

AGREEMENT ON
THE ESTABLISHMENT OF
THE TRILATERAL COOPERATION SECRETARIAT
AMONG THE GOVERNMENTS OF
JAPAN, THE PEOPLE'S REPUBLIC OF CHINA AND
THE REPUBLIC OF KOREA

The Governments of Japan, the People's Republic of China and the Republic of Korea (hereinafter jointly referred to as the "Parties"),

Desiring to establish a secretariat for the efficient promotion and management of trilateral cooperation among the Parties and to enhance existing dialogue mechanisms and contribute to the further promotion of their cooperative relations as decided at the Third Trilateral Summit held on May 30, 2010, in Jeju island, the Republic of Korea,

Have agreed as follows:

Article 1

1. The Trilateral Cooperation Secretariat (hereinafter referred to as the "Secretariat") is hereby established.
2. The Secretariat shall be located in the Republic of Korea (hereinafter referred to as the "host country").

Article 2

The objective of the Secretariat is to contribute to the further promotion of cooperative relations among the three countries by providing support for the operation and management of the trilateral consultative mechanisms among the Parties and by facilitating the exploration and implementation of cooperative projects.

Article 3

1. In order to achieve the objective referred to in Article 2, the Secretariat shall carry out the following functions and activities:

- (a) provide administrative and technical support for the operation and management of such trilateral consultative mechanisms among the Parties (hereinafter referred to as the "consultative mechanisms") as the Trilateral Summit Meeting, the Trilateral Foreign Ministers' Meeting, the Three-Party Committee and other ministerial meetings, and the Trilateral Senior Foreign Affairs Officials' Consultation and send, if necessary, its representatives to attend major consultative mechanisms;
- (b) communicate and coordinate with the Parties, and if necessary, with other international organizations, particularly with other East Asian cooperation mechanisms;
- (c) explore and identify potential cooperative projects among the Parties, and report those projects to the relevant consultative mechanisms for adoption;
- (d) evaluate the cooperative projects and draft reports on them, compile necessary documents into database, and submit annual progress reports to the Three-Party Committee or the Trilateral Foreign Ministers' Meeting for approval; and
- (e) conduct research on important issues related to the trilateral cooperation, manage the Secretariat's website, and promote understanding of the trilateral cooperation.

2. The Secretariat shall carry out its functions and activities within its mandate authorized by and under the supervision of the Parties through the Trilateral Foreign Ministers' Meeting or in a manner decided by the Trilateral Foreign Ministers' Meeting.

Article 4

In the host country, the Secretariat shall have the legal capacity:

- (a) to contract;
- (b) to acquire and dispose of movable and immovable property; and
- (c) to institute legal proceedings.

Article 5

1. The Secretariat shall be comprised of a Secretary-General, two Deputy Secretary-Generals and Professional Staffs (hereinafter jointly referred to as the "officials") and General Services Staffs to be nominated and appointed, or employed, in the following ways:

- (a) The Secretary-General shall be appointed at the Trilateral Foreign Ministers' Meeting upon nomination of a Party on a rotational basis in the order of the Republic of Korea, Japan and the People's Republic of China. The tenure of office shall be two years.
- (b) Unless otherwise agreed by the Parties, each Party other than the Government of the country of the Secretary-General shall nominate a Deputy Secretary-General respectively who shall be appointed at the Trilateral Foreign Ministers' Meeting. The tenure of office shall, in general, be two years. The appointment of the Deputy Secretary-General may be renewed once for an additional period of up to two years with the approval of the Trilateral Foreign Ministers' Meeting.
- (c) The Secretary-General shall appoint the personnel seconded by the Parties as the Professional Staff.
- (d) The Secretary-General may employ the General Services Staff as needed to carry out the functions and activities of the Secretariat.

