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**INTERNATIONAL ORGANIZATIONS (PRIVILEGES AND IMMUNITIES)
(INTERNATIONAL BANK FOR RECONSTRUCTION AND
DEVELOPMENT AND INTERNATIONAL FINANCE
CORPORATION) ORDER**

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**INTERNATIONAL ORGANIZATIONS (PRIVILEGES AND IMMUNITIES)
(INTERNATIONAL BANK FOR RECONSTRUCTION AND
DEVELOPMENT AND INTERNATIONAL FINANCE
CORPORATION) 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 shall come into operation on 18 July 2008.

2. Interpretation

In this Order—

“Bank” (銀行) means the International Bank for Reconstruction and Development;

“1947 Convention” (《1947年公約》) means the Convention on the Privileges and Immunities of the Specialized Agencies, approved by the General Assembly of the United Nations by resolution adopted on 21 November 1947;

“Corporation” (公司) means the International Finance Corporation;

“Joint Office” (聯合辦事處) means the office established in Hong Kong pursuant to the Memorandum of Understanding and known as The IFC Regional Office for East Asia and Pacific and the World Bank Private Sector Development Office for East Asia and Pacific;

“Memorandum of Administrative Arrangements” (《行政安排備忘錄》) means the Memorandum of Administrative Arrangements Relating to the IFC Regional Office for East Asia and Pacific and the World Bank Private Sector Development Office for East Asia and Pacific in the Hong Kong Special Administrative Region of the People’s Republic of China between the Government of the Hong Kong Special Administrative Region of the People’s Republic of China and the Bank and the Corporation done at Prague on 28 September 2000;

“Memorandum of Understanding” (《諒解備忘錄》) means the Memorandum of Understanding Between The Government of the People’s Republic of China And The International Bank for Reconstruction and Development And The International Finance Corporation Concerning the Establishment of the IFC Regional Office for East Asia and Pacific and the World Bank Private Sector Development Office for East Asia and Pacific in the Hong Kong Special Administrative Region of the People’s Republic of China, done at Prague on 28 September 2000.

3. Certain provisions of Memorandum of Understanding have force of law in Hong Kong

(1) It is declared that the provisions of the Memorandum of Understanding as specified in Schedule 1 shall have the force of law in Hong Kong and shall for that purpose be construed in accordance with subsections (2) and (3).

(2) In applying paragraph 6 of the Memorandum of Understanding—“court of competent jurisdiction” (有管轄權的法院), in relation to Hong Kong, shall be construed as meaning a court, tribunal, adjudication board or other body having jurisdiction under the law of Hong Kong;

“final judgment” (終審判決), in relation to any action brought in Hong Kong, shall be construed as including any award, order or other determination of a final nature;

“member” (成員國) shall be construed as meaning member of the Bank or as meaning member of the Corporation, and “members” (成員國) shall be construed accordingly.

(3) In applying paragraph 13 of the Memorandum of Understanding, “Officers and Employees” (聯合辦事處官員及僱員) shall be construed as meaning the head of the Joint Office and other officers and employees appointed to the Joint Office by the Bank and the Corporation.

4. Certain provisions of Memorandum of Administrative Arrangements have force of law in Hong Kong

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

5. Certain part of letter issued by Hong Kong Monetary Authority has force of law in Hong Kong

It is declared that the part of the letter of 28 September 2000 issued by the Hong Kong Monetary Authority to the Bank and the Corporation as specified in Schedule 3 shall have the force of law in Hong Kong.

6. Certain provisions of 1947 Convention have force of law in Hong Kong

(1) It is declared that the provisions of the 1947 Convention as specified in Schedule 4 shall have the force of law in Hong Kong and shall for that purpose be construed in accordance with subsections (2), (3), (4), (5), (6), (7) and (8).

(2) In applying those provisions of the 1947 Convention, a reference to “specialized agency” (however expressed) shall be construed as a reference to the Bank or as a reference to the Corporation.

(3) In applying section 11 of the 1947 Convention—

(a) the reference to “the territory of each State party to this Convention in respect of that agency” shall be construed as a reference to the area of the Hong Kong Special Administrative Region of the People’s Republic of China;

(b) the reference to “the Government of such State” shall be construed as a reference to the Central People’s Government of the People’s Republic of China.

(4) In applying section 13 of the 1947 Convention, the reference to “representatives of members” shall be construed as a reference to representatives of members of the Bank or as a reference to representatives of members of the Corporation.

