

**The Law of the People's Republic of China on
Foreign State Immunity**

(Adopted at the Fifth Meeting of the Standing Committee
of the Fourteenth National People's Congress on
September 1, 2023)

Article 1

This Law is enacted pursuant to the Constitution of the People's Republic of China to improve China's foreign state immunity system and define the jurisdiction of the courts of the People's Republic of China over civil cases involving a foreign State and its property with a view to protecting the lawful rights and interests of the parties concerned, safeguarding the sovereign equality of States, and promoting friendly exchanges with other countries.

Article 2

In this Law, a foreign State means:

1. a foreign sovereign State;
2. a State organ or a constituent part of a foreign sovereign State; or
3. an organization or an individual, authorized by a foreign sovereign State, that exercises sovereign authority and conducts activities in accordance with such authorization.

Article 3

Unless otherwise provided by this Law, a foreign State and its property enjoy immunity from the jurisdiction of the courts of the

People's Republic of China.

Article 4

A foreign State shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in proceedings instituted with regard to a particular matter or case if

it has expressly submitted to the jurisdiction of the courts of the People's Republic of China with regard to the matter or case:

1. in an international treaty;
2. in a written agreement;
3. in a written document filed with the court of the People's Republic of China handling the case;
4. in a written document submitted to the People's Republic of China through diplomatic or other channels; or
5. in other manner of express submission to the jurisdiction of the courts of the People's Republic of China.

Article 5

A foreign State shall be considered as having submitted to the jurisdiction of the courts of the People's Republic of China with regard to a particular matter or case if it has:

1. instituted proceedings in a court of the People's Republic of China as a plaintiff;

2. participated in proceedings before a court of the People's Republic of China as a defendant, and made a defense on the merits of the case or a counterclaim;
3. participated in proceedings before a court of the People's Republic of China as a third party; or
4. been counterclaimed on the basis of the same legal relationship or facts during proceedings it instituted as a plaintiff or in the claims it made as a third party before a court of the People's Republic of China.

Notwithstanding the provision of sub-paragraph 2 of the preceding paragraph, where a foreign State can prove that it could not have acquired knowledge of facts on which a claim to immunity can be based until after it made the defense, it can claim immunity within a reasonable period after it knew or ought to have known about those facts.

Article 6

A foreign State shall not be considered as having submitted to the jurisdiction of the courts of the People's Republic of China if:

1. it makes a defense for the sole purpose of claiming immunity;
2. its representative appears before a court of the People's Republic of China as a witness; or

3. it consents to the application of the law of the People's Republic of China to a particular matter or case.

Article 7

A foreign State shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in any proceedings arising out of a commercial activity between the foreign State and an organization or an individual of another State including the People's Republic of China, which takes place in the territory of the People's Republic of China, or takes place outside the territory of the People's Republic of China but causes a direct effect in the territory of the People's Republic of China.

In this Law, a commercial activity means any act of transaction of goods or services, investment, lending, or any other act of a commercial nature, which is not an exercise of sovereign authority. The courts of the People's Republic of China, in determining whether an act is a commercial activity, shall consider all factors relating to the nature and purpose of the act.

Article 8

A foreign State shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in any proceedings arising

out of a contract concluded by the foreign State for labor or services provided by an individual where the contract is performed, in whole or in part, in the territory of the People's Republic of China, except where:

1. the procurement of labor or services provided by the individual is for the purpose of performing specific functions in the exercise of sovereign authority of the foreign State;
2. the individual providing labor or services is a diplomatic agent, a consular officer, a staff of a representative office of an international organization in China enjoying immunity, or any other personnel enjoying the relevant immunity;
3. the individual providing labor or services, at the time when the proceedings are instituted, is a national of the foreign State and has no habitual residence in the territory of the People's Republic of China; or
4. the foreign State has agreed otherwise with the People's Republic of China.

Article 9

A foreign State shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in any proceedings for compensation arising out of personal injury or death or damage to or loss of movable or immovable property caused by the relevant conduct of the foreign State in the territory of the People's Republic of China.

Article 10

A foreign State shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in any proceedings concerning property matters in respect of:

1. any rights, interests or obligations of the foreign State in immovable property located in the territory of the People's Republic of China;
2. any rights, interests or obligations of the foreign State in movable or immovable property arising by way of gift, testamentary gift, succession or vacant succession; or
3. rights, interests or obligations of the foreign State in the management of trust property or bankruptcy estate, or in the liquidation process of a legal person or an unincorporated

organization.

Article 11

A foreign State shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in any proceedings concerning intellectual property matters in respect of:

1. the determination of ownership and related rights and interests in an intellectual property of the foreign State that is protected by the law of the People's Republic of China; or
2. the infringement by the foreign State, in the territory of the People's Republic of China, of an intellectual property and related rights and interests protected by the law of the People's Republic of China.

Article 12

If a foreign State

- has entered into an agreement in writing according to which a dispute arising out of a commercial activity between the foreign State and an organization or an individual of another State, including the People's Republic of China, is submitted to arbitration; or
- has agreed in an international investment treaty or otherwise in writing to submit an investment dispute between the foreign

State and an organization or an individual of another State, including the People's Republic of China, to arbitration, the foreign State shall not enjoy immunity from the jurisdiction of the courts of the People's Republic of China in the following matters which are subject to review by the courts:

1. the validity of the arbitration agreement;
2. the recognition and enforcement of the arbitration award;
3. setting aside of the arbitration award; or
4. other matters related to arbitration which are subject to review by the courts of the People's Republic of China as provided by the law.

