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DIPLOMATIC AND CONSULAR RELATIONS ACT 2005

DIPLOMATIC AND CONSULAR RELATIONS (INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA) ORDER 2023

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In exercise of the powers conferred by section 6(3) of the Diplomatic and Consular Relations Act 2005, the Minister for Foreign Affairs makes the following Order:

Citation and commencement

1. This Order is the Diplomatic and Consular Relations (International Tribunal for the Law of the Sea) Order 2023 and comes into operation on 5 May 2023.

Definitions

2. In this Order, unless the context otherwise requires —

“agreement”, in relation to any proceedings of the Tribunal or a Chamber of the Tribunal, means any agreement entered into between the Government and the Tribunal in relation to those proceedings, the terms of which are based on the Agreement for the provision of facilities for the International Tribunal for

the Law of the Sea/ a Chamber of the International Tribunal for the Law of the Sea to sit or otherwise exercise its functions in the Republic of Singapore adopted by Singapore by an exchange of side letters between Singapore and the Tribunal on 11 June 2020;

“Chamber of the Tribunal” means the Seabed Disputes Chamber established in accordance with article 14 of Annex VI to the Convention or a special chamber established in accordance with article 15 of that Annex;

“Convention” means the United Nations Convention on the Law of the Sea of 10 December 1982;

“court facilities” means any facilities provided by the Government —

- (a) under an agreement in relation to any proceedings of the Tribunal or a Chamber of the Tribunal; and
- (b) for the Tribunal or the Chamber of the Tribunal (as the case may be) to sit or otherwise to exercise its functions in Singapore in relation to those proceedings;

“Member of the Tribunal” means an elected member of the Tribunal or a person chosen under article 17 of Annex VI to the Convention for the purpose of a particular case;

“official of the Tribunal” means the Registrar or any other member of the staff of the Registry of the Tribunal;

“Registrar” means the Registrar of the Tribunal and includes any official of the Registry of the Tribunal acting as the Registrar;

“Tribunal” means the International Tribunal for the Law of the Sea.

Additional immunities and privileges of Tribunal

3. In addition to its immunities and privileges under the International Organisations (Immunities and Privileges) (International Tribunal for the Law of the Sea) Order 2023

(G.N. No. S 265/2023), the Tribunal enjoys the following immunities and privileges:

- (a) subject to any conditions that may be agreed with the Government, inviolability of the court facilities;
- (b) inviolability of the archives of the Tribunal and all documents belonging to or held by it, wherever they are located in Singapore;
- (c) inviolability of the official communications and correspondence of the Tribunal;
- (d) freedom of communication for all official purposes, including the right to use codes or cipher;
- (e) the right to dispatch and receive official communications and correspondence by courier or in a sealed bag, such courier to enjoy the same inviolability as a diplomatic courier, and such bag to have the same status as a diplomatic bag, under Article 27 of the Vienna Convention on Diplomatic Relations.

Additional immunities and privileges of Members of Tribunal

4.—(1) In addition to his or her immunities and privileges under the International Organisations (Immunities and Privileges) (International Tribunal for the Law of the Sea) Order 2023, a Member of the Tribunal enjoys —

- (a) the like immunities and privileges as are accorded under Articles 29 to 35, 36(1)(b) and (2) and 39 of the Vienna Convention on Diplomatic Relations to a diplomatic agent; and
- (b) immunity from legal process in respect of words spoken or written and acts done by the Member of the Tribunal in the discharge of any of his or her official functions.

(2) An immunity or a privilege of a Member of the Tribunal under sub-paragraph (1)(a) continues even after he or she has been replaced if he or she continues to exercise his or her functions in accordance with article 5, paragraph 3 of Annex VI to the Convention.

(3) The immunity of a Member of the Tribunal under sub-paragraph (1)(b) continues even after he or she is no longer a Member of the Tribunal or has ceased to perform his or her functions as a Member of the Tribunal.

Additional immunities and privileges of officials of Tribunal

5.—(1) The immunities and privileges under this paragraph are in addition to those enjoyed by an official of the Tribunal under the International Organisations (Immunities and Privileges) (International Tribunal for the Law of the Sea) Order 2023.

(2) The Registrar and the Deputy Registrar of the Tribunal each enjoys the like immunities and privileges as are accorded under Articles 29 to 35, 36(1)(b) and (2) and 39 of the Vienna Convention on Diplomatic Relations to a diplomatic agent.

