BỘ NGOẠI GIAO

BỘ NGOẠI GIAO	**CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM** **Độc lập - Tự do - Hạnh phúc**
Số: 42/2014/TB-LPQT	*Hà Nội, ngày 30 tháng 6 năm 2014*

THÔNG BÁO
Về việc điều ước quốc tế có hiệu lực

Thực hiện quy định tại Khoản 3, Điều 47 của Luật Ký kết, gia nhập và thực hiện điều ước quốc tế năm 2005, Bộ Ngoại giao trân trọng thông báo:

Hiệp định Nước chủ nhà giữa Chính phủ nước Cộng hòa xã hội chủ nghĩa Việt Nam và Tòa Trọng tài thường trực, ký tại Hà Nội ngày 23 tháng 6 năm 2014, có hiệu lực kể từ ngày 23 tháng 6 năm 2014.

Bộ Ngoại giao trân trọng gửi bản sao Hiệp định theo quy định tại Điều 68 của Luật nêu trên (kèm bản dịch tiếng Việt để tham khảo)./.

TL. BỘ TRƯỞNG
KT. VỤ TRƯỞNG
VỤ LUẬT PHÁP VÀ ĐIỀU ƯỚC QUỐC TẾ
PHÓ VỤ TRƯỞNG

Nguyễn Văn Ngự

HOST COUNTRY AGREEMENT

BETWEEN

THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIET NAM

AND

THE PERMANENT COURT OF ARBITRATION

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Preamble

The Government of the Socialist Republic of Viet Nam (hereinafter referred to as the "Government"), and the Permanent Court of Arbitration (hereinafter referred to as the "PCA" and together, "the Parties"),

CONSIDERING THAT:

International arbitration is a preferred means for the peaceful resolution of international disputes;

The PCA was established by the 1899 Convention for the Pacific Settlement of International Disputes (the "1899 Convention") at the first Hague Peace Conference, which was convened "with the object of seeking the most objective means of ensuring to all peoples the benefits of a real and lasting peace";

The 1899 Convention was revised by the 1907 Convention for the Pacific Settlement of International Disputes (the "1907 Convention"), adopted at the second Hague Peace Conference;

In the 1899 and 1907 Conventions, the Contracting Parties undertook to maintain the PCA accessible at all times, as a global institution for the settlement of international disputes through third-party intervention;

To further the objectives of the 1899 and 1907 Conventions, it is material that Member States in all regions of the world enjoy access to international dispute resolution services provided by the PCA;

The Socialist Republic of Viet Nam became a Contracting Party to the 1899 Convention on December 29, 2011, and to the 1907 Convention on February 27, 2012; and

The Secretary-General of the PCA has invited the Socialist Republic of Viet Nam to become a host country for arbitration, mediation, conciliation, and fact-finding commissions of inquiry administered by the PCA; and the Government has accepted the invitation of the Secretary-General of the PCA;

HAVE AGREED AS FOLLOWS:

Article 1 – Definitions

For the purposes of the present Agreement:

(1) "Appropriate Authority", within the meaning of Article 11 of this Agreement, shall mean such central, local or other authorities of the Socialist Republic of Viet Nam as may be appropriate in the context of the relevant provisions of this Agreement and in accordance with the laws and regulations applicable in the Socialist Republic of Viet Nam;

(2) "International Bureau" shall mean the International Bureau of the PCA;

(3) "members of the family" shall mean spouse or the person living together as spouse, and children under 18 years old;

(4) "Ministry of Foreign Affairs" shall mean the Ministry of Foreign Affairs of the Socialist Republic of Viet Nam;

(5) "Officials of the PCA" shall mean the Secretary-General and all members of the staff of the International Bureau;

(6) "Participant in Proceedings" shall mean any counsel, party, agent, or other party representative, witness, expert, as well as any interpreters, translators, or court reporters taking part in a hearing, meeting, or other activity in relation to PCA Proceedings;

(7) "PCA Adjudicator" shall mean any arbitrator, mediator, conciliator, or member of a commission of inquiry taking part in a hearing, meeting, or other activity in relation to PCA Proceedings;

