

(Translation)

**Arrangement Concerning Mutual Enforcement of Arbitral Awards
Between the Mainland and the Hong Kong Special Administrative Region**

In accordance with the provision of Article 95 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and through mutual consultations between the Supreme People's Court and the Government of the Hong Kong Special Administrative Region (HKSAR), the Courts of the HKSAR agree to enforce the awards made pursuant to the Arbitration Law of the People's Republic of China by the arbitral authorities in the Mainland (the list to be supplied by the Legislative Affairs Office of the State Council through the Hong Kong and Macao Affairs Office of the State Council) and the People's Courts of the Mainland agree to enforce the awards made in the HKSAR pursuant to the Arbitration Ordinance of the HKSAR. The following arrangement is made in respect of mutual enforcement of arbitral awards by the Mainland and the HKSAR:

1. Where a party fails to comply with an arbitral award, whether made in the Mainland or in the HKSAR, the other party may apply to the relevant court in the place where the party against whom the application is filed is domiciled or in the place where the property of the said party is situated to enforce the award.

2. For the purpose of Article 1 above, "relevant court", in the case of the Mainland, means the Intermediate People's Court of the place where the party against whom the application is filed is domiciled or the place in which the property of the said party is situated and, in the case of the HKSAR, means the High Court of the HKSAR.

If the place where the party against whom the application is filed is domiciled or the place where the property of the said party is situated falls within the jurisdiction of different Intermediate People's Courts of the Mainland, the applicant may apply to any one of the People's Courts to enforce the award. The applicant shall not file his application with two or more People's Courts.

If the place where the party against whom the application is filed is domiciled or the place where the property of the said party is situated is in the Mainland as well as in the HKSAR, the applicant shall not file applications with relevant courts of the two places at the same time. Only when the result of the enforcement of the award by the court of one place is insufficient to satisfy the liabilities may the applicant apply to the court of another place for enforcement of the outstanding liabilities. The total amount recovered from enforcing the award in the courts of the two places one after the other shall in no case exceed the amount awarded.

3. The applicant shall submit the following documents in applying to the relevant court for enforcement of an award, made either in the Mainland or in the HKSAR:

- i) An application for enforcement;
- ii) The arbitral award;
- iii) The arbitration agreement.

4. An application for enforcement shall contain the following:

(1) Where the applicant is a natural person, his name and address; where the applicant is a legal entity or any other organisation, its name and address and the name of its legally authorised representative;

(2) Where the party against whom the application is filed is a natural person, his name and address; where the party against whom the application is filed is a legal entity or any other organisation, its name and address and the name of its legally authorized representative;

(3) Where the applicant is a legal entity or any other organisation, a copy of the enterprise registration record shall be submitted. Where the applicant is a foreign legal entity or any other foreign organisation, the corresponding notarisation and authentication material shall be submitted;

(4) The grounds for and the particulars of the application for enforcement; the place where the property of the party against whom the application is filed is situated and the status of the property.

Application for enforcement made in the Mainland shall be in the Chinese language. If the arbitral award or arbitration agreement is not in the Chinese language, the applicant shall submit a duly certified Chinese translation of it.

5. The time limit for an applicant to apply to the relevant court for enforcement of the arbitral award, whether made in the Mainland or in the HKSAR, shall be governed by the law on limitation period of the place of enforcement.

6. Upon receipt of an application for enforcement from an applicant, the relevant court shall handle the application and enforce the award according to the legal procedure of the place of enforcement.

7. The party against whom an application is filed may, after receiving notice of an arbitral award, whether made in the Mainland or in the HKSAR, adduce evidence to show any of the situations set out below. Upon such evidence being examined and any of the said situations being found proved, the relevant court may refuse to enforce the arbitral award:

(1) A party to the arbitration agreement was, under the law applicable to him, under some incapacity, or the arbitration agreement was not valid under the law to which the parties subjected it, or, failing any indication thereon, under the law of the place in which the arbitral award was made;

(2) The party against whom the application is filed was not given proper notice of the appointment of the arbitrator or was otherwise unable to present his case;

(3) The award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or the award contains decisions on matters beyond the scope of the submission to arbitration. However, if the award contains decisions on matters submitted to arbitration that can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration shall be enforced;

(4) The composition of the arbitral authority or the arbitral procedure was not in accordance with agreement of the parties or, failing such agreement, with the law of the place where the arbitration took place;

(5) The award has not yet become binding on the parties, or has been set aside or suspended by the court or in accordance with the law of the place where the arbitration took place;

If the relevant court finds that under the law of the place of enforcement, the dispute is incapable of being settled by arbitration, then the court may refuse to enforce the award

The enforcement of the award may be refused if the court of the Mainland holds that the enforcement of the arbitral award in the Mainland would be contrary to the public interests of the Mainland, or if the court of the HKSAR decides that the enforcement of the arbitral award in Hong Kong would be contrary to the public policy of the HKSAR.