(5) In applying section 15 of the 1947 Convention, the reference to “present in a member State” shall be construed as a reference to present in the Hong Kong Special Administrative Region of the People’s Republic of China.

(6) In applying section 16 of the 1947 Convention—

(a) the reference to “representatives of members” shall be construed as a reference to representatives of members of the Bank or as a reference to representatives of members of the Corporation;

(b) a reference to “member” shall be construed as a reference to member of the Bank or as a reference to member of the Corporation.

(7) In applying section 17 of the 1947 Convention, that section shall be construed as if it reads as follows: “The provisions of sections 13, 14 and 15 are not applicable in relation to the authorities of the Hong Kong Special Administrative Region of the People’s Republic of China in the case where the person concerned is a Chinese national or is or has been a representative of the People’s Republic of China.”.

(8) In applying section 19(*f*) of the 1947 Convention, the reference to “taking up their post in the country in question” shall be construed as a reference to taking up their post in the Hong Kong Special Administrative Region of the People’s Republic of China.

7. Certain provisions of Articles of Agreement of the Bank have force of law in Hong Kong

(1) It is declared that the provisions of Article VII of the Articles of Agreement of the Bank as specified in Schedule 5 shall have the force of law in Hong Kong and shall for that purpose be construed in accordance with subsection (2).

(2) In applying Article VII, Section 9(b) of the Articles of Agreement of the Bank, the reference to “local citizens, local subjects, or other local nationals” shall be construed as a reference to Chinese nationals or Hong Kong permanent residents.

8. Certain provisions of Articles of Agreement of the Corporation have force of law in Hong Kong

(1) It is declared that the provisions of Article VI of the Articles of Agreement of the Corporation as specified in Schedule 6 shall have the force of law in Hong Kong and shall for that purpose be construed in accordance with subsection (2).

(2) In applying Article VI, Section 9(b) of the Articles of Agreement of the Corporation, the reference to “local citizens, local subjects, or other local nationals” shall be construed as a reference to Chinese nationals or Hong Kong permanent residents.

9. The Bank and the Corporation to have legal personality in Hong Kong

(1) The Bank has legal personality in Hong Kong as a body corporate and has all the powers of a natural person of full age and capacity including power—

- (a) to enter into contracts;
- (b) to acquire and dispose of movable and immovable property; and
- (c) to institute and defend legal proceedings.

(2) The Corporation has legal personality in Hong Kong as a body corporate and has all the powers of a natural person of full age and capacity including power—

- (a) to enter into contracts;
- (b) to acquire and dispose of movable and immovable property; and
- (c) to institute and defend legal proceedings.

SCHEDULE 1

[s. 3]

PROVISIONS OF MEMORANDUM OF UNDERSTANDING
HAVING FORCE OF LAW IN HONG KONG

...

4 The Government will extend to the head of the Joint Office (including any official acting on his/her behalf during the latter's absence from duty) and his/her spouse and dependent children under the age of 21, privileges, immunities, exemptions and facilities not less favorable than those accorded to heads of other United Nations Specialized Agencies in the HKSAR.

...

6 ... actions may be brought against the Bank or the Corporation only in a court of competent jurisdiction in the territories of a member in which the Bank or the Corporation has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank or the Corporation shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank or the Corporation.

7 The premises of the Joint Office shall be inviolable and shall be under the control of the Bank and the Corporation. No ... person exercising any public authority within the HKSAR may enter the premises of the Joint Office without the consent of the head of the Joint Office or his/her representative. Such consent, may, however, be assumed in the case of fire or other disaster requiring prompt protective action.

8 No censorship shall be applied to the official correspondence and other official communications of the Joint Office. The Joint Office shall have the right to use codes and to dispatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

...

10 All goods imported into or exported from the HKSAR by the Bank or the Corporation for its official use shall be exempt from customs duties, taxes, licence fees and other charges, and from economic prohibitions and restrictions on imports and exports.

...

13 ...

(2) The privileges, immunities, exemptions and facilities accorded herein are granted in the interests of the Bank and the Corporation and not for the personal benefit of individuals themselves. Without prejudice to the privileges, immunities, exemptions and facilities provided for in this Memorandum, Officers and Employees shall not be immune from jurisdiction or where applicable, from execution, in the event of legal proceedings against them including in respect of damage occasioned by a motor vehicle in their ownership or control except when such proceedings arise out of acts performed by them in their official capacity. The Bank and the Corporation shall have the right and duty to waive any immunity from legal process conferred under this Memorandum where, in their opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Bank and the Corporation.

...

