

**Host Country Agreement Between
the Bank for International Settlements and the
Government of the People’s Republic of China
Relating to the Establishment and Status
of a Representative Office of the
Bank for International Settlements in the
Hong Kong Special Administrative Region of the
People’s Republic of China¹**

(of 11 May 1998)

The Bank for International Settlements (hereinafter referred to as “the Bank”) and the Government of the People’s Republic of China (hereinafter referred to as “the Government”);

Having regard to the Convention of 20 January 1930 respecting the Bank, the Constituent Charter and Statutes of the Bank, and the Protocol of 30 July 1936 regarding the immunities of the Bank;

Taking into account that the Bank has decided to establish a Representative Office (hereinafter referred to as “the Representative Office”) in the Hong Kong Special Administrative Region of the People’s Republic of China (hereinafter referred to as “the HKSAR”) in order to assist in performing its objects, notably in Asia and the Pacific region, and that the Government supports the Bank’s decision;

Considering the special status of the HKSAR as described in the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China adopted on 4 April 1990 (hereinafter referred to as “the Basic Law”);

¹ The footnotes in this document have been prepared for explanatory purposes by the Bank’s Legal Service.

Desiring to settle, in light of international practice relating to the privileges and immunities of international organizations, the status of the Representative Office in the HKSAR,

Have agreed as follows:

I. Status, Privileges and Immunities of the Bank, Including the Representative Office

Article 1

Legal Personality and Capacity

The Government acknowledges the international legal personality and the legal capacity of the Bank within the People's Republic of China, including the HKSAR.

Article 2

Establishment and Seat of the Representative Office

1. The Representative Office in the HKSAR shall be headed by a senior resident representative, and shall be staffed with such other personnel as are appointed or assigned by the Bank. The Bank shall notify the Government of the nomination of the senior resident representative prior to his or her appointment. The Bank shall not be subject to any quota with respect to hiring or employing personnel to work for the Representative Office in the HKSAR for the purpose of carrying out the Bank's activities.

2. The Bank shall be entitled to lease or acquire movable or immovable property for the Representative Office and for the accommodation of its personnel in the HKSAR, as well as such other facilities (including services and utilities) as may be necessary for the official purposes of the Bank and its personnel.

3. The Bank shall be entitled to display its flag and emblem, if any, on the premises of the Representative Office.

Article 3

Freedom of Action of the Bank

1. The Government shall guarantee to the Bank the autonomy and freedom of action to which it is entitled as an international organization of central banks and monetary authorities based on international treaties between States.

2. In particular, the Government shall grant to the Bank, including to the Representative Office, as well as to the members of the Bank and other institutions in their relations with the Bank, absolute freedom to hold meetings in the HKSAR in connection with the Bank's objects and functions (including freedom of discussion and decision).

3. The Government shall facilitate access to the Representative Office for any person, irrespective of nationality, who fulfils any function for the Bank or who is invited by the Bank in connection with any official Bank activities.

4. The Bank shall have the power to make rules and regulations operative within the Representative Office for the full and independent exercise of its activities and performance of its functions.

5. The Bank shall not be subject to any form of financial or banking supervision or obliged to implement any form of accounting standard, or to comply with any form of licensing or registration requirement.

Article 4

Inviolability

1. All or any part of the premises, regardless of ownership, occupied from time to time as offices by the Representative Office shall be considered as premises of the Bank in the

HKSAR and shall be inviolable; such premises shall be under the control and authority of the Bank. No representative of the Government or of other authorities, including the HKSAR authorities, may enter upon the premises of the Representative Office to perform any duty without the express consent of, and under the conditions, if any, agreed to by the President² of the Bank, or the General Manager of the Bank, or the Assistant General Manager³ of the Bank, or the senior resident representative, or their duly authorized representative. Consent of the senior resident representative may, however, 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 archives and records of the Bank and, in general, all documents and any data or data media belonging to the Bank or in its possession, shall be inviolable at any time and in any place.