(8) "PCA Meeting" shall mean any meeting, including hearings in the context of PCA Proceedings and conferences, convened by the PCA;

(9) "PCA Proceedings" shall mean any dispute resolution proceedings administered by or under the auspices of the PCA, whether or not pursuant to the 1899 or 1907 Convention or any of the PCA's optional rules of procedure;

(10) "property" mentioned in this Agreement shall not consist of immovable property;

(11) "personnel of the Government" shall mean any person assigned by the Government to assist in the conduct of any PCA Proceedings or PCA Meeting in the Socialist Republic of Viet Nam;

(12) "Secretary-General" shall mean the head of the International Bureau; and

(13) "UN Convention" shall mean the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946.

Article 2 – Legal Capacity

The PCA shall have the legal capacity necessary to conduct its peaceful resolution of international disputes through arbitration, mediation, conciliation, and fact-finding commissions of inquiry and in providing other appropriate assistance regarding its peaceful resolution of international disputes in the Socialist Republic of Viet Nam to governments, inter-governmental organizations, and other entities, as well as activities of cooperation in the Socialist Republic of Viet Nam in accordance with the provisions of this Agreement.

Article 3 – Cooperation

(1) The Socialist Republic of Viet Nam shall be a host country for the PCA. As a host country, the Government shall strive to facilitate the work of the PCA in the peaceful resolution of international disputes through arbitration, mediation, conciliation, and fact-finding commissions of inquiry and in providing other appropriate assistance regarding its peaceful resolution of international disputes in the Socialist Republic of Viet Nam to governments, inter-governmental organizations, and other entities.

(2) The Government shall make available, on an as-needed basis and at no cost to the PCA, such office and meeting space (including all public utilities therefor) and such secretarial services as may reasonably be deemed necessary by the Secretary-General or other Officials of the PCA for activities

undertaken in connection with PCA Proceedings, as well as for PCA Meetings, in the Socialist Republic of Viet Nam.

(3) In making office or meeting space available to the PCA under the terms of paragraph (2) of this Article, the Government shall make available, at no cost to the PCA, the means for such telephonic, fax, internet, or other communications as may reasonably be deemed necessary by Secretary-General or other Officials of the PCA.

Article 4 – Point of Contact

(1) On the part of the Government, the Ministry of Foreign Affairs shall coordinate on behalf of the Government all issues that may arise with respect to implementation of this Agreement.

(2) On the part of the PCA, the Deputy Secretary-General shall serve as the principal point of contact with the Government.

Article 5– Privileges and Immunities of the PCA

(1) The PCA, its property and assets, located in the territory of the Socialist Republic of Viet Nam and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

(2) The archives of the PCA, and in general all documents belonging to it or held by it in the territory of the Socialist Republic of Viet Nam, shall be inviolable.

(3) The PCA, its assets, income and other property shall be:

(a) exempt from all direct taxes; it is understood, however, that the PCA will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

(b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the PCA for its official use. It is understood, however, that articles imported under such exemption will not be sold in the Socialist Republic of Viet Nam except under conditions agreed with the Government; and

(c) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications. It is understood, however, that publications imported under such exemption will not be sold in the Socialist Republic of Viet Nam except under conditions agreed with the Government.

(4) While the PCA will not, as a general rule, claim exemption from excise duties and from taxes on the sale of property which form part of the price to be paid, nevertheless when the PCA is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, the Government will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

(5) The Government shall permit and protect free communication on the part of the PCA for all official purposes (including communication by Officials of the PCA and PCA Adjudicators with the PCA or in relation to PCA Proceedings). The PCA shall enjoy in the territory of the Socialist Republic of Viet Nam for its official communications treatment not less favorable than that accorded by the Government to the United Nations in Viet Nam in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephones and other communications; and press rates for information to the press and radio.

(6) The official correspondence of the PCA (including by Officials of the PCA and PCA Adjudicators with the PCA or in relation to PCA Proceedings) shall be inviolable. The PCA shall have the right to use codes and to dispatch and receive its papers or correspondence by courier or in bags, which shall be subject to the same privileges and immunities as diplomatic couriers and bags.