(3) An official of the Tribunal (other than the Registrar or Deputy Registrar) enjoys the following immunities and privileges:

- (a) immunity from personal arrest or detention and from seizure of his or her personal baggage;
- (b) exemption or relief from customs duties and goods and services tax on the import of his or her effects at the time of first taking up his or her official functions in Singapore;
- (c) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by the laws of Singapore or controlled by any quarantine regulations of Singapore, in which case the inspection must be conducted in the presence of the official of the Tribunal;
- (d) immunity from legal process in respect of words spoken or written and acts done by the official of the Tribunal in the discharge of any of his or her official functions;
- (e) the like exemption from military obligations that is accorded to a diplomatic agent under Article 35 of the Vienna Convention on Diplomatic Relations.

(4) The immunity enjoyed by an official of the Tribunal under sub-paragraph (3)(d) continues even after he or she has ceased to exercise his or her official functions.

Immunities and privileges of experts appointed under article 289 of Convention, agents, counsel, advocates, witnesses, experts and persons performing missions by order of Tribunal

6.—(1) Each of the following individuals enjoys the immunities and privileges set out in sub-paragraph (2) during the period of his or her mission in connection with any proceedings of the Tribunal or a Chamber of the Tribunal in Singapore, including the time spent on journeys in connection with that mission:

- (a) an expert appointed under article 289 of the Convention;
- (b) an agent, a counsel or an advocate before the Tribunal or the Chamber of the Tribunal;
- (c) a witness, an expert or any person performing the mission in Singapore by order of the Tribunal or the Chamber of the Tribunal.

(2) The immunities and privileges mentioned in sub-paragraph (1) are as follows:

- (a) immunity from personal arrest or detention and from seizure of his or her personal baggage;
- (b) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by the laws of Singapore or controlled by any quarantine regulations of Singapore, in which case the inspection must be conducted in the presence of the individual concerned;
- (c) immunity from legal process in respect of words spoken or written and acts done by the individual in the discharge of any of his or her official functions;
- (d) inviolability of the individual's documents and papers.

(3) The immunity enjoyed by an individual under sub-paragraph (2)(c) continues even after he or she has ceased to exercise his or her official functions.

(4) In addition to the immunities and privileges set out in sub-paragraph (2), an agent, a counsel or an advocate before the Tribunal or a Chamber of the Tribunal enjoys, for the period of his or her mission in Singapore (including the time spent on journeys in connection with that mission), the right to receive papers or correspondence by a courier or in a sealed bag, such a courier to enjoy the same inviolability as a diplomatic courier, and such bag to have the same status as a diplomatic bag, under Article 27 of the Vienna Convention on Diplomatic Relations.

Non-application and waiver of immunity or privilege

7.—(1) Despite anything in this Order but without affecting any immunity or privilege under the International Organisations (Immunities and Privileges) (International Tribunal for the Law of the Sea) Order 2023, an individual mentioned in paragraph 4, 5 or 6 who is a citizen or permanent resident of Singapore enjoys only the immunity from legal process in respect of words spoken or written and acts done by the individual in the discharge of any of his or her official functions, in accordance with that paragraph.

(2) Despite anything in this Order but without affecting any immunity or privilege under the International Organisations (Immunities and Privileges) (International Tribunal for the Law of the Sea) Order 2023, upon a waiver of an immunity or a privilege of an individual under paragraph 4, 5 or 6 by the competent authority, that immunity or privilege does not apply to that individual.

(3) In sub-paragraph (2), “competent authority” means —

- (a) in the case of an immunity or privilege enjoyed by an agent, a counsel or an advocate before the Tribunal or a Chamber of the Tribunal, representing or designated by a State that is a party to the proceedings before the Tribunal or the Chamber of the Tribunal — that State;

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- (b) in the case of an immunity or a privilege enjoyed by —
- (i) a Member of the Tribunal;
 - (ii) the Registrar;
 - (iii) an agent, a counsel or an advocate before the Tribunal or a Chamber of the Tribunal other than one mentioned in sub-paragraph (a);
 - (iv) an expert appointed under article 289 of the Convention; or
 - (v) a witness, an expert or any person performing missions in Singapore by order of the Tribunal or a Chamber of the Tribunal,
- the Tribunal; and
- (c) in the case of an immunity or a privilege enjoyed by an official of the Tribunal other than the Registrar — the Registrar, acting with the approval of the President of the Tribunal.

Made on 14 April 2023.

ALBERT CHUA
Permanent Secretary,
Ministry of Foreign Affairs,
Singapore.

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(To be presented to Parliament under section 6(4) of the Diplomatic and Consular Relations Act 2005).