3. The Bank shall exercise supervision of and security control over the premises of the Representative Office.

4. The Representative Office shall be accorded the same protection against any intrusion or damage and any disturbance of law and order in or at the Representative Office as that granted by the Government to any Specialized Agency of the United Nations in the HKSAR.

Article 5

Immunities from Jurisdiction and Execution

1. All deposits entrusted to the Bank, all claims against the Bank and the shares issued by the Bank shall, without the

² The reference in the Agreement to the President of the Bank is no longer relevant as this position was abolished by decision of the Extraordinary General Meeting of the Bank on 27 June 2005.

³ The expression "Assistant General Manager of the Bank" refers to the "Deputy General Manager of the Bank".

express prior agreement of the Bank, wherever located and by whomsoever held, be immune from any form of seizure, attachment, sequestration, execution, requisition, confiscation, expropriation, freeze or any other form of seizure by executive, judicial or legislative action.

2. The Bank, including the Representative 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 Representative 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 operated on behalf of the Bank, or in respect of a motor traffic offence involving such a vehicle.

3. The immunity provided for above may be expressly waived in individual cases by the President,² the General Manager or the Assistant General Manager³ of the Bank or their duly authorized representative, in writing or in a duly authenticated telecommunication or by the terms of a contract.

4. Property and assets of the Bank 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 over the Bank pursuant to paragraph 2 above.

5. The Administrative Tribunal of the Bank (as described in Article 4.2 of the Headquarters Agreement of the 10th February 1987 determining the legal status of the Bank in Switzerland) shall have exclusive and final jurisdiction over all disputes arising in connection with employment, welfare and pension matters between the Bank and its personnel or its former personnel, or persons claiming through them.

Article 6

Communications

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

2. The Bank shall be entitled to use codes and encryption for its official communications. The Bank shall also be entitled to send and receive official correspondence and communications, on any form of data media, including by duly identified couriers or in sealed bags, which shall have privileges and immunities as accorded to the Specialized Agencies of the United Nations. The Bank shall in particular be entitled to unfettered access to world-wide telecommunication links of its choice. The Bank may, with the consent of the relevant HKSAR authority regarding technical requirements, use a wireless transmitter in the HKSAR and install and operate in the HKSAR point-to-point telecommunication facilities and such other telecommunications and transmission facilities as may be necessary to facilitate communications with the Representative Office both from within and outside the HKSAR.

3. The Bank shall benefit, in respect of all official communications, from the same treatment as granted by the Government to any Specialized Agency of the United Nations insofar as such treatment is compatible with the International Telecommunication Convention.

Article 7

Publications, Data and Data Media

The importation of publications and all kinds of data or data media for the Bank's use, and the exportation of the Bank's publications and all kinds of data or data media, shall not be subject to any restriction.

Article 8

Tax Exemptions

1. The Bank, its assets, income and other property 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 Bank makes important purchases for official use of property or of services on which such duties and taxes have been charged or are chargeable, the HKSAR authorities will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax;
- (b) charges for specific services rendered to the Representative 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.

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

3. The operations of the Bank shall be exempt from all taxes, dues, duties or rates of any kind.

4. The Bank shall not be liable for the collection or payment of any tax, due, duty or rate of any kind.

Article 9

Customs Treatment

1. The Bank 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 Bank for its official use, and from any obligation for the payment, withholding or collection of any customs duty. Goods or articles imported into the HKSAR by the Bank under such exemptions can be disposed of locally in accordance with applicable laws or administrative regulations.

2. The Bank shall receive the same preferential customs treatment as that granted by the Government to any Specialized Agency of the United Nations in the HKSAR.

Article 10

Free Disposal of Funds and Freedom to Conduct Operations

1. The Bank may receive, hold, convert and transfer all funds, gold, currency, cash and other transferable securities, and dispose freely thereof, and generally carry out without any restriction all operations permitted by its Statutes within the HKSAR and in the Bank's relations with other financial markets, subject to Article 19 of its Statutes. In particular, in connection with expenses directly arising from the Representative Office's activities, the Bank shall have the unrestricted right to transfer local currency, or to convert local currency into or from any other currency.