8. The applicant, in applying to the relevant court to enforce an arbitral award, whether made in the Mainland or in the HKSAR, shall pay the enforcement fees prescribed by the court of enforcement.

9. Applications made after 1st July, 1997 for enforcement of arbitral awards, whether made in the Mainland or in the HKSAR, shall be enforced according to this Arrangement.

10. In respect of applications for enforcement made between 1st July, 1997 and the coming into force of this Arrangement, both parties agree that:

Where the applications for enforcement cannot, for some reasons, be made to the court of the Mainland or the court of the HKSAR between 1st July, 1997 and the coming into force of this Arrangement, then, in the case of the applicant being a legal entity or any other organization, the application for enforcement may be made within six months after this Arrangement comes into force and, in the case of the applicant being a natural person, the application for enforcement may be made within one year after this Arrangement comes into force.

Parties to cases which the court of the Mainland or the HKSAR had, between 1st July, 1997 and the coming into force of this Arrangement, refused to handle or to enforce the award, shall be allowed to make fresh application for enforcement.

11. Any problem arising in the course of implementing this Arrangement and any amendment to this Arrangement shall be resolved through consultations between the Supreme People's Court and the Government of the HKSAR.

List of Mainland Arbitration Commissions*

The following is a list of mainland Arbitration Commissions set up under The Arbitration Law of the People's Republic of China as of 31 May 1999:

I. Arbitration Commissions set up under the China Chamber of International Commerce:

China International Trade Arbitration Commission; China Maritime Arbitration Commission.

II. Arbitration Commissions set up in various provinces, autonomous regions and municipalities directly under the Central Government:

Beijing Municipality

Beijing Arbitration Commission.

Tianjin Municipality

Tianjin Arbitration Commission.

Hebei Province

Shijiazhuang Arbitration Commission; Handan Arbitration Commission; Xingtai Arbitration Commission; Cangzhou Arbitration Commission; Chengde Arbitration Commission; Zhangjiakou Arbitration Commission; Hengshui Arbitration Commission.

Shanxi Province

Datong Arbitration Commission; Yangquan Arbitration Commission.

Inner Mongolia Autonomous Region

Hohhot Arbitration Commission; Wuhai Arbitration Commission; Baotou Arbitration Commission; Chifeng Arbitration Commission.

Liaoning Province

Anshan Arbitration Commission; Fushun Arbitration Commission; Benxi Arbitration Commission; Jinzhou Arbitration Commission; Liaoyang Arbitration Commission; Chaoyang Arbitration Commission; Dalian Arbitration Commission; Hulu Dao Arbitration Commission; Shenyang Arbitration Commission; Yingkou Arbitration Commission; Dandong Arbitration Commission; Fuxin Arbitration Commission; Tieling Arbitration Commission; Panjin Arbitration Commission.

Jilin Province

Changchun Arbitration Commission; Baishan Arbitration Commission; Tonghua Arbitration Commission.

Heilongjiang Province

Mudanjiang Arbitration Commission; Harbin Arbitration Commission; Qitaihe Arbitration Commission; Jixi Arbitration Commission; Jiamusi Arbitration Commission; Heihe Arbitration Commission; Hegang Arbitration Commission; Daqing Arbitration Commission.

Shanghai Municipality

Shanghai Arbitration Commission.

Jiangsu Province

Changzhou Arbitration Commission; Nanjing Arbitration Commission; Nantong Arbitration Commission; Xuzhou Arbitration Commission; Lianyungang Arbitration Commission; Huaiyin Arbitration Commission; Yancheng Arbitration Commission; Yangzhou Arbitration Commission; Suzhou Arbitration Commission; Wuxi Arbitration Commission; Zhenjiang Arbitration Commission.

Zhejiang Province

Hangzhou Arbitration Commission; Jinhua Arbitration Commission; Shaoxing Arbitration Commission; Wenzhou Arbitration Commission; Ningbo Arbitration Commission; Zhoushan Arbitration Commission; Jiaying Arbitration Commission; Huzhou Arbitration Commission; Taizhou Arbitration Commission.

