

No. 32371

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**UNITED NATIONS  
(UNITED NATIONS HIGH  
COMMISSIONER FOR REFUGEES)  
and  
CHINA**

**Agreement on the upgrading of the UNHCR Mission in the  
People's Republic of China to UNHCR branch office in  
the People's Republic of China. Signed at Geneva on  
1 December 1995**

*Authentic texts: English and Chinese.*

*Registered ex officio on 1 December 1995.*

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**ORGANISATION DES NATIONS UNIES  
(HAUT COMMISSARIAT  
DES NATIONS UNIES POUR LES RÉFUGIÉS)  
et  
CHINE**

**Accord relatif au reclassement de la Mission du HCR en  
République populaire de Chine en délégation du HCR en  
République populaire de Chine. Signé à Genève le  
1<sup>er</sup> décembre 1995**

*Textes authentiques : anglais et chinois.*

*Enregistré d'office le 1<sup>er</sup> décembre 1995.*

AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE PEOPLE'S  
REPUBLIC OF CHINA AND THE OFFICE OF THE UNITED  
NATIONS HIGH COMMISSIONER FOR REFUGEES ON THE  
UPGRADING OF THE UNHCR MISSION IN THE PEOPLE'S  
REPUBLIC OF CHINA TO UNHCR BRANCH OFFICE IN THE  
PEOPLE'S REPUBLIC OF CHINA

**WHEREAS** the Office of the United Nations High Commissioner for Refugees was established in accordance with the United Nations General Assembly Resolution 319(IV) of 3 December 1949,<sup>2</sup>

**WHEREAS** the Statute of the Office of the United Nations High Commissioner for Refugees, adopted through the United Nations General Assembly in its resolution 428(V) of 14 December 1950,<sup>3</sup> provides, *inter alia*, that the High Commissioner, acting under the authority of the General Assembly, shall assume the function of providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the statute and of seeking permanent solutions for the problem of refugees by assisting governments and, subject to the approval of the governments concerned, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities,

**WHEREAS** the Office of the United Nations High Commissioner for Refugees, a subsidiary organ established by the General Assembly pursuant to Article 22 of the Charter of the United Nations, is an integral part of the United Nations which should enjoy the status, privileges and immunities as provided for in the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946,<sup>4</sup>

**WHEREAS** the Government of the People's Republic of China is a party signatory to the 1951 Convention Relating to the Status of Refugees<sup>5</sup> and its 1967 Protocol,<sup>6</sup>

**WHEREAS** the Government of the People's Republic of China and the Office of the United Nations High Commissioner for Refugees wish to establish the

<sup>1</sup> Came into force on 1 December 1995 by signature, in accordance with article XVII (1).

<sup>2</sup> United Nations, *Official Records of the General Assembly, Fourth Session (A/1251)*, p. 36.

<sup>3</sup> *Ibid.*, *Fifth Session, Supplement No. 20 (A/1775)*, p. 46.

<sup>4</sup> *Ibid.*, *Treaty Series*, vol. 1, p. 15 and vol. 90, p. 327 (corrigendum to vol. 1, p. 18).

<sup>5</sup> *Ibid.*, vol. 189, p. 137.

<sup>6</sup> *Ibid.*, vol. 606, p. 267.

terms and conditions under which the Office of the United Nations High Commissioner for refugees shall establish a branch office to replace the present UNHCR Mission in the People's Republic of China,

**NOW**, the Government of the People's Republic of China and the Office of the United Nations High Commissioner for Refugees have entered into this Agreement in the spirit of conducting friendly cooperation.

## **ARTICLE I. DEFINITIONS**

For the purpose of this Agreement, the following definitions shall apply:

1. "Host Country" or "Country" means the People's Republic of China,
2. "Government" means the Government of the People's Republic of China,
3. "UNHCR" means the Office of the United Nations High Commissioner for Refugees,
4. "High Commissioner" means the United Nations High Commissioner for Refugees or the Acting High Commissioner,
5. "Parties" means the Government and UNHCR,
6. "Convention" means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946,
7. "UNHCR Office" means all the Offices and premises, installations and facilities occupied or maintained by the UNHCR Branch Office in the country,
8. "UNHCR Representative" means the chief UNHCR official of the UNHCR Office in the country,
9. "UNHCR officials" means all the staff members of UNHCR employed under the Staff Regulations and Rules of the United Nations, except those who are recruited locally and paid by the hour as provided for in the General Assembly resolution 76(I),<sup>1</sup>

<sup>1</sup> United Nations, *Official Records of the General Assembly, First Session, second part (A/64/Add.1)*, p. 139.

