pending before the court in which the evidence is required;

(*c*) the names and addresses of the parties to the proceeding;

(*d*) the names and addresses of the parties, witnesses and experts to be examined;

(*e*) the list of documents to be produced, if any;

(*f*) the questions to be put to the parties, witnesses and experts to be examined;

(*g*) such other information as may be necessary, for example, the circumstances under which the evidence is to be taken and any requirement that the evidence is to be given on oath or affirmation.

2. The Letter of Request shall be accompanied by a copy of translation in the official language of the requested party of the Letter of Request and any documents attached to the Letter of Request.

ARTICLE 14

MANNER OF EXECUTION

1. The laws of the requested party shall be applied in the taking of evidence and when necessary, the appropriate compulsory measures prescribed under its laws may be invoked.

2. Each Contracting Party may take evidence from its citizens residing in the territory of the other Contracting Party directly through its diplomatic or consular agencies provided that, in the taking of such evidence, the laws of the other Contracting Party are not violated and no compulsion of any kind is taken.

ARTICLE 15

INCOMPLETE OR INACCURATE ADDRESS

If the court or other person of the requested party is unable to take evidence based on the address stated in the Letter of Request, the requested party may ask the requesting party to provide additional information. If the court or other person of the requested party taking the evidence is still unable to locate the addressee with the additional information provided, the requested party shall so notify the requesting party through its Central Authority and return all attached documents.

ARTICLE 16

NOTIFICATION OF OUTCOME OF EXECUTION

The court or other person of the requested party shall, through its Central Authority, forward to the requesting party the evidence taken pursuant to the request, together with information pertaining to the date, place and manner of the taking of evidence and the expenses incurred in, and the outcome of, the execution of the request.

ARTICLE 17

EXPENSES

The Central Authority of the requesting party shall reimburse the Central Authority of the requested party for payments made to parties, witnesses and experts examined pursuant to the request, as expenses of going to, remaining at and returning from the place of execution of the request, and other expenses incurred by the Central Authority of the requested party in the execution of the request to take evidence.

ARTICLE 18

REFUSAL OF REQUEST

1. If the requested party is of the view that a request for the taking of evidence is or will be prejudicial to its sovereignty, security or national interest or if, under its laws, the execution of the said request is not within the power or scope of duty of its judicial authority, it may wholly or partially refuse the request and shall promptly inform the requesting party of the reason for refusal.

2. Execution may not be refused solely on the ground that under its internal laws the requested party claims exclusive jurisdiction over the subject-matter of the action or that its internal laws would not admit a right of action on it.

ARTICLE 19

REFUSAL TO GIVE EVIDENCE

1. In the execution of a Letter of Request, the witness who is to be examined may refuse to give evidence in so far as —

(*a*) under the law of the requested party he has the right to refuse to give the evidence or is prohibited from doing so; or

(*b*) under the law of the requesting party he has such a right or is under such a prohibition and the right or prohibition has been specified in

the Letter, or at the instance of the requested party, has been otherwise confirmed by the Central Authority of the requesting party.

2. The evidence taken shall not be transmitted to the court requesting the evidence if that court, on the matter being referred to it, uphold the claim of the witness in question to be exempt from giving the evidence.

CHAPTER 4

RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS

ARTICLE 20

RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS

Each Contracting Party shall, in accordance with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards concluded in New York on 10th June 1958, recognise and enforce the arbitral awards made in the territory of the other Contracting Party.

CHAPTER 5

OTHER CLAUSES

ARTICLE 21

DISPENSATION OF AUTHENTICATION

In the application of this Treaty, documents and translations drawn up or certified by courts or other competent authorities of either Contracting Party shall not be subject to authentication in any form provided they are officially sealed.

ARTICLE 22

EXCHANGE OF INFORMATION

1. The Contracting Parties shall supply each other with information on the law and practice in force in their territories.

2. A request for information shall state the authority from which it emanates as well as the nature of the case in connection with which the information is requested.

ARTICLE 23

RESOLUTION OF DISPUTES

Any dispute arising from the interpretation or implementation of this Treaty shall be resolved by consultation or negotiations through diplomatic channels.

CHAPTER 6

FINAL CLAUSES

ARTICLE 24

ENTRY INTO FORCE

1. Each Contracting Party will notify the other Contracting Party through diplomatic channels after the procedure for bringing this Treaty into force have been completed in accordance with its laws. This Treaty shall enter into force thirty days from the date of the later notification.

2. This Treaty shall also apply to requests made in respect of legal proceedings commenced prior to this Treaty entering into force.

ARTICLE 25

TERMINATION

1. Either Contracting Party may terminate this Treaty at anytime by giving written notice to the other Contracting Party through diplomatic channels. The termination shall take effect one year from the date of the written notice.

2. Notwithstanding the termination of this Treaty, any request received prior to the termination of this Treaty shall continue to be processed in accordance with the terms of this Treaty.

IN WITNESS WHEREOF, the authorised representatives of both Governments have affixed signatures and seals on this Treaty.

Done in duplicate in Beijing on the 28th day of April, 1997, in the English and Chinese languages, both texts being equally authentic.