Article 6 – Privileges and Immunities of Officials of the PCA and PCA Adjudicators

(1) Officials of the PCA and PCA Adjudicators shall enjoy, *mutatis mutandis*, the same immunities and privileges as the Government accords to the officials of the United Nations pursuant to the UN Convention. In according privileges and immunities pursuant to this Article, the Government shall not discriminate based on the nationality of Officials of the PCA or PCA Adjudicators.

(2) Notwithstanding the preceding paragraph, the privileges and immunities accorded by the Government to all Officials of the PCA and PCA Adjudicators shall in no event include less than:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) immunity from legal process of every kind in respect of words spoken or written and acts done by them in the course of the discharge of their duties in connection with the PCA; such immunity shall continue to be accorded even after the person has ceased to exercise his or her functions in connection with the PCA;

(c) inviolability for all papers and documents;

(d) the same privileges and facilities in respect of currency and exchange as are accorded to the officials of the United Nations in Viet Nam;

(e) the same immunities and facilities in respect of their personal baggage as are accorded to the officials of the United Nations in Viet Nam;

(f) exemption from taxation on any fees, salaries, and emoluments paid to them by the PCA;

(g) immunity from national service obligations;

(h) together with the members of their families living with them into a household, the same privileges in respect of entry and procedures to register residence for foreigners as the officials of the United Nations in Viet Nam;

(i) together with the members of their families living with them into a household, the same repatriation facilities in time of international crises as the officials of the United Nations in Viet Nam; and

(j) the same right to import free of duty their furniture and effects at the time of first taking up their post in the Socialist Republic of Viet Nam as the officials of the United Nations in Viet Nam.

(3) Officials of the PCA or PCA Adjudicators who are Vietnamese nationals or permanent residents shall be entitled only to the immunities spelt out in paragraphs (2)(a) and (b) of this Article.

Article 7 – Immunity of Personnel of the Government

Personnel of the Government shall enjoy immunity from legal process in respect of words spoken or written and any act performed by them in their official capacity in connection with the work of the PCA. Such immunity shall continue to be accorded even after the person has ceased to exercise his or her functions in connection with the PCA.

Article 8 – Privileges and Immunities of Participants in Proceedings

(1) During the period of their missions, Participants in Proceedings shall be accorded the following privileges and immunities necessary for the independent exercise of their functions:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their participation in PCA Proceedings. This immunity shall continue to be accorded even after the person has ceased to participate in PCA Proceedings;

(c) inviolability of documents and papers;

(d) the right to receive papers or correspondence by courier or in sealed bags; and

(e) repatriation facilities in time of international crises.

(2) Participants in Proceedings who are Vietnamese nationals or permanent residents shall only be entitled to the immunities spelt out in paragraph 1(b) of this Article.

Article 9 – Acquisition and Waiver of Privileges and Immunities

(1) Officials of the PCA and PCA Adjudicators shall be entitled to privileges and immunities from the moment when they enter the Socialist Republic of Viet Nam to conduct their official duties or when the Government is informed

by the PCA of the list of Officials of the PCA and PCA Adjudicators appointed to conduct their official duties in the Socialist Republic of Viet Nam if they are present in the Socialist Republic of Viet Nam, and such privileges and immunities shall cease at the moment when the Officials of the PCA and PCA Adjudicators leave the Socialist Republic of Viet Nam or when they have completed their official duties if they are nationals or permanent residents of Viet Nam, except as otherwise provided in this Agreement. The PCA shall inform the Government of the list of Officials of the PCA and PCA Adjudicators appointed to conduct their official duties in the Socialist Republic of Viet Nam, the members of their families living with them into a household, their arrival and final departure.

(2) When an Official of the PCA or PCA Adjudicator will be present to conduct their official duties in the Socialist Republic of Viet Nam, or may have need to invoke privileges and immunities under this Agreement, a certification of the status of such person shall be provided to the Government under the signature of the Secretary-General.