10. "Experts on mission" means individuals undertaking missions for UNHCR other than UNHCR officials,
11. "UNHCR personnel" means UNHCR officials and experts on mission.

## **ARTICLE II. PURPOSE OF THIS AGREEMENT**

This Agreement provides for the basic conditions under which UNHCR shall, within its mandate, cooperate with the Government, upgrade its mission in the country to a branch office, and perform the function of international protection and humanitarian assistance in the interest of refugees in the host country.

## **ARTICLE III. COOPERATION BETWEEN THE GOVERNMENT AND UNHCR**

1. Cooperation between the Government and UNHCR in the field of international protection of and humanitarian assistance to refugees shall be carried out on the basis of the Statute of UNHCR, other relevant decisions and resolutions adopted by United Nations, article 35 of the Convention Relating to the Status of Refugees of 1951 and article 2 of the Protocol Relating to the Status of Refugees of 1967.

2. Full respect for the state sovereignty of the People's Republic of China is the essential basic principle of all stipulations in this Agreement.

3. The UNHCR office shall maintain consultations and cooperation with the Government with respect to the preparation and review of projects for refugees.

4. For any UNHCR-funded projects to be implemented by the Government, the terms and conditions including the commitments made by the Government and the High Commissioner to the furnishing of funds, daily necessities, equipment and services or other assistance to refugees, shall be set forth in project agreements to be signed by the Government and UNHCR.

5. In consultation and cooperation with the Government, UNHCR personnel may at all times have unimpeded access to refugees and to the sites of UNHCR projects in order to monitor all phases of their implementation.

#### ARTICLE IV. UNHCR OFFICE

1. The Government welcomes the fact that UNHCR upgrades its mission in Beijing, capital of the country, to a branch office, for the purpose of providing international protection and humanitarian assistance to refugees in the host country.
2. The UNHCR Branch Office shall fulfil its functions in accordance with UNHCR's mandate, and besides, it will continue to carry out the mandate of the former UNHCR Mission, namely, to assist the Government in the settlement of the Indo-Chinese refugees in the country, and where possible, assist and promote their voluntary repatriation.
3. UNHCR may designate, with the consent of the Government, the UNHCR office in the country to serve as a regional office and the Government shall be notified in writing of the number and level of the officials assigned to it.
4. The UNHCR office will exercise functions as assigned by the High commissioner, in relation to her mandate for refugees, including the establishment of relations between UNHCR and non-governmental organizations legally registered in the country relevant to its work with the permission of the Government.
5. The UNHCR office shall establish contacts with the relevant departments of the Government, and notify the latter of relevant UNHCR policies, guidelines and procedures as well as other United Nations humanitarian actions and programmes.

#### ARTICLE V. UNHCR PERSONNEL

1. UNHCR may, with the consent of the Government, increase UNHCR officials or experts on mission assigned to the UNHCR office in the country as UNHCR deems it necessary for carrying out its functions of international protection and humanitarian assistance more effectively.
2. UNHCR may dispatch officials to visit the country for the purpose of consulting and cooperating with the corresponding officials of the Government or other parties involved in the refugee work in connection with:  
(a) the review, preparation, monitoring and evaluation of international protection and humanitarian assistance programmes; (b) the shipment,

receipt, distribution or use of the daily necessities, equipment, and other materials supplied by UNHCR; (c) seeking permanent solutions to the problem of refugees; and (d) any other matters relating to the application of this Agreement.

## **ARTICLE VI. FACILITIES FOR IMPLEMENTATION OF UNHCR HUMANITARIAN PROGRAMMES**

1. The Government, in agreement with UNHCR, shall grant UNHCR officials and experts on mission facilities necessary for the speedy and efficient execution of UNHCR humanitarian programmes for refugees in the country.
2. The Government, in agreement with UNHCR, shall assist the UNHCR officials in finding appropriate office premises.
3. The Government shall ensure that the UNHCR office is at all times supplied with the necessary utility services, and that such services are supplied on equitable terms.
4. The Government shall take the necessary measures to ensure the security and protection of the premises of the UNHCR office and its personnel.
5. The Government shall provide facilities to UNHCR personnel recruited internationally in their efforts to find suitable housing accommodation.