2. The Secretariat shall have the Consultative Board comprised of the Secretary-General and the Deputy Secretary-Generals. The Consultative Board shall consult and make decisions by consensus on matters submitted for its consideration. The Consultative Board shall consult with the Parties on matters of importance in accordance with paragraph 2 of Article 3.

3. Subject to the approval of the Trilateral Foreign Ministers' Meeting, the Secretary-General may establish the departments of the Secretariat to efficiently carry out the functions and activities of the Secretariat with a view to facilitating trilateral cooperation in various areas.

Article 6

The Secretary-General shall represent the Secretariat and be responsible for the functions and activities carried out by the Secretariat. The Secretary-General shall also be responsible for the administration of the Secretariat, in particular as follows:

- (a) prepare annual and, where necessary, ad-hoc reports on the functions and activities of the Secretariat, as well as an annual budget of the Secretariat, and submit them, with the approval of the Trilateral Senior Foreign Affairs Officials' Consultation, to the Trilateral Foreign Ministers' Meeting for approval;
- (b) establish and amend internal rules and regulations of the Secretariat subject to the approval of the Trilateral Foreign Ministers' Meeting;
- (c) establish the basic terms and conditions of the officials' secondment, including their salary matters, subject to the approval of the Trilateral Foreign Ministers' Meeting, and suggest the termination of the appointment of the Professional Staffs to the Party which seconds them after the consultation with the Deputy Secretary-Generals;
- (d) establish General Services Staff positions, and terms and conditions of employment, including salaries, subject to the approval of the Trilateral Foreign Ministers' Meeting, and employ qualified personnel for the General Services Staff positions and dismiss the General Services Staff, as necessary, in accordance with the rules and regulations referred to in sub-paragraph (b) of this Article; and
- (e) enter into contracts required for the operation of the Secretariat.

Article 7

1. The Deputy Secretary-General shall assist the Secretary-General in carrying out his/her functions and activities. In this connection, the Deputy Secretary-General shall conduct, in particular, the following duties:

- (a) provide advice to the Secretary-General on the future direction of the progressive development of trilateral cooperation;
- (b) represent the Secretariat at conferences, ceremonies, and other occasions as authorized by the Secretary-General;
- (c) provide support for research activities of the Secretariat; and
- (d) perform other functions and activities that may be mandated by the Secretary-General.

2. The Deputy Secretary-General shall act for the Secretary-General in case of his/her absence or inability to perform his/her duties in accordance with the rules and regulations referred to in sub-paragraph (b) of Article 6.

Article 8

1. The Government of the host country shall be responsible for providing and arranging the premises for the operation of the Secretariat.

2. The operational costs of the Secretariat shall be met from equal contributions of the Parties to be made subject to their respective national laws and regulations.

Article 9

1. In the host country, the Secretariat and the officials shall enjoy privileges and immunities in accordance with the provisions of Articles 10 and 11, as appropriate for the achievement of the Secretariat's objective and the carrying out of its functions and activities.

2. The Parties other than the Government of the host country may grant, in their respective countries and to the extent permitted by their respective national laws and regulations, such facilities as may be deemed necessary for the proper operation of the Secretariat.

3. The privileges and immunities from jurisdiction of the host country in respect of civil or administrative proceedings shall not be granted in relation to a contract, or a civil action for damages arising from an accident caused by a motor vehicle, vessel or aircraft, used or owned by the Secretariat and the officials where those damages are not recoverable from insurance.

4. The Secretariat shall cooperate at all times with the appropriate authorities of the host country to prevent the occurrence of any abuse in connection with the privileges, immunities and facilities granted under this Agreement.

5. If the Government of the host country considers that there has been an abuse of a privilege or immunity granted under this Agreement, consultations shall be held between the Government of the host country and the Secretariat to determine whether any such abuse has occurred and, if so, to ensure that no repetition of such abuse occurs.

