

**Subcommittee on  
International Organizations (Privileges and Immunities)  
(ASEAN+3 Macroeconomic Research Office) Order**

**Government's Responses to the Follow-up Actions  
Arising from the Meeting held on 16 March 2016**

**PURPOSE**

In response to the questions raised by Members at the first meeting of the Subcommittee held on 16 March 2016, this paper provides supplementary information<sup>1</sup> on the privileges and immunities covered in the International Organizations (Privileges and Immunities) (ASEAN+3 Macroeconomic Research Office) Order (“the Order”).

**BACKGROUND**

2. Established in March 2010 under the aegis of ASEAN+3<sup>2</sup>, the Chiang Mai Initiative Multilateralisation (“CMIM”) is a regional and multilateral arrangement providing short-term US dollar liquidity support through currency swap transactions to its participants facing balance-of-payments and short-term liquidity difficulties<sup>3</sup>. Hong Kong, using the name “Hong Kong, China” (“HKC”), participates in CMIM as it helps maintain regional financial stability and contain any possible financial contagion in the region.

3. The ASEAN+3 Macroeconomic Research Office (“AMRO”) is a surveillance unit to support the implementation of CMIM, and to

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<sup>1</sup> This paper should be read together with the Legislative Council brief issued by the Government on 17 February 2016 (file reference: G10/34/9C).

<sup>2</sup> The participating economies of CMIM comprise 10 ASEAN member states, as well as the People’s Republic of China, Japan, the Republic of Korea, and Hong Kong, China.

<sup>3</sup> The total size of CMIM is US\$240 billion. Hong Kong, China has undertaken to commit US\$8.4 billion, and is entitled to borrow up to US\$6.3 billion. So far, there has been no request to activate the emergency liquidity facility of CMIM.

monitor the macroeconomic status and financial soundness of all CMIM parties. The office was initially set up in Singapore in 2011 as a company limited by guarantee. The participating parties (including HKC and other CMIM parties) signed an agreement in October 2014 (“the AMRO Agreement”) to establish AMRO as an international organization with full legal personality to enable the office to function effectively as an independent macroeconomic surveillance unit<sup>4</sup> for the region.

4. The Order seeks to give effect by local legislation to the provisions of the AMRO Agreement in relation to the legal status, as well as the privileges and immunities for AMRO and its personnel. Such provisions in the AMRO Agreement are extracted in **Annex**, and are specified in the Schedule to the Order so that they have the force of law in Hong Kong.

## **RELEVANT PRIVILEGES AND IMMUNITIES**

5. The relevant privileges and immunities under the AMRO Agreement are set out in Articles 18 and 19.

6. Article 18 concerns privileges and immunities accorded to AMRO as an international organization. In essence –

- (a) AMRO shall enjoy immunity from legal process;
- (b) AMRO’s property and assets shall be immune from search, requisition, confiscation, expropriation, or any other form of seizure, taking or foreclosure. They shall be free from restrictions, regulations, controls and moratoria of any nature to the extent necessary to carry out AMRO’s functions;

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<sup>4</sup> The main functions of AMRO as set out in Article 3 of the AMRO Agreement include –

- (a) to monitor, assess, and report to members on their macroeconomic status and financial soundness;
- (b) to identify for members macroeconomic and financial risks and vulnerabilities in the region and assist them, if requested, in the timely formulation of policy recommendations to mitigate such risks; and
- (c) to support members in the implementation of the regional financial arrangement.

- (c) AMRO's archives and documents shall be inviolable;
- (d) AMRO's official communications shall be accorded by a participating member a treatment not less favourable than that it accords to those of any other member. No censorship shall be applied to the official correspondence and other AMRO's official communications; and
- (e) AMRO, its assets, property, income, and its operations and transactions shall be exempt from all taxation and from all customs duties.

7. Article 19 relates to the privileges and immunities for AMRO personnel (including relevant Deputies and their alternates, members of its Advisory Panel, Director, staff and experts performing AMRO's missions). In essence, AMRO personnel<sup>5</sup> shall be –

- (a) immune from legal process with respect to words spoken and written and acts performed by them in their official capacity and shall enjoy inviolability in respect of their official papers and documents;
- (b) granted the same immunities from immigration restrictions, alien registration requirements and national service obligations, and the same facilities as regards exchange restrictions as are accorded by each member to the representatives and staff of comparable rank of any other member;
- (c) granted the same treatment in respect of travelling facilities as is accorded by each member to the representatives and staff of comparable rank of any other member; and
- (d) exempt from taxation on the salaries and emoluments paid to them by AMRO.

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<sup>5</sup> Paragraph 7(b) and (d) applies only to AMRO personnel where there are not local citizens or nationals.

8. By virtue of Article 21 of the AMRO Agreement, the aforesaid privileges and immunities are granted to AMRO personnel in the interest of AMRO and not for the personal benefit of the individuals. And such privileges and immunities may be waived by AMRO.

9. The aforesaid privileges and immunities granted to AMRO are commensurate with its functions of a macroeconomic surveillance unit for the region. While relevant international organizations recognised under the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) (“the Ordinance”) differ in terms of their functions, *modus operandi*, size, practical needs and members’ circumstances and may not be directly compared, the Order specifying the privileges and immunities for AMRO are broadly similar to those already granted to other international organizations such as the International Monetary Fund, Bank for International Settlements, International Bank for Reconstruction and Development, International Finance Corporation, and World Trade Organization<sup>6</sup> under the Ordinance.