FOR THE REPUBLIC OF SINGAPORE:	FOR THE PEOPLE'S REPUBLIC OF CHINA:
DR OW CHIN HOCK MINISTER OF STATE FOR FOREIGN AFFAIRS	TANG JIAXUAN VICE-MINISTER OF FOREIGN AFFAIRS

Annexure 1

REQUEST FOR SERVICE OF DOCUMENT

TREATY ON JUCIDICAL ASSISTANCE
IN CIVIL AND COMMERCIAL MATTERS
BETWEEN THE REPUBLIC OF SINGAPORE
AND THE PEOPLE'S REPUBLIC OF CHINA

The [*name of Central Authority of Requesting Party*] has the honour to send to the [*name of Central Authority of Requested Party*] the documents in duplicate set out below. You are kindly requested to send a copy thereof to the addressee, in pursuance of Article 7 of the Treaty:

*(*a*) in accordance with the procedure laid down by the law of the requested country.

*(*b*) in accordance with the following particular method:

_____

_____

(REQUESTING PARTY) (ADDRESSEE)

Name: _____

Address: _____

_____

Other Relevant Information: ____

_____

You are kindly requested to return to the [*name of Central Authority of Requesting Party*] a copy of the document and of its enclosures, together with the completed Certificate of Service.

(*delete where inapplicable)

Annexure 1 — *continued*

LIST OF DOCUMENTS

Document 1:

Title of Document: _____

Title and Address of Court Issuing the Document: _____

_____

Nature of Proceedings in which Service is Required: _____

_____

Names and Addresses of Parties to the Proceedings: _____

_____

Document 2:

Title of Document: _____

Title and Address of Court Issuing the Document: _____

_____

Nature of Proceedings in which Service is Required: _____

_____

Names and Addresses of Parties to the Proceedings: _____

_____

Annexure 2

CERTIFICATE OF SERVICE

TREATY ON JUDICIAL ASSISTANCE
IN CIVIL AND COMMERCIAL MATTERS
BETWEEN THE REPUBLIC OF SINGAPORE
AND THE PEOPLE'S REPUBLIC OF CHINA

The [*name of Central Authority of Requested Party*] has the honour to certify, in conformity with Article 9 of the Treaty, that the document attached to the REQUEST FOR SERVICE DOCUMENT No. _____:

*1. has been served:

Date of Service: _____

Place of Service: _____

Method of Service:

*(*a*) served personally on the addressee;

*(*b*) a method required by the laws of the requested country other than personal service;

*(*c*) the following particular method:

_____

Document(s) Delivered To:

Identity of Recipient: _____

Relationship to Addressee: _____

*2. has not been served for the following reasons:

_____

_____

(*delete where inapplicable)

List of Documents Returned:

A. copy of document served;

B. original and copy of document, if service was not effected;

C. other documents relevant to service (to specify):

_____

_____

(Translation)

(99) Bu Tiao Zi No.675

The Ministry of Foreign Affairs of the People's Republic of China presents its compliments to the Embassy of the Republic of Singapore and has the honor to refer to the Treaty on Judicial Assistance in Civil and Commercial Matters between the People's Republic of China and the Republic of Singapore, signed in Beijing on 28 April 1997, and states as follows:

The Chinese side acknowledges the receipt of the Singapore side's note numbered 96/98 dated 29 April, 1998 informing that the necessary procedures for bringing the Treaty into force had been completed, and has the honor to notify that the Chinese side has also completed all the procedures for bringing the Treaty into force in accordance with its laws. According to the provision of Article 24 of the Treaty, the Treaty shall enter into force thirty days from the date of this note, i.e. on the twenty-seventh day of June, 1999.

In the mean time, the Chinese side, in accordance with Paragraph 3 of Article 3 of the Treaty, has decided that the Central Authority for the Chinese side will be changed to the Ministry of Justice of the People's Republic of China and the Supreme People's Court of the People's Republic of China. Any request for judicial assistance by the Singapore side may be submitted to any of the above Central Authority for the Chinese side and will be dealt with properly in accordance with the Treaty.

The Ministry of Foreign Affairs of the People's Republic of China avails itself of this opportunity to renew to the Embassy of the Republic of Singapore the assurances of its highest consideration.

Beijing, 28 May 1999

Embassy of the Republic of Singapore
BEIJING

BEJ 96/98

The Embassy of the Republic of Singapore presents its compliments to the Department of Treaty and Law of the Ministry of Foreign Affairs of the People's Republic of China and has the honour to refer the latter to Article 24 of the Treaty on Judicial Assistance in Civil and Commercial Matters between the Republic of Singapore and the People's Republic of China. The Article reads: "Each Contracting Party will notify the other Contracting Party through diplomatic channels after the procedure for bringing this Treaty into force have been completed in accordance with its laws. This Treaty shall enter into force thirty days from the day of the later notification."

The Embassy is pleased to inform the Ministry that the procedures on the part of the Republic of Singapore for bringing the Treaty into force have been completed in accordance with its laws.

The Embassy of the Republic of Singapore avails itself of this opportunity to renew to the Department of Treaty and Law of the Ministry of Foreign Affairs of the People's Republic of China the assurances of its highest consideration.

Embassy of the Republic of Singapore
BEIJING

29 April 1998

Department of Treaty and Law
Ministry of Foreign Affairs
People's Republic of China

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