Article 10

1. The Secretariat, its property and assets shall enjoy immunity from legal process except where it has expressly waived its immunity. Any waiver of immunity from jurisdiction in respect to civil or administrative proceedings shall not be held to imply waiver of immunity in respect to the execution of the judgment, for which a separate waiver shall be necessary. Notwithstanding the preceding sentence, in case the Secretariat initiates a legal process, waiver of immunities in respect not only of that legal process but also of the execution of a judgment thereof is presumed.

2. The premises of the Secretariat shall be inviolable. The archives of the Secretariat and, in general, all official papers and documents belonging to the Secretariat shall be inviolable.

3. The Secretariat shall enjoy for its official communications, treatment not less favorable than that accorded by the Government of the host country to foreign diplomatic missions or any international organizations in the host country. The Secretariat shall have the right to dispatch and receive correspondence and other official communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and diplomatic bags.

4. Without being restricted by financial controls, regulations or moratoria of any kind, the Secretariat may:

- (a) hold funds or currency of any kind and operate accounts in any currency; and
- (b) freely transfer its funds or currency to and from the host country or within the host country and convert any currency held by it into any other currency.

5. In exercising the rights referred to in paragraph 4 of this Article, the Secretariat shall comply with the national laws of the host country, and shall pay due regard to any representation by the Government of the host country in so far as it is considered that effect can be given to such representation without detriment to the interests of the Secretariat.

6. The Secretariat, its property and assets shall be:

- (a) exempt from all direct taxes except those which are, in fact, no more than charges for public utility services;
- (b) exempt from customs duties and from prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Secretariat for its official use. It shall be understood, however, that articles imported under such exemption shall not be sold in the host country except under conditions determined by the Government of the host country; and
- (c) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

7. While the Secretariat will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form the part of the price to be paid, nevertheless, when the Secretariat is making important purchases for official use of property on which such duties and taxes have been charged, the Government of the host country may, whenever possible, make proper administrative arrangements for the remission or return of the amount of duty or tax.

Article 11

1. The officials shall:

- (a) be exempt from taxation on the salaries and emoluments paid to them by the Secretariat;
- (b) be immune, together with their spouses and relatives dependent on them living in the host country, from immigration restrictions, alien registration and national service obligations;

- (c) have the right to import free of duty furniture and household goods for their personal use or for use by their spouses and relatives dependent on them at the time of their initial posting at the Secretariat; and
- (d) be accorded, in respect of exchange facilities, treatment not less favorable than that accorded to officials of comparable rank of any other international organizations posted in the host country.

2. The Government of the host country shall not be obliged to grant the privileges and immunities referred to in this Article to the officials who are nationals or permanent residents of the host country.

3. Privileges and immunities are granted to the officials in the interests of the Secretariat only, and not for their personal benefit. The Secretary-General has the right and duty to waive the immunity granted to the officials under this Agreement through consultation with the Deputy Secretary-Generals in any case where the Secretary-General considers that the immunity would impede realization of justice and can be waived without prejudice to the interests of the Secretariat. The immunity granted to the Secretary-General and Deputy Secretary-Generals may be waived, as and when necessary, at the Trilateral Foreign Ministers' Meeting.

Article 12

The working language of the Secretariat shall be English.

Article 13

The financial affairs of the Secretariat shall be audited annually and shall be reported to the Trilateral Foreign Ministers' Meeting. The Secretary-General shall establish the auditing procedures subject to the approval of the Trilateral Foreign Ministers' Meeting.

Article 14

Any Party may propose amendments to this Agreement. This Agreement may be amended by written agreement of the Parties.

Article 15

Each Party shall notify all other Parties in writing through diplomatic channels that their respective internal procedures necessary for the entry into force of this Agreement have been completed. This Agreement shall enter into force on the date when the last notification thereof is issued.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done in triplicate, in the English language, at Seoul, this sixteenth day of December, 2010.

For the Government of Japan:

Masatoshi Muto

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

Zhang Xinsen

For the Government of the Republic of Korea:

Kim Sung-Hwan