SCHEDULE 2

[s. 4]

PROVISIONS OF MEMORANDUM OF ADMINISTRATIVE ARRANGEMENTS HAVING FORCE OF LAW IN HONG KONG

...

3. ... (a) the tax immunities of the Bank and the Corporation under their respective Articles of Agreement and the Convention on the Privileges and Immunities of the Specialized Agencies shall extend to rates levied by the Government of the HKSAR; and (b) the Bank and the Corporation shall not be exempt from the government rent levied by the Government of the HKSAR under Article 121 of the Basic Law of the HKSAR or the terms of land leases.

...

SCHEDULE 3

[s. 5]

PART OF LETTER ISSUED BY HONG KONG MONETARY
AUTHORITY HAVING FORCE OF LAW IN HONG KONG

... the government of the HKSAR may, in its discretion, accord to the head of the Joint Office and senior officers and employees appointed to the Joint Office, who are not Chinese nationals or HKSAR permanent residents and who do not carry on any private gainful occupation in the HKSAR, additional exemptions from the following ...—

- (a) first registration tax under the Motor Vehicle (First Registration Tax) Ordinance;
- (b) vehicle registration fee under the Road Traffic Ordinance;
- (c) vehicle licence fee under the Road Traffic Ordinance;
- (d) driving licence fee under the Road Traffic Ordinance;
- (e) duty on tobacco and liquor under the Dutiable Commodities Ordinance;
- (f) duty on hydrocarbon oil under the Dutiable Commodities Ordinance;
- (g) air passenger departure tax under the Air Passenger Departure Tax Ordinance.

...

SCHEDULE 4

[s. 6]

PROVISIONS OF 1947 CONVENTION HAVING FORCE OF LAW
IN HONG KONG*Article I—Definitions and Scope**Section 1*

In this Convention:

...

- (iv) For the purposes of article III, the words “property and assets” shall also include property and funds administered by a specialized agency in furtherance of its constitutional functions.

(v) For the purposes of articles V ..., the expression “representatives of members” shall be deemed to include all representatives, alternates, advisers, technical experts and secretaries of delegations.

(vi) In sections 13, 14, 15 ..., the expression “meetings convened by a specialized agency” means meetings: (1) of its assembly and of its executive body (however designated), and (2) of any commission provided for in its constitution; (3) of any international conference convened by it; and (4) of any committee of any of these bodies.

(vii) The term “executive head” means the principal executive official of the specialized agency in question, whether designated “Director-General” or otherwise.

...

Article III—Property, Funds and Assets

...

Section 5

... The property and assets of the specialized agencies, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

Section 6

The archives of the specialized agencies, and in general all documents belonging to them or held by them, shall be inviolable, wherever located.

...

Section 9

The specialized agencies, their assets, income and other property shall be:

...

(c) Exempt from duties and prohibitions and restrictions on imports and exports in respect of their publications.

...

Article IV—Facilities in respect of Communications

Section 11

Each specialized agency shall enjoy, in the territory of each State party to this Convention in respect of that agency, for its official communications, treatment not less favourable than that accorded by the Government of such State to any other Government, including the latter's diplomatic mission, in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications, and press rates for information to the press and radio.

...

Article V—Representatives of Members

Section 13

Representatives of members at meetings convened by a specialized agency shall, while exercising their functions and during their journeys to and from the place of meeting, enjoy the following privileges and immunities:

- (a) Immunity from personal arrest or detention and from seizure of their personal baggage, and in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind;
- (b) Inviolability for all papers and documents;
- (c) The right to use codes and to receive papers or correspondence by courier or in sealed bags;

...

- (f) The same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions.

Section 14

In order to secure for the representatives of members of the specialized agencies at meetings convened by them complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

Section 15

Where the incidence of any form of taxation depends upon residence, periods during which the representatives of members of the specialized agencies at meetings convened by them are present in a member State for the discharge of their duties shall not be considered as periods of residence.

Section 16

Privileges and immunities are accorded to the representatives of members, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the specialized agencies. Consequently, a member not only has the right but is under a duty to waive the immunity of its representatives in any case where, in the opinion of the member, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.

Section 17

The provisions of sections 13, 14 and 15 are not applicable in relation to the authorities of a State of which the person is a national or of which he is or has been a representative.

Article VI—Officials

...

Section 19

Officials of the specialized agencies shall:

- (a) Be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
- (b) Enjoy the same exemptions from taxation in respect of the salaries and emoluments paid to them by the specialized agencies and on the same conditions as are enjoyed by officials of the United Nations;

...