## **ARTICLE VII. PRIVILEGES AND IMMUNITIES**

1. The Government shall apply to UNHCR, its property, funds and assets, and to its officials the relevant provisions of the Convention on the Privileges and Immunities of the United Nations to which the Government became a party on 11 September 1979.<sup>1</sup>
2. Without prejudice to paragraph 1 of this Article and without contravening the law and regulations of the host country, the Government shall in particular extend to UNHCR the privileges, immunities, rights and facilities provided for in Articles VIII to XIV of this Agreement.

<sup>1</sup> United Nations, *Treaty Series*, vol. 1144, p. 302.

**ARTICLE VIII PROPERTIES AND FUNDS OF UNHCR OFFICE**

1. UNHCR, its properties and funds, wherever they are located and whoever holds them, shall be immune from legal process of whatever form, except in special cases for which it has expressly waived its immunity.
2. The premises of UNHCR office shall be inviolable. Its properties and funds, wherever they are located and whoever keeps them, shall be immune from search, requisition, confiscation, and any other form of interference, whether by executive, judicial or legislative action.
3. The archives of UNHCR, and all the documents belonging to or held by it, shall be inviolable.
4. For the funds, assets, income and other properties of UNHCR:
  - (a) The articles imported by UNHCR for its direct official use shall be exempt from customs duties and other taxation in accordance with the relevant regulations of the Government.
  - (b) The import and export of formal UNHCR publications shall be exempt from customs duties and other related import taxation, and shall not be prohibited or restricted.
5. Any materials imported or exported by UNHCR, by national or international bodies duly entrusted by UNHCR to act on its behalf in connection with humanitarian assistance for refugees, shall not be prohibited or restricted and shall be exempt from all customs duties and other related import taxation.
6. UNHCR shall enjoy the most favourable legal rate of exchange.

**ARTICLE IX. COMMUNICATION FACILITIES**

1. UNHCR shall enjoy, in respect of its official communications, the same favourable treatment as that has been accorded by the Government to other intergovernmental and international organizations.
2. The Government shall ensure the inviolability of the official communications and correspondence of UNHCR and shall not apply any censorship to its communications and correspondence.

3. UNHCR shall have the right to use codes and to despatch and receive correspondence by courier or in sealed bags which shall have the same privileges and immunities as diplomatic couriers and bags.

4. UNHCR shall have the right to operate radio and other communications equipment, on UN registered frequencies, and those allocated by the Government, between its offices, within and outside the country, and in particular with UNHCR Headquarters in Geneva.

## ARTICLE X. UNHCR OFFICIALS

1. All UNHCR Professionals above the grade of P2, who are not citizens of the country, shall enjoy, while in the country, the following facilities, privileges and immunities:

- (a) Immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
- (b) Immunity from inspection and seizure of their official articles;
- (c) Immunity from military service or any other obligations;
- (d) Exemption from taxation in respect of the salaries and all other remunerations paid to them by UNHCR;
- (e) Processing and issuance, free of charge, of visas to or from the country, and of licenses or work permits, if required, and free movement to or within the cities and regions of the country open to foreigners, to the extent necessary for the carrying out of UNHCR international protection and humanitarian assistance programmes;
- (f) Freedom to hold or keep within the country, foreign exchange, foreign currency accounts and movable property and the right upon termination of employment with UNHCR to take out of the host country their lawful possessions with good reasons;
- (g) The same protection and repatriation facilities with respect to themselves, their spouses and their minor children in time of international crises as are accorded to diplomatic envoys;



- (h) **The right to import duty-free articles and household necessities for their personal use within the quantity of direct needs, including motor vehicles in keeping with the relevant regulations of the country.**

**2. UNHCR administrative and technical staff members shall enjoy the privileges and immunities provided for in the above-mentioned X. 1.(h)., when importing household necessities, including motor vehicles in keeping with relevant regulations of the host country within six months of their arrival.**

