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**International Organizations (Privileges and Immunities)
(Asia Pacific Regional Office of the Hague Conference
on Private International Law) Order**

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International Organizations (Privileges and Immunities) (Asia Pacific Regional Office of the Hague Conference on Private International Law) Order

(Made by the Chief Executive in Council under section 3 of the
International Organizations (Privileges and Immunities) Ordinance
(Cap. 558))

1. Commencement

This Order comes into operation on 6 April 2016.

2. Interpretation

In this Order—

Hague Conference (海牙會議) means the Hague Conference on
Private International Law;

Host Country Agreement (《東道國協議》) means the Host
Country Agreement Between the Government of the
People's Republic of China and the Hague Conference on
Private International Law Relating to the Establishment
of the Asia Pacific Regional Office of the Hague
Conference on Private International Law in the Hong
Kong Special Administrative Region of the People's
Republic of China, done on 13 December 2012;

Memorandum of Administrative Arrangements (《行政安排備忘
錄》) means the Memorandum of Administrative
Arrangements Concerning the Establishment of the Asia
Pacific Regional Office of the Hague Conference on
Private International Law in the Hong Kong Special
Administrative Region of the People's Republic of China,
done on 13 December 2012;

Office (辦事處) means the Asia Pacific Regional Office of the Hague Conference in the Hong Kong Special Administrative Region.

3. Provisions of Host Country Agreement having force of law in Hong Kong

- (1) It is declared that the provisions of the Host Country Agreement as specified in Schedule 1 have the force of law in Hong Kong and are, for that purpose, to be construed in accordance with subsections (2), (3) and (4).
- (2) The reference to the laws and regulations of the People's Republic of China in Article 6 of the Host Country Agreement is, in relation to the Hong Kong Special Administrative Region, to be construed as a reference to the national laws of the People's Republic of China listed in Annex III to the Basic Law and applied in the Hong Kong Special Administrative Region by way of promulgation or legislation in accordance with Article 18 of the Basic Law.
- (3) In applying Article 9 of the Host Country Agreement, *Representative* (辦事處代表) is to be construed as meaning the Representative appointed by the Secretary General of the Hague Conference in consultation with the Government of the People's Republic of China.
- (4) In applying paragraph 1 of Article 14 of the Host Country Agreement, the reference to safeguard is to be construed as including any safeguard that the Central People's Government authorizes the Government of the Hong Kong Special Administrative Region to apply.

**4. Provisions of Memorandum of Administrative Arrangements
having force of law in Hong Kong**

It is declared that the provisions of the Memorandum of Administrative Arrangements as specified in Schedule 2 have the force of law in Hong Kong.

Schedule 1

[s. 3]

Provisions of Host Country Agreement Having Force of Law in Hong Kong

...

Article 1

1. The Chinese Government acknowledges the international legal personality of the Hague Conference and the Office, which is an integral part of the Hague Conference.

2. Within ... the HKSAR, the Hague Conference and the Office shall have the following legal capacity necessary for carrying out its functions:

(a) to contract;

(b) to acquire and dispose of movable and immovable property; and

(c) to institute legal proceedings.

...

Article 3

1. The Office shall enjoy immunity from every form of legal process in ... the HKSAR, except:

(a) with respect to contracts relating to real estate in the HKSAR or to the supply of goods or services for the Office, which are concluded with a person resident or a body incorporated or having its principal place of business or domicile in the HKSAR at the time of the conclusion of the contract, unless otherwise agreed; or

(b) in the case of any civil action brought by a third party for damage resulting from an accident caused by a motor vehicle belonging to or used by the Office, or in respect of a motor traffic offence involving such a vehicle.

2. Property and assets of the Office shall be exempt from any measure of compulsory execution in ... the HKSAR, except for any final judgment rendered by any HKSAR court which has jurisdiction pursuant to paragraph 1 of this Article.