(3) When personnel of the Government are assigned to assist in the conduct of PCA Proceedings in the Socialist Republic of Viet Nam, they shall enjoy immunities under this Agreement from the moment of their assignment.

(4) Upon receipt of notification from parties to PCA Proceedings as to the appointment of a Participant in Proceedings, a certification of the status of such person shall be provided to the Government under the signature of an Official of the PCA. The Government shall accord the privileges and immunities provided for in Article 8 upon receiving this certification if the Participants in Proceedings are present in the Socialist Republic of Viet Nam or from the moment when they enter the Socialist Republic of Viet Nam to conduct their official duties. Such privileges and immunities shall cease at the moment when the Participants in Proceedings leave the Socialist Republic of Viet Nam or when they have completed their official duties if they are nationals or permanent residents of Viet Nam, except as otherwise provided in this Agreement.

(5) Whenever a determination is required as to whether a person enjoys status under this agreement entitling him or her to privileges and immunities, or of whether words or acts are connected to the discharge of that person's official duties, such determination shall be made by the competent authority.

(6) The privileges and immunities provided for in Articles 6 to 8 of this Agreement are granted in the interests of the good administration of justice and not for the personal benefit of the individuals themselves. The competent

authority has the right and the duty to waive the immunity in any case where, in the opinion of such authority, the immunity would impede the course of justice and can be waived without prejudice to the interests of the PCA or to any PCA Proceedings in connection with which those privileges and immunities are granted.

(7) For the purposes of this Article, the competent authority shall be:

(a) in the case of PCA Adjudicators and Officials of the PCA (other than the Secretary-General), the Secretary General;

(b) in the case of the Secretary-General, the Administrative Council of the PCA;

(c) in the case of personnel of the Government, the Government;

(d) in the case of Participants in Proceedings representing or designated by a State which is a party to the relevant PCA Proceedings, that State; and

(e) in the case of other individuals appearing at the instance of a party to PCA Proceedings, the Secretary-General.

Article 10 – Abuse of Privileges and Immunities

(1) Without prejudice to the privileges and immunities provided for in Articles 6 to 8 of this Agreement, the individuals referred to in those Articles shall observe the laws and regulations of the Socialist Republic of Viet Nam, and they shall not interfere in the internal affairs, abuse the title of the PCA to have an act harmful to the security, politics, independence, sovereignty and territorial integrity of the Socialist Republic of Viet Nam.

(2) The Secretary-General shall take every precaution to ensure that no abuse of the privileges and immunities provided for in Articles 6 to 8 of this Agreement shall occur. If the Government considers that there has been abuse of a privilege or immunity provided for in Articles 6 to 8 of this Agreement, the Secretary-General shall, when so requested, enter into consultations with the relevant authorities of the Socialist Republic of Viet Nam to determine whether such abuse has occurred. If the consultations fail to achieve a result satisfactory to the Government and to the Secretary-General, the matter shall be resolved according to the procedures established in Article 15 of this Agreement.

(3) In case of abuse of the privileges and immunities committed by the individuals referred to in Articles 6 to 8 in the course of activities carried out in the Socialist Republic of Viet Nam outside of their official duties, the Government may require these individuals to leave the Socialist Republic of Viet Nam, provided that:

(a) in the case of persons entitled to privileges and immunities as well as exemptions and facilities under Article 6, they shall not be required to leave the Socialist Republic of Viet Nam otherwise than according to the diplomatic procedure applicable to diplomatic envoys accredited to the Socialist Republic of Viet Nam; and

(b) in the case of all other individuals to whom Article 6 is not applicable, no order to leave the Socialist Republic of Viet Nam shall be issued unless the Ministry of Foreign Affairs has approved it and the Secretary-General has been notified beforehand.

(4) Paragraph (3) of this Article does not apply to persons who are nationals or permanent residents of Viet Nam.

Article 11 – Security

(1) The Government shall take all appropriate steps to protect PCA Proceedings and Meetings conducted in the Socialist Republic of Viet Nam. The Appropriate Authorities shall ensure the security and tranquility of PCA Proceedings and Meetings and protect against any intrusion, disturbance of the peace, or impairment of the dignity of PCA Proceedings and Meetings. As may be required for the purpose, the Appropriate Authorities shall provide adequate physical protection on the boundaries and in the vicinity of any office or meeting space provided to the PCA. In all cases, security arrangements shall be made in consultation with the Secretary-General or an Official of the PCA designated as his representative.