Article 13

The property of a foreign State enjoys immunity from compulsory judicial measures in the courts of the People's Republic of China.

Submission by a foreign State to the jurisdiction of the courts of the People's Republic of China shall not be considered as its waiver of immunity from compulsory judicial measures.

Article 14

The property of a foreign State shall not enjoy immunity from compulsory judicial measures in the courts of the People's Republic

of China if:

1. the foreign State has expressly waived immunity from compulsory judicial measures by an international treaty, a written agreement, a written document filed with a court of the People's Republic of China, or other means;
2. the foreign State has allocated or earmarked the property for the enforcement of compulsory judicial measures; or
3. the compulsory judicial measures are taken to enforce a valid judgment or ruling rendered by a court of the People's Republic of China, and the property of the foreign State is located in the territory of the People's Republic of China, used for a commercial activity, and connected to the proceedings.

Article 15

The following property of a foreign State shall not be considered as property used for a commercial activity provided for in sub-paragraph 3 of Article 14 of this Law:

1. property, including bank account, of diplomatic missions, consular, posts, special missions, missions to international organizations, and delegations to international conferences, which is used for the performance of official functions or intended

for such use;

2. property of a military character, or property which is used for military purpose or intended for such use;
3. property of the central bank or a financial regulatory administration exercising central bank functions of a foreign State or of a regional economic integration organization, including cash, notes, bank deposits, securities, foreign exchange reserves, gold reserves, and the immovable property and other property of the central bank or a financial regulatory administration exercising central bank functions;
4. property which forms part of the cultural heritage or archives of a foreign State, and which is not placed or intended to be placed for sale;
5. object of scientific, cultural or historical value used for exhibition, which is not placed or intended to be placed for sale as property; and
6. other property which a court of the People's Republic of China considers as not being used for a commercial activity.

Article 16

Where there is no applicable provision in this Law, the civil procedure law and other relevant laws of the People's Republic of

China shall apply to the adjudication and enforcement proceedings of civil cases involving a foreign State and its property.

Article 17

The courts of the People's Republic of China shall effect service of writs of summons or such other litigation documents on a foreign State in accordance with:

1. the means specified in international treaties to which the foreign State and the People's Republic of China are contracting or acceding parties; or
2. other means accepted by the foreign State and not precluded by the law of the People's Republic of China.

Where the service cannot be effected by means specified in the preceding paragraph, service may be effected by transmitting a diplomatic note to the diplomatic authorities of the foreign State, and the service shall be deemed to have been effected on the date of the issuance of the diplomatic note.

The litigation documents served by means specified in the first and second paragraphs of this Article shall be accompanied by copies of their translation into the language stipulated in the international treaties to which the foreign State and the People's Republic of China are contracting or acceding parties, or, in the

absence of such treaties, into the official language of the foreign State.

When serving a copy of the statement of claim on a foreign State, the foreign State shall, at the same time, be notified to file a defense within three months from the date of receipt of the copy of the statement of claim.

A foreign State that filed a defense on the merits of the case in proceedings instituted against it shall not thereafter challenge the means by which the service of the litigation documents had been effected.

Article 18

If a foreign State on which the service of litigation documents is effected fails to appear before a court of the People's Republic of China within the time limit specified by the court, the court shall, on its own motion, find out whether the foreign State enjoys jurisdictional immunity. The court of the People's Republic of China may render a default judgment on a case involving a foreign State which does not enjoy immunity from the jurisdiction of the courts of the People's Republic of China six months after the date on which the service of the litigation documents is effected.

A default judgment rendered by a court of the People's Republic of

China against a foreign State shall be served in accordance with Article 17 of this Law.

The time limit for a foreign State to appeal a default judgment rendered by a court of the People's Republic of China is six months from the date on which the service of the judgment is effected.

Article 19

The courts of the People's Republic of China shall accept the certifying documents issued by the Ministry of Foreign Affairs of the People's Republic of China on the following questions of fact concerning acts of State:

1. whether the State involved in a case constitutes a foreign sovereign State as defined in sub-paragraph 1 of Article 2 of this Law;
2. whether and when the service of the diplomatic note specified in Article 17 of this Law is effected; and
3. other questions of fact concerning acts of State.

The Ministry of Foreign Affairs of the People's Republic of China may provide an opinion to the courts of the People's Republic of China on issues concerning major national interests such as foreign affairs other than those mentioned in the preceding paragraph.

Article 20

The provisions of this Law shall not affect the privileges and immunities enjoyed by diplomatic missions, consular posts, special missions, missions to international organizations, delegations to international conferences of a foreign State and members of the foregoing missions or delegations in accordance with the law of the People's Republic of China and the international treaties to which the People's Republic of China is a contracting or acceding party.

The provisions of this Law shall not affect the privileges and immunities enjoyed by heads of State, heads of government, foreign ministers and other officials of equivalent status of a foreign State in accordance with the law of the People's Republic of China, the international treaties to which the People's Republic of China is a contracting or acceding party, and international custom.

Article 21

If the immunity accorded by a State to the People's Republic of China and its property is less favorable than those provided by this Law, the People's Republic of China applies the principle of reciprocity.

Article 22

Where an international treaty to which the People's Republic of China is a contracting or acceding party provides otherwise, the provisions of the international treaty shall apply, with the exception of provisions on which the People's Republic of China has declared reservations.

Article 23

This Law shall come into force on January 1, 2024.