3. The immunities provided for above may be expressly waived by the Secretary General of the Hague Conference or any other duly authorized person, in writing or in a duly authenticated telecommunication.

Article 4

1. The premises occupied as the Office, regardless of ownership, shall be inviolable. Personnel of ... the Government of the HKSAR, shall not enter the premises of the Office to perform any official duty, except with the express consent of and under the conditions, if any,

proposed by the Secretary General of the Hague Conference or any other duly authorized person. Consent from a duly authorized person may be assumed in the case of fire or other disaster requiring prompt protective action, if he or she cannot be reached in time.

2. All data, archives and records of the Office, in any form or medium whatsoever, wherever located and by whomever held, shall be inviolable.

...

4. The Office shall be accorded the same protection against any intrusion or damage and any disturbance of law and order as is granted by the Chinese Government to any other international intergovernmental organization in the HKSAR.

Article 5

1. All official correspondence and communications to or from the Office, by whatever means and in whatever form transmitted or received, shall be immune from censorship, monitoring, and any other form of interception or interference.

2. The Office may, with the consent of the relevant HKSAR authorities regarding technical requirements, use a wireless transmitter in the HKSAR.

Article 6

1. The Office may, consistent with the objectives of the Hague Conference and within the scope of its functions, produce and disseminate publications, data or data media in conformity with the laws and regulations of the People's Republic of China, including the HKSAR, with regard to publication and intellectual property, and in accordance with applicable international Conventions.
2. The importation of publications, data or data media by the Office for official use, and the exportation of the Office's publications, data or data media, shall not be subject to any restriction.

Article 7

1. The Office, its assets, income and other property within the HKSAR shall be exempt from all direct taxes and other taxes, dues, duties or rates of any kind except:
 - (a) excise duties, taxes on the sale of movable and immovable property and taxes on the provision of services which form part of the price to be paid; nevertheless when the Office makes purchases for property or services intended for official use on which such duties and taxes have been charged or are chargeable, the HKSAR authorities may, whenever possible, make appropriate administrative arrangements for exemption or reimbursement of the amount of such duty or tax;
 - (b) charges for specific services rendered to the Office, provided such charges are non-discriminatory and generally levied; and

(c) the government rent levied by the Government of the HKSAR under Article 121 of the Basic Law or the terms of land leases if such fees assessed pursuant to this Article are explicitly set forth in any lease agreement entered into by the Office.

2. The Office shall be exempt in the HKSAR from all customs duties, license fees, taxes and other levies, and from economic restrictions on imports and exports, on all goods and articles, including motor vehicles, spare parts, publications, data and data media, which are imported or exported by the Office for its official uses, and from any obligation for the payment, withholding or collection of any customs duty. Goods or articles imported into the HKSAR by the Office under such exemptions can be disposed of locally in accordance with applicable laws or administrative regulations.

3. The Office shall not be subject to taxation on the rent or lease for any premises rented by it and occupied by its personnel.

Article 8

1. The Office may hold and dispose freely all funds, currency and other financial assets, and may open and operate accounts in any convertible currency.

2. The Office may transfer freely its funds, currency and other financial assets to and from the HKSAR or within the HKSAR, and may convert them into any other convertible currency.

...

Article 9

1. The Representative, as well as other officers and experts appointed or assigned by the Secretary General of the Hague Conference, who are neither Chinese citizens nor permanent residents of the HKSAR, upon the notification of their designation to the relevant HKSAR authorities, shall:

(a) be immune from the jurisdiction of any court or tribunal of ... the HKSAR, with respect to words spoken or writings and all acts performed by them in their official capacity even after their missions have been accomplished, except in the event of legal proceedings arising from an accident caused by a vehicle belonging to or driven by them;

(b) be exempt from any ... tax on salaries, fees, emoluments and allowances paid to them for work completed in their official capacity;

(c) be exempt from any obligation relating to national services of any kind in the HKSAR;