(2) The Government shall treat PCA Adjudicators and their partners, Officials of the PCA and their partners, Participants in Proceedings, and other persons attending PCA Meetings with due respect and shall take all appropriate steps to prevent any attack on their person, freedom, or dignity. As may be required for the purpose, to be determined in consultation with the Secretary-General or an Official of the PCA designated as his representative, the Appropriate Authorities shall provide adequate physical protection for such persons during

their travel within and sojourn in the territory of the Socialist Republic of Viet Nam.

Article 12 – Entry into Host Country and Facilitation of Travel

(1) The Government shall take all reasonable measures to facilitate and allow the entry into and sojourn in the territory of the Socialist Republic of Viet Nam of those non-residents and non-nationals of the Socialist Republic of Viet Nam who enter as PCA Adjudicators, Officials of the PCA, or the members of their families, Participants in Proceedings, and other persons attending PCA Meetings.

(2) The Government shall take all reasonable measures to ensure that any visas which may be required for any of the persons referred to in paragraph 1 are issued as promptly as possible, and without charge, in order to allow the timely conduct of official business pertaining to the PCA.

(3) No activity performed by any person referred to in paragraph 1 performed in his capacity with respect to the PCA shall constitute a reason for preventing his or her entry into or departure from the territory of the Socialist Republic of Viet Nam or for requiring him or her to leave such territory.

(4) Subject to its laws and regulations concerning zones into which entry is prohibited or regulated for reasons of national security, the Government shall ensure freedom of movement and travel in its territory to the persons referred to in paragraph 1. As may be required for the purpose, to be determined in consultation with the Secretary-General or an Official of the PCA designated as his representative, the Government shall make available appropriate transportation to enable such persons to attend any PCA Proceeding or Meeting.

Article 13 – Regional Cooperation

The Government recognizes the importance of regional cooperation for the effective settlement of international and regional disputes. The Government shall therefore communicate the existence of the facilities designated pursuant to this Agreement to the competent officials in other countries of the same region and encourage their use for PCA Proceedings.

Article 14 – International Responsibility

The Government shall not incur any international responsibility for acts or omissions of the PCA or of Officials of the PCA acting or abstaining from acting within the scope of their functions, other than the international responsibility that may arise from the fact that the Socialist Republic of Viet Nam is a Contracting Party to the 1899 and 1907 Conventions.

Article 15 – Dispute Settlement

(1) Any dispute among the Parties to the present Agreement that is not settled by negotiation shall be settled by final and binding arbitration in accordance with the Permanent Court of Arbitration–Optional Rules for Arbitration Involving International Organizations and States (the "Rules"), as in force on the date of signature of this Agreement. The number of arbitrators shall be one. The appointing authority shall be the President of the International Court of Justice.

(2) In any such arbitration proceedings, the registry, archive, and secretariat services of the PCA, referred to in Article 1, paragraph 3, and Article 25, paragraph 3, of the Rules, will not be available, and the PCA shall not be empowered to request, hold, or disburse deposits of costs as provided for in Article 41, paragraph 1, of the Rules.

Article 16 – Final Provisions

(1) This Agreement shall enter into force on the date of signature.

(2) At the request of the Government or the PCA, consultations shall be entered into with respect to the modification of the present Agreement. Any such modifications shall be made by consent of both Parties to the Agreement.

(3) This Agreement may be terminated:

(a) by mutual consent of the PCA and the Government; or

(b) by either Party by giving notice to the other Party at least one year in advance of the effective date of termination.

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

Done in Ha Noi, Viet Nam, on June 23, 2014, only in English, in two authentic copies.

FOR THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIET NAM

Ho Xuan Son
First Vice Minister of Foreign Affairs

FOR THE PERMANENT COURT OF ARBITRATION

Hugo H. Siblesz
Secretary-General