

AGREEMENT ON JUDICIAL ASSISTANCE IN CIVIL AND COMMERCIAL
MATTERS AND CO-OPERATION IN ARBITRATION
BETWEEN
THE KINGDOM OF THAILAND
AND
THE PEOPLE'S REPUBLIC OF CHINA

The Kingdom of Thailand and the People's Republic of China (hereinafter referred to as "the two Contracting Parties"),

Desiring to strengthen the historical bonds of friendship between the two countries,

Realizing the advantage of promoting the co-operation in judicial and arbitration fields on the basis of mutual respect for sovereignty, equality and mutual benefit of the two countries,

Have agreed as follows:

Title I
Judicial Assistance

Chapter I
General Provisions

Article 1
Scope of Judicial Assistance

The two Contracting Parties agree to co-operate with each other in serving judicial documents and obtaining evidence in civil and commercial matters.

Article 2

Judicial Protection

1. Nationals of either Contracting Party shall enjoy the same judicial protection that the other Contracting Party grants to its nationals, and shall have free access in the territory of the other Contracting Party to the courts and may appear before them under the same conditions as nationals of the other Contracting Party.

2. The provisions of this Agreement referring to nationals of each Contracting Party, except Article 3, shall also apply to juristic persons constituted under the law of each Contracting Party and domiciled in its territory.

Article 3

Legal Aid and the Exemption of the Costs of Proceedings

1. Nationals of either Contracting Party shall enjoy in the territory of the other Contracting Party legal aid under the same conditions and within the same scope as provided for nationals of the other Contracting Party.

2. Nationals of either Contracting Party may enjoy in the territory of the other Contracting Party reduction or exemption of the costs of proceedings under the same conditions and within the same scope as provided for nationals of the other Contracting Party.

Article 4

Channels of Judicial Assistance

1. The judicial assistance shall be requested and rendered through the Central Authorities of the two Contracting Parties unless provided otherwise in this Agreement.

2. The Central Authority for the Kingdom of Thailand is the Ministry of Justice (Office of the Judicial Affairs) and the Central Authority for the People's Republic of China is the Ministry of Justice (Bureau of International Judicial Assistance).

Article 5

Language

1. The request and the Letter of Request shall be written in English. A translation into English or the official language of the requested Party of the accompanying documents must also be transmitted, together with the request or the Letter of Request to the Central Authority of the requested Party.

2. Such translation must be duly certified in accordance with the law and practice of the requesting Party. No legalization or other like formality is required.

Article 6

Fees and Expenses of Judicial Assistance

The execution of the request and the Letter of Request shall be free of charge except for the expert fees and expenses for the translation done in accordance with paragraph 2 of Article 17, if such translation is requested.

Chapter II
Service of Judicial Documents

Article 7

Making of Request

1. The Central Authority of the Contracting Party from which the documents originate shall forward the request to the Central Authority of the other Contracting Party without any requirement of legalization or other like formality.
2. The documents to be served or a copy thereof shall be attached to the request.
3. The request and the documents shall both be furnished in duplicate.

Article 8

Particulars of Request

The request shall be accompanied by related documents and shall specify the following particulars :

- (a) The title and address of the Court making the request;
- (b) The nature of the proceedings in which the service is required;
- (c) The names and addresses of the parties to the proceedings and their representatives, if any;
- (d) The name and address of the addressee;
- (e) Such information as may be necessary concerning the nature of the documents to be served and any requirement or specific form to be used.

Article 9

Execution of Request

1. The request duly made in accordance with the provisions of this Agreement shall be executed unless:
 - (a) The execution is impossible on account of absence of the person upon whom service is requested or on account of inability to locate such person or for any similar reason;
 - (b) The requested Party considers the execution of the request would be contrary to its public policy or prejudicial to its sovereignty or security.
2. If the request is not executed, the Central Authority of the requested Party shall as soon as possible inform the Central Authority of the requesting Party of the reason for failure to execute it.
3. The execution of the request for service of judicial documents shall be effected expeditiously in the manner prescribed by the law of the requested Party or in the manner specifically requested, provided that such manner is not incompatible with the law of the requested Party.
4. Proof of service of judicial documents shall be given by a certificate of the Central Authority of the requested Party stating that the documents have been served and specifying the manner and date of service together with a dated and signed receipt from the addressee, if any.

Article 10

Service of Documents by Diplomatic or Consular Agencies

Each Contracting Party shall have the right to serve judicial documents on its own nationals resident in the territory of the other Contracting Party through its diplomatic or consular agencies provided that the law of the other Contracting Party will not be violated and no compulsory measures of any kind will be taken.

Chapter III

Taking of Evidence

Article 11

Scope of Taking of Evidence

1. In civil or commercial matters, a Court of either Contracting Party may, in accordance with the provisions of the law of that Party, request the competent authority of the other Contracting Party, by means of a Letter of Request to obtain evidence.