(d) enjoy the same immigration facilities within the HKSAR for the term of their appointment for themselves, their spouses, and dependent children under the age of 21, who are neither Chinese citizens nor permanent residents of the HKSAR, as those granted to personnel of any other international intergovernmental organization in the HKSAR, and shall not be subject to any restriction on conditions of stay, to any formality concerning the registration of aliens, or to any restriction regarding employment or access to educational institutions, and shall promptly be provided by the HKSAR authorities with any clearance or document which may be required by the usual immigration procedures;

(e) enjoy the same customs privileges and facilities as those granted by the Chinese Government to the personnel of any other international intergovernmental organization in the HKSAR;

(f) enjoy the same currency and exchange facilities as those granted by the Chinese Government to the personnel of any other international intergovernmental organization in the HKSAR;

(g) enjoy the same repatriation facilities as those granted by the Chinese Government to the personnel of any other international intergovernmental organization in the HKSAR.

2. Other Office personnel, other than those mentioned in paragraph 1 of this Article, shall only enjoy the immunity provided for by paragraph 1(a) of this Article.

Article 10

1. All other experts on mission of the Office not specified in Article 9, who are neither Chinese citizens nor permanent residents of the HKSAR, shall, in connection with their mission, enjoy the privileges, immunities and facilities specified in paragraph 1 of Article 9 when performing such mission.

2. All other experts on mission of the Office not specified in Article 9, who are Chinese citizens or permanent residents of the HKSAR, shall, in connection with their mission, enjoy the immunities specified in paragraph 1(a) of Article 9 when performing such mission.

...

Article 11

1. The privileges, immunities and facilities referred to in this Agreement are solely granted to ensure, in all circumstances, effective performance of the Office's official functions and are not granted for the personal benefit of those persons.

...

3. The Secretary General of the Hague Conference or any other duly authorized person shall have the duty to waive the immunity of any member of the personnel of the Office or expert on mission of the Office where he or she considers that the immunity would impede the normal course of justice and can be waived without prejudice to the interests of the Office.

...

Article 14

1. Nothing in this Agreement shall affect the right of the Chinese Government to apply any appropriate safeguard for the national security of the People's Republic of China, including the security of the HKSAR. ...

...

...

Schedule 2

[s. 4]

Provisions of Memorandum of Administrative Arrangements Having Force of Law in Hong Kong

...

(2) The Office, as an employer, shall be exempt from the Employment Ordinance, the Employees' Compensation Ordinance, the Mandatory Provident Fund Schemes Ordinance and any legislation applicable in the HKSAR regarding old-age and surviving-dependents insurance, or incapacity insurance, or unemployment insurance, or insurance of health care or against accident, or occupational pension schemes, or welfare systems of any kind, save in respect of any person who is engaged by the Office as a local employee.

...

Kinnie WONG
Clerk to the Executive Council

COUNCIL CHAMBER

26 January 2016

Explanatory Note

On 13 December 2012, the Government of the People's Republic of China and the Hague Conference on Private International Law (*Hague Conference*) signed a host country agreement (*Host Country Agreement*) relating to the establishment of the Asia Pacific Regional Office of the Hague Conference in the Hong Kong Special Administrative Region (*Asia Pacific Regional Office*). The status of the Hague Conference and the privileges and immunities of the Asia Pacific Regional Office, its staff and their dependents are set out in—

- (a) the Host Country Agreement; and
- (b) a memorandum of administrative arrangements concerning the establishment of the Asia Pacific Regional Office (*Memorandum of Administrative Arrangements*), signed between the Government of the Hong Kong Special Administrative Region and the Hague Conference in accordance with Article 15 of the Host Country Agreement.

2. This Order declares that certain provisions of the Host Country Agreement and the Memorandum of Administrative Arrangements relating to the status of the Hague Conference and to the privileges and immunities of the Asia Pacific Regional Office, its staff and their dependents have the force of law in Hong Kong.