- (f) Have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

...

Section 21

In addition to the immunities and privileges specified in sections 19 ..., the executive head of each specialized agency, including any official acting on his behalf during his absence from duty, shall be accorded in respect of himself, his spouse and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

Section 22

Privileges and immunities are granted to officials in the interests of the specialized agencies only and not for the personal benefit of the individuals themselves. Each specialized agency shall have the right and the duty to waive the immunity of any official in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the specialized agency.

...

Article X—Annexes and Application to Individual Specialized Agencies

...

Section 34

The provisions of the Convention in relation to any specialized agency must be interpreted in the light of the functions with which that agency is entrusted by its constitutional instrument.

...

SCHEDULE 5

[s. 7]

PROVISIONS OF ARTICLES OF AGREEMENT OF THE BANK
HAVING FORCE OF LAW IN HONG KONG

ARTICLE VII

Status, Immunities and Privileges**Section 1. Purposes of the Article**

To enable the Bank to fulfill the functions with which it is entrusted, the ... immunities and privileges set forth in this Article shall be accorded to the Bank

...

Section 6. Freedom of assets from restrictions

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.

...

Section 8. Immunities and privileges of officers and employees

All governors, executive directors, alternates, officers and employees of the Bank:

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Bank waives this immunity;

...

Section 9. Immunities from taxation

(a) The Bank, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Bank shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to executive directors, alternates, officials or employees of the Bank who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Bank (including any dividend or interest thereon) by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is issued by the Bank; or
- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Bank (including any dividend or interest thereon) by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or
- (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

...

SCHEDULE 6

[s. 8]

PROVISIONS OF ARTICLES OF AGREEMENT OF THE CORPORATION HAVING FORCE OF LAW IN HONG KONG

ARTICLE VI

Status, Immunities and Privileges

Section 1. Purposes of Articles

To enable the Corporation to fulfill the functions with which it is entrusted, the ... immunities and privileges set forth in this Article shall be accorded to the Corporation

...

Section 6. Freedom of assets from restrictions

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of Article III, Section 5, and the other provisions of this Agreement, all property and assets of the Corporation shall be free from restrictions, regulations, controls and moratoria of any nature.

...

Section 8. Immunities and privileges of officers and employees

All Governors, Directors, Alternates, officers and employees of the Corporation:

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity;

...

Section 9. Immunities from taxation

(a) The Corporation, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Corporation to Directors, Alternates, officials or employees of the Corporation who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Corporation (including any dividend or interest thereon) by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is issued by the Corporation; or
- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Corporation.

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Corporation (including any dividend or interest thereon) by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is guaranteed by the Corporation; or
- (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Corporation.

...

LAM Chik-ting, Tony
Clerk to the Executive Council

COUNCIL CHAMBER
6 May 2008

Explanatory Note

On 28 September 2000, the Government of the People's Republic of China and the International Bank for Reconstruction and Development ("the Bank") and the International Finance Corporation ("the Corporation") signed a Memorandum of Understanding concerning the establishment of the IFC Regional Office for East Asia and Pacific and the World Bank Private Sector Development Office for East Asia and Pacific ("the Joint Office") in Hong Kong. Privileges and immunities enjoyed by the Bank and the Corporation, and by the Joint Office, its staff and their dependents are set out in—

- (a) the Memorandum of Understanding;
- (b) the Memorandum of Administrative Arrangements Relating to the IFC Regional Office for East Asia and Pacific and the World Bank Private Sector Development Office for East Asia and Pacific in the Hong Kong Special Administrative Region of the People's Republic of China, entered into between the Government of Hong Kong and the Bank and the Corporation in accordance with paragraph 12 of the Memorandum of Understanding; and
- (c) a letter of 28 September 2000 issued by the Hong Kong Monetary Authority to the Bank and the Corporation.

In addition, privileges and immunities are also conferred on the Bank and the Corporation by the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations 1947 ("the 1947 Convention"), the Articles of Agreement of the International Bank for Reconstruction and Development and the Articles of Agreement of the International Finance Corporation, all of which are applicable to Hong Kong.

2. This Order declares that certain provisions relating to the privileges and immunities of the Bank and the Corporation, and of the Joint Office, its staff and their dependents under the Memorandum of Understanding, the Memorandum of Administrative Arrangements, the letter from the Hong Kong Monetary Authority, the 1947 Convention and the respective Articles of Agreement of the Bank and the Corporation are to have the force of law in Hong Kong.