10. Generally speaking, as a matter of principle, privileges and immunities are extended to international organizations and their representatives to enable them to perform their proper functions efficiently<sup>7</sup>. In practice, as AMRO does not plan to set up any office in Hong Kong, the chance for these privileges and immunities to be invoked

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<sup>6</sup> The Orders made under the International Organizations (Privileges and Immunities) Ordinance give effect to the relevant provisions for the implementation in Hong Kong of the privileges and immunities of international organizations and of persons connected with such organizations under relevant international agreements, whereas the Regulations made under the United Nations Sanctions Ordinance (Cap. 537) implement sanctions against places outside the People’s Republic of China as decided by the Security Council of the United Nations to fulfill the international obligations to give legal effect to the sanction measures set out specifically in the relevant United Nations Security Council Resolutions.

<sup>7</sup> The granting of privileges and immunities is not a blanket authority for those concerned to disregard the law or lawful directions of the enforcement agencies. Relevant international conventions place an obligation on international organizations and their representatives, without prejudice to their privileges and immunities, to respect local laws and regulations. In addition, Article 21(4) of the AMRO Agreement provides that – “AMRO shall cooperate at all times with the appropriate authorities of members to facilitate the proper administration of justice, secure the observance of police regulations, respect and comply with local laws and prevent the occurrence of any abuse in connection with the privileges and immunities provided under this Agreement.”

will be limited, save when AMRO personnel visit Hong Kong to carry out their official duty mainly regarding macroeconomic surveillance and see the need to exercise such privileges and immunities in appropriate circumstances. In the event that the aforesaid privileges and immunities are to be claimed by AMRO or its personnel, or when a request is made to waive the privileges and immunities, law enforcement agencies would, according to the Government's established procedures, refer such cases to the respective competent bureaux or departments for handling.

11. The Orders made under the Ordinance are part of the law of Hong Kong, to which the public is accessible. Relevant international agreements are uploaded to the website of the Department of Justice for perusal.

#### **ADVICE SOUGHT**

12. Members are invited to note the content of this paper.

**Financial Services and the Treasury Bureau**  
**Hong Kong Monetary Authority**  
**March 2016**

**Agreement Establishing ASEAN+3 Macroeconomic  
Research Office (“AMRO”)**

(Extract)

**CHAPTER 4  
STATUS, PRIVILEGES AND IMMUNITIES**

**Article 16. Purposes of Status, Privileges and Immunities**

The legal status, privileges, immunities, and exemptions set out in this Agreement shall be accorded to AMRO in the territory of each member to enable AMRO to effectively exercise its purpose and functions.

**Article 17. Legal Status of AMRO**

AMRO shall have full legal personality and, in particular, full legal capacity to:

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

**Article 18. Privileges and Immunities of AMRO**

(1) AMRO shall enjoy immunity from every form of legal process except to the extent that it expressly waives its immunity for the purpose of any proceedings or under the terms of any contract.

(2) The property and assets of AMRO shall, wherever located and by whomsoever held, be immune from search, requisition, confiscation, expropriation or any other form of seizure, taking or foreclosure by executive or legislative action.

(3) The archives of AMRO, and all documents belonging to it, or held by it, shall be inviolable.

(4) To the extent necessary to carry out its functions, all property and assets of AMRO shall be free from restrictions, regulations, controls and moratoria of any nature.

(5) Official communications of AMRO shall be accorded by each member treatment not less favourable than that it accords to the official communications of any other member.

(6) No censorship shall be applied to the official correspondence and other official communications of AMRO. Nothing in this Article shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a member and AMRO.

(7) AMRO, its assets, property, income, and its operations and transactions shall be exempt from all taxation and from all customs duties. AMRO shall also be exempt from any obligation for the payment, withholding or collection of any tax or duty. Notwithstanding this, it is understood, however, that AMRO shall not claim exemption from taxes which are, in fact, no more than charges for public utility services.

#### **Article 19. Privileges and Immunities of AMRO Personnel**

Deputies and their alternates, members of the Advisory Panel, the Director and staff of AMRO, and experts performing missions for AMRO (hereinafter referred to as “AMRO Personnel”):

(a) shall be immune from legal process with respect to words spoken and written and acts performed by them in their official capacity and shall enjoy inviolability in respect of their official papers and documents except when AMRO waives this immunity;

(b) where they are not local citizens or nationals, shall be granted the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by each member to the representatives and staff of comparable rank of any other member;

(c) shall be granted the same treatment in respect of travelling facilities as is accorded by each member to the representatives and staff of comparable rank of any other member; and

(d) where they are not local citizens or nationals, shall be exempt from taxation on the salaries and emoluments paid to them by AMRO.

**Article 21. Waiver of Immunity**

(1) Privileges and immunities are granted to AMRO Personnel in the interest of AMRO only and not for the personal benefit of the individuals themselves.

(2) The Executive Committee may waive to such extent and upon such conditions as it determines any of the immunities conferred under this Chapter in respect of Deputies and their alternates, members of the Advisory Panel, and the Director.

(3) The Director may waive any such immunity in respect of any staff of and experts performing missions for AMRO other than himself or herself.

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