2. The Bank shall have the unrestricted right to transact business with any financial or other institution located outside the HKSAR.

Article 11

Pension and Special Funds

The pension fund of the Bank (and any special fund created by the Bank in connection with other welfare arrangements provided by it, in particular in order to accumulate reserves) shall enjoy, irrespective of whether or not the fund has a

separate legal personality, the same exemptions, privileges and immunities as are enjoyed by the Bank itself with regard to its property. These funds are exempt only to the extent that they are exclusively for the benefit of the Bank or its personnel or its former personnel or persons claiming through them.

Article 12

Social Welfare

1. The Bank, as an employer, shall be exempt from the Employment Ordinance, the Employees' Compensation Ordinance, the Mandatory Provident Fund Schemes Ordinance and any legislation applicable in the HKSAR regarding old-age and surviving-dependents insurance, or incapacity insurance, or unemployment insurance, or insurance for health care or against accident, or occupational pension schemes, or welfare systems of any kind, save in respect of any person who is engaged by the Representative Office as a local employee.

2. The Representative Office's personnel, other than any person who is engaged by the Representative Office as a local employee, shall be exempt from such legislation as is referred to in paragraph 1 above and, in particular, from any mandatory contribution to any insurance or welfare scheme, unless an agreement to the contrary is reached between the Bank and the relevant HKSAR authorities. This exemption does not apply in relation to the employment of any person by personnel of the Representative Office in their private capacity.

3. The Bank shall ensure that all personnel of the Representative Office are covered by adequate social security protection.

II. Privileges and Immunities Granted to Persons Carrying out Official Bank Activities

Article 13

Privileges, Immunities and Exemptions of Members of the Board of Directors, the President of the Bank, the General Manager and Assistant General Manager of the Bank and Representatives of the Bank's Member Central Banks

Members of the Board of Directors of the Bank, the President² of the Bank, the General Manager of the Bank, the Assistant General Manager³ of the Bank and representatives of the central banks which are members of the Bank shall enjoy the following privileges, immunities and exemptions while carrying out official Bank activities and throughout their journey to or from the place where a meeting is held in the HKSAR:

- (a) immunity from arrest or imprisonment and immunity from inspection or seizure of personal baggage, except in flagrant instances of criminal offence;
- (b) immunity from inspection or seizure of official baggage;
- (c) inviolability of all papers, documents, data or data media;
- (d) immunity from the jurisdiction of any People's Republic of China, including the HKSAR, court or tribunal with respect to things done or omitted to be done in connection with official Bank activities, including words spoken and writings, even after their mission has been accomplished;
- (e) the same customs privileges and facilities as those granted by the Government to officials of comparable rank of any Specialized Agency of the United Nations in the HKSAR;

- (f) the same immigration facilities relating to issue of visas and conditions of stay for these officials and their respective spouse and dependent children under the age of 21 as those granted by the Government to officials of comparable rank of any Specialized Agency of the United Nations in the HKSAR and exemption from any formality concerning the registration of aliens and from any obligation relating to national service in the HKSAR;
- (g) the same facilities as regards monetary or exchange regulations as those granted by the Government to officials of comparable rank of any Specialized Agency of the United Nations in the HKSAR on a temporary official mission; and
- (h) the right to use codes or encryption in official communications, and the right to receive or send official documents or correspondence by means of duly identified couriers or sealed bags.

Article 14

Status of the Senior Resident Representative and Senior Officials of the Representative Office

The senior resident representative, as well as such senior officials as are designated by the General Manager of the Bank, or the Assistant General Manager³ of the Bank, and who are neither Chinese nationals nor permanent residents of the HKSAR, upon the notification of their designation to the relevant HKSAR authorities, shall enjoy the same privileges, immunities, exemptions and facilities as those granted by the Government to officials of comparable rank of any Specialized Agency of the United Nations in the HKSAR. In particular, such persons shall be granted, by the appropriate government authorities, the same customs privileges and facilities as those granted to officials of comparable rank of any Specialized Agency of the United Nations in the HKSAR.