2. The Letter of Request shall not be used to obtain evidence which is not intended for use in judicial proceedings.

Article 12

Particulars of Letter of Request

The Letter of Request shall be accompanied by related documents and shall specify the following particulars :

- (a) The title and address of the Court making the Letter of Request;
- (b) The nature of the proceedings in which the evidence is required;

- (c) The names and addresses of the parties to the proceedings and their representatives, if any;
- (d) The names and addresses of witnesses or addressees;
- (e) The documents or properties to be inspected;
- (f) Such information as may be necessary concerning the circumstances as to which evidence is to be taken, the questions to be put to the persons to be examined, and any requirement that the evidence is to be given on oath or affirmation or in any other specific manner.

Article 13

Notice and Right to be Present

1. In the execution of the Letter of Request, the Court or the Central Authority of the requested Party, shall, if so requested, give reasonable notice of the time and place of its intended taking of evidence to any person designated to this end by the Court issuing the request and to the Central Authority of the requesting Party.

2. In the taking of evidence, the parties to the proceedings or their representatives may be allowed to be present. Those parties and their representatives shall comply with the law of the requested Party when participating in the activities herein referred to.

Article 14

Execution of Letter of Request

The execution of the Letter of Request shall be effected expeditiously in the manner prescribed by the

law of the requested Party or in the manner specifically requested provided that such manner is not incompatible with the law of the requested Party.

Article 15

Privileges and Immunities of Witnesses

In the execution of the Letter of Request, the person concerned may refuse to give evidence in so far as he has privileges and immunities or duties to refuse to give evidence:

- (a) Under the law of the requested Party; or
- (b) Under the law of the requesting Party, and the privileges and immunities or duties have been specified in the Letter of Request, or, at the instance of the requested Central Authority, have been otherwise confirmed to that Authority by the requesting Central Authority.

Article 16

Refusal to Execute

1. The Letter of Request made in accordance with the provisions of this Agreement shall be executed unless:

- (a) The execution of the Letter of Request does not fall within the competence of the judiciary of the requested Party; or
- (b) The execution is impossible on account of absence of the person whose testimony is to be taken, or on account of inability to locate such person or for any similar reason; or

- (c) The requested Party considers the execution of the Letter of Request would be contrary to its public policy or prejudicial to its sovereignty or security.
2. The execution may not be refused, solely on the ground that under its internal law the requested Party claims exclusive jurisdiction over the subject-matter of the action or that its internal law does not admit a right of action on it.

Article 17

Certificate of Execution and Translation

1. The Central Authority of the requested Party shall transmit a certificate in English of the fact specifying the date and manner of the execution of the Letter of Request, together with any evidence obtained, to the Central Authority of the requesting Party.
2. The Central Authority of the requested Party shall, upon request, cause such record of testimony taken or documents obtained to be translated into English or the official language of the requesting Party.
3. Such translation must be duly certified. No legalization or other like formality is required.

Article 18

Exchange of Judicial Information

The two Contracting Parties shall transmit to each other on request, in accordance with the law of the requested Party, extracts from judicial records and legislation concerning the cases in which the nationals of the requesting Party are involved.

Title II
Co-operation in Arbitration

Article 19

Scope of Co-operation

1. The two Contracting Parties agree to promote arbitration as a means for the settlement of commercial and maritime disputes.

2. For the purpose of the first paragraph, the two Contracting Parties shall encourage the arbitration organizations in their respective territories to provide each other, on request, with information, list of arbitrators, facilities and convenience for arbitration proceedings.

Article 20

Recognition and Enforcement of Awards

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

Title III
Interpretation, Enforcement
and Revocation

Article 21

Settlement of Disputes

Any dispute arising out of the interpretation and execution of this Agreement shall be settled by consultation or negotiation through diplomatic channels.

Article 22

Ratification and Entry into Force

This Agreement is subject to ratification and the instruments of ratification shall be exchanged in BANGKOK

This Agreement shall enter into force 30 days after the exchange of the instruments of ratification.

Article 23

Termination

1. This Agreement shall remain in force until terminated by either Contracting Party giving one year prior written notice of its intention to the other Contracting Party through diplomatic channels.

2. The termination of this Agreement shall not prejudice any proceedings commenced prior to the date of such termination.

IN WITNESS WHEREOF, the undersigned, being duly authorized have signed this Agreement.

Done in duplicate at Beijing on the SIXTEENTH day of March, One Thousand Nine Hundred and Ninety Four in the Thai, Chinese and English languages, all the three texts being equally authentic. In case of divergence, the English text shall prevail.

FOR THE KINGDOM OF
THAILAND

FOR THE PEOPLE'S REPUBLIC OF
CHINA