## **ARTICLE XI. EXPERTS ON MISSION**

**Experts above the grade of P2, who are not citizens of the country, performing mission for UNHCR shall be accorded such facilities, privileges and immunities as are necessary for the independent exercise of their functions. In particular they shall be accorded:**

- 1. Immunity from personal arrest or detention;**
- 2. Immunity from legal process of words spoken or written and acts done by them in the course of the performance of their mission;**
- 3. The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;**
- 4. The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.**

## **ARTICLE XII. NOTIFICATION**

- 1. UNHCR shall notify the Government in advance or in time, of the names and positions of members of the UNHCR office in the host country and their dependents, of the names and positions of the experts on mission, and of changes in, i.e. the status of, such individuals.**
- 2. The Government shall provide a special identity card to UNHCR officials and experts on mission and their dependents to certify their status pursuant to this Agreement.**

### **ARTICLE XIII. WAIVER OF IMMUNITY**

Privileges and immunities are granted to UNHCR personnel in the interests of the UNHCR and not for the personal benefit of the individuals concerned. The Secretary-General of the United Nations may waive the immunity of any of UNHCR personnel in any case where, in his opinion, the immunity would impede the course of justice and its waiver would not prejudice the interests of UNHCR.

### **ARTICLE XIV. ABUSE OF PRIVILEGES AND IMMUNITIES**

UNHCR shall take measures to ensure that the privileges and immunities provided for in this Agreement not be abused, and shall conduct immediate consultations with the Government in case of abuse.

### **ARTICLE XV. OBSERVANCE OF LAWS OF THE HOST COUNTRY**

UNHCR personnel enjoying privileges and immunities shall have the duty to observe the laws and regulations of the host country, and the duty not to interfere in the internal affairs of the host country. The premises, funds, properties, etc. of the UNHCR office shall not be used for purposes other than those provided by UNHCR mandate.

### **ARTICLE XVI. SETTLEMENT OF DISPUTES**

Any disputes between the Government and UNHCR arising out of or relating to this Agreement shall be settled amicably by negotiation or other agreed mode of settlement. If this fails, such a dispute shall be submitted to arbitration at the request of either Party. In that case, each Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint a third, who shall be the chairman. If within thirty days of the request for arbitration neither Party has appointed an arbitrator or if within fifteen days of the appointment of two arbitrators the third arbitrator has not been appointed, either Party may request the President of the International Court of Justice to appoint an arbitrator. All decisions of the arbitrators shall require a vote of two of them. The procedure of the arbitration shall be fixed by the arbitrators, and the expenses shall be borne by the Parties as assessed by the arbitrators. The arbitral award shall contain a statement of the reasons on which it is based and shall be accepted by the Parties as the final adjudication of the dispute.

## ARTICLE XVII. GENERAL PROVISIONS

1. This Agreement shall enter into force on the date of its signature by both Parties and shall continue to be effective until the date of termination under paragraph 4 of this Article.

2. Any other matters not covered by this Agreement shall be settled by the Parties in keeping with the relevant resolutions and decisions of the appropriate organs of the United Nations. Each Party shall give full and sympathetic consideration to any proposal advanced by the other Party under this paragraph.

3. Consultations with a view to amending this Agreement may be held at the request of the Government or UNHCR. Amendments shall be made in the form of a written agreement by the two Parties.

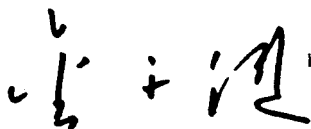
4. This Agreement shall cease to be in force six months after either of the contracting Parties gives notice in writing to the other of its decision to terminate the Agreement.

IN WITNESS THEREOF the undersigned, being duly appointed representatives of the Government and the Office of the United Nations High Commissioner for Refugees, respectively, have on behalf of the Parties signed this Agreement in the English and Chinese languages, in two copies. Both the English and Chinese texts shall be equally authentic.  
 Done at Geneva this 1<sup>st</sup> day of Dec. 1995.

For the Government  
of the People's Republic of China:

For the Office of the United Nations  
High Commissioner for Refugees:

Signed:



Signed:



<sup>1</sup> Yong Jian Jing.  
<sup>2</sup> Sadako Ogata.