Article 15

Privileges, Immunities and Exemptions Granted to All Personnel of the Representative Office

All personnel of the Representative Office, regardless of nationality or permanent residence status, shall be immune from the jurisdiction of any HKSAR court or tribunal with respect to things done or omitted to be done while carrying out official Bank activities, including words spoken and writings, even when such persons are no longer employed by the Bank.

Article 16

Privileges, Immunities and Exemptions Granted to Personnel of the Representative Office Who Are neither Chinese Nationals nor HKSAR Permanent Residents

Personnel of the Representative Office together with their respective spouse and dependent children under the age of 21, who are neither Chinese nationals nor permanent residents of the HKSAR, shall:

- (a) be exempt from any obligation relating to national service or any kind in the HKSAR;
- (b) be afforded the same immigration facilities in relation to issue of visas as those granted by the Government to personnel of any Specialized Agency of the United Nations in the HKSAR, shall not be subject to any restriction on conditions of stay and shall not be subject 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;
- (c) with respect to exchange facilities and facilities for the transfer of assets and property in the HKSAR and abroad, enjoy the same privileges as those granted by

the Government to the personnel of any Specialized Agency of the United Nations in the HKSAR;

- (d) benefit from the same repatriation facilities as those granted by the Government to the personnel of any Specialized Agency of the United Nations in the HKSAR;
- (e) enjoy immunity from inspection or seizure of official baggage;
- (f) enjoy the same customs privileges and facilities as those granted by the Government to the personnel of comparable rank of any Specialized Agency of the United Nations in the HKSAR;
- (g) be exempt from any tax on salaries, fees, emoluments and allowances paid to them by the Bank; and
- (h) be exempt, at the time of payment, from any tax on capital payments, if any, paid to them by the Bank, including capital payments paid to them by way of indemnity for sickness or accident; income derived from such capital payments, as well as annuities and pensions paid to former personnel of the Bank, shall not be exempt from tax.

Article 17

National Service of Personnel of the Representative Office Who Are Permanent Residents of the HKSAR

If permanent residents of the HKSAR who are personnel of the Representative Office are, or become, subject to any military or other national service obligation, the appropriate authorities shall, on request of the Bank, grant dispensation or leave to the extent necessary to permit those persons to perform their functions for the Bank.

Article 18

Experts

1. Experts who are neither Chinese nationals nor permanent residents of the HKSAR and who carry out temporary missions for the Bank shall, in connection with their missions, be assimilated to the personnel of the Representative Office with respect to the privileges, immunities and exemptions specified in Articles 15 and 16 of this Agreement.
2. Experts who are Chinese nationals or permanent residents of the HKSAR and who carry out temporary missions for the Bank shall, in connection with their missions, enjoy the privileges, immunities and exemptions specified in Article 15 of this Agreement.

Article 19

Purpose of, Waiver of, and Exceptions to, Immunity

1. The privileges, immunities, exemptions, facilities, assurances and other rights referred to in this Agreement are solely granted to ensure, in all circumstances, the freedom of action of the Bank and the complete independence of persons performing official activities for the Bank, and are not granted for the personal benefit of those persons.
2. Without prejudice to the privileges and immunities conferred by this Agreement, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations in force in the HKSAR.
3. The President² of the Bank, or the General Manager of the Bank, or the Assistant General Manager³ of the Bank shall, if they consider that the immunity of any member of the personnel of the Representative Office or expert is being used to hinder the normal course of justice, and that it is possible to waive such immunity without prejudicing the interests of the Bank, waive that immunity.