Anhui Province

Ma'anshan Arbitration Commission; Chuzhou Arbitration Commission; Huangshan Arbitration Commission; Anqing Arbitration Commission; Tongling Arbitration Commission; Wuhu Arbitration Commission; Hefei Arbitration Commission; Huainan Arbitration Commission; Bengbu Arbitration Commission; Huaibei Arbitration Commission; Fuyang Arbitration Commission.

Fujian Province

Fuzhou Arbitration Commission; Xiamen Arbitration Commission.

Jiangxi Province

Nanchang Arbitration Commission; Xinyu Arbitration Commission; Pingxiang Arbitration Commission.

Shandong Province

Zibo Arbitration Commission; Weifang Arbitration Commission; Qingdao Arbitration Commission; Weihai Arbitration Commission; Jinan Arbitration Commission; Yantai Arbitration Commission; Dongying Arbitration Commission; Tai'an Arbitration Commission; Zaozhuang Arbitration Commission; Linyi Arbitration Commission; Rizhao Arbitration Commission; Dezhou Arbitration Commission; Laiwu Arbitration Commission; Jining Arbitration Commission.

Henan Province

Luoyang Arbitration Commission; Pingdingshan Arbitration Commission.

Hubei Province

Wuhan Arbitration Commission; Jingzhou Arbitration Commission; Yichang Arbitration Commission; Xiangtan Arbitration Commission.

Hunan Province

Changsha Arbitration Commission; Zhuzhou Arbitration Commission; Bangzhou Arbitration Commission; Changde Arbitration Commission; Yiyang Arbitration Commission;

Xiangtan Arbitration Commission; Hengyang Arbitration Commission; Shaoyang Arbitration Commission; Yueyang Arbitration Commission.

Guangdong Province

Guangzhou Arbitration Commission; Shenzhen Arbitration Commission; Foshan Arbitration Commission; Jiangmen Arbitration Commission; Shantou Arbitration Commission; Zhaoqing Arbitration Commission; Shaoguan Arbitration Commission; Huizhou Arbitration Commission.

Guangxi Province

Liuzhou Arbitration Commission; Nanning Arbitration Commission; Guilin Arbitration Commission; Qinzhou Arbitration Commission; Wuzhou Arbitration Commission.

Hainan Province

Haikou Arbitration Commission.

Chongqing Municipality

Chongqing Arbitration Commission.

Sichuan Province

Wanxian Arbitration Commission; Guangyuan Arbitration Commission; Suining Arbitration Commission; Deyang Arbitration Commission; Chengdu Arbitration Commission; Luzhou Arbitration Commission; Panzhihua Arbitration Commission; Zigong Arbitration Commission; Leshan Arbitration Commission; Mianyang Arbitration Commission.

Guizhou Province

Liupanshui Arbitration Commission; Guiyang Arbitration Commission.

Yunnan Province

Kunming Arbitration Commission.

Shaanxi Province

Xi'an Arbitration Commission; Baoji Arbitration Commission; Xianyang Arbitration Commission; Tongchuan Arbitration Commission; Hanzhong Arbitration Commission.

Gansu Province

Tianshui Arbitration Commission; Lanzhou Arbitration Commission; Jiayuguan Arbitration Commission.

Qinghai Province

Xining Arbitration Commission.

Ningxia Hui Autonomous Region

Yinchuan Arbitration Commission; Shizuishan Arbitration Commission.

Xinjiang Uygur Autonomous Region

Karamay Arbitration Commission.

III. Arbitration Commissions that have taken up arbitral cases involving Hong Kong and Macao as far:

China International Economic and Trade Arbitration Commission; China Maritime Arbitration Commission.

Beijing Arbitration Commission; Tianjin Arbitration Commission; Shijiazhuang Arbitration Commission; Fushun Arbitration Commission; Changchun Arbitration Commission; Changzhou Arbitration Commission; Nantong Arbitration Commission; Lianyungang Arbitration Commission; Suzhou Arbitration Commission; Hangzhou Arbitration Commission; Shenzhen Arbitration Commission; Foshan Arbitration Commission; Changsha Arbitration Commission; Hohhot Arbitration Commission; Shanghai Arbitration Commission; Guangzhou Arbitration Commission; Jiangmen Arbitration Commission; Xiamen Arbitration Commission; Suzhou Arbitration Commission; Hangzhou Arbitration Commission; Qingdao Arbitration Commission; Jinan Arbitration Commission; Dongying Arbitration Commission; Yantai Arbitration Commission; Shantou Arbitration Commission;

Yueyang Arbitration Commission; Nanning Arbitration Commission; Guilin Arbitration Commission; Kunming Arbitration Commission; Liuzhou Arbitration Commission.