4. Where immunity is not waived in accordance with this Article, the Bank shall do its best to ensure the satisfactory settlement of disputes involving any third party and any member of the personnel of the Representative Office or expert who, pursuant to Articles 14, 15, 16 or 18 benefits from immunity.

5. No person enjoying the privileges, immunities or exemptions referred to in this Agreement shall be immune from jurisdiction or, where applicable, from execution, in the event of legal proceedings against them with respect to damage occasioned by a motor vehicle in their ownership or control.

6. The Bank and the Government shall co-operate to facilitate the satisfactory administration of justice, to ensure the observance of police regulations, if any, and road traffic legislation in force in the HKSAR, and to prevent any abuse of the privileges, immunities, facilities and exemptions provided for in this Agreement.

III. General and Final Provisions

Article 20

Non-responsibility of the Government

The Government shall not, as a result of the Bank's activities in the HKSAR, assume any responsibility for any act or omission by the Bank or by its personnel.

Article 21

Security of the HKSAR

1. Nothing in this Agreement shall affect the right of the Government to apply any appropriate safeguard in the interests of the security of the HKSAR. If any such safeguard is considered necessary, the Government shall immediately contact the Bank to determine jointly with the Bank any appropriate measure to protect the interests of the Bank.

2. The Bank shall co-operate with the appropriate Government authorities to prevent any prejudice, as a result of any activity of the Representative Office, to the security of the HKSAR.

Article 22

Scope and Implementation

1. Unless otherwise provided, the provisions in this Agreement shall apply to the HKSAR only.

2. All commitments undertaken and privileges, immunities, exemptions, facilities, assurances and other rights provided for in this Agreement shall, as the case may be, apply to:

- (a) the Bank;
- (b) the Representative Office and any branch and any wholly owned subsidiary established and carrying out activities in the performance of the Bank's objects;
- (c) any investment fund or similar fund which is established and maintained by the Bank in the performance of the Bank's objects and which is wholly controlled by the Bank; and
- (d) subsidiaries of the Bank which are not wholly owned by the Bank but are carrying out activities in the performance of the Bank's objects, and which are approved by the Government for these purposes.

3. For the purpose of the implementation of this Agreement, the necessary administrative arrangements shall be made between the HKSAR Government and the Bank in the form of a memorandum of administrative arrangements.

4. Unless otherwise provided in this Agreement, the privileges and immunities conferred on the Bank by this Agreement shall be no less than those granted by the Government to the Specialized Agencies of the United Nations under the Convention on the Privileges and Immunities of the Specialized Agencies of 21st November, 1947.

Article 23

Settlement of Disputes

1. In case of any dispute arising from the interpretation or application of this Agreement, the Government and the Bank shall enter into consultations with a view to reaching an amicable settlement.
2. If any such dispute cannot be resolved in accordance with paragraph 1 of this Article, it shall be referred at the instigation of either party to the Arbitral Tribunal provided for in the Hague Agreement of 20th January 1930 for final settlement.

Article 24

Existing Privileges and Immunities

This Agreement shall in no way affect the privileges and immunities granted to the Bank pursuant to the Convention of 20th January 1930 respecting the Bank, the Constituent Charter and Statutes of the Bank, and the Brussels Protocol of 30th July 1936.

Article 25

Amendment

This Agreement may be amended at the request of either party. Following any such request, the parties shall jointly examine and agree to appropriate changes to the provisions of this Agreement.

Article 26

Termination

1. Either party may terminate this Agreement upon giving the other party one year's written notice of termination.
2. Relevant provisions of this Agreement shall continue to be applied after its termination for the time reasonably required

for the settlement of the affairs of the Bank and the disposal of its property in the HKSAR as well as for the repatriation of personnel from the HKSAR.

Article 27

Entry Into Force

This Agreement shall enter into force upon signature.

IN WITNESS WHEREOF, the undersigned, duly authorized respectively thereto by the Bank and the Government, have signed this Agreement.

Done in duplicate at Basle on 11th May 1998 in the English and Chinese languages, both texts being equally authentic.