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財經事務及庫務局
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來函檔號 YOUR REF.:

8 January 2016

Ms Connie Szeto
Clerk to Panel on Financial Affairs
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms Szeto,

Legislative Council Panel on Financial Affairs

**Agreement Establishing the ASEAN+3 Macroeconomic Research Office
as an International Organization**

I enclose, for your circulation to Members, an information note on the Government's intent to implement relevant provisions concerning privileges and immunities contained in the Agreement establishing the ASEAN+3 Macroeconomic Research Office ("AMRO") as an international organization.

Members are invited to note the content of the paper. The Government stands ready to answer any query on relevant occasions or in written form.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Tanna Chong', written in a cursive style.

(Tanna Chong)
for Secretary for Financial Services and the Treasury

c.c. Chief Executive, Hong Kong Monetary Authority (Attn: Mr Clement Lau)

For information

**Information Note for the
Legislative Council Panel on Financial Affairs**

**Agreement Establishing the ASEAN+3 Macroeconomic Research
Office as an International Organization**

PURPOSE

This paper briefs Members of the Government's intent to implement relevant provisions concerning privileges and immunities contained in the Agreement establishing the ASEAN+3 Macroeconomic Research Office ("AMRO") as an international organization, which the Hong Kong Special Administrative Region ("HKSAR"), using the name of "Hong Kong, China" ("HKC"), participates under the Chiang Mai Initiative Multilateralisation Agreement ("CMIM Agreement").

BACKGROUND

2. Chiang Mai Initiative Multilateralisation is a regional and multilateral arrangement established in March 2010 under the aegis of ASEAN+3¹. The arrangement provides short-term US dollar liquidity support through currency swap transactions to its participants facing balance-of-payments and short-term liquidity difficulties². With the support of the Central People's Government ("CPG"), HKC has been participating as an individual member in CMIM since its establishment. HKC's participation in CMIM, which seeks to maintain financial stability and help contain any possible financial contagion in the region, is of strategic importance to our financial markets.

3. Under the CMIM Agreement, the participating parties, including HKC, have agreed to establish a surveillance unit to support the

¹ The participating economies of the CMIM Agreement comprise 10 ASEAN member states (Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Vietnam), together with the People's Republic of China, Japan and the Republic of Korea, and HKC.

² The total size of CMIM is US\$240 billion. The Hong Kong Monetary Authority, on behalf of HKC, has undertaken to commit US\$8.4 billion (or 3.5% of the total CMIM size) through the Exchange Fund, and is entitled to borrow up to US\$6.3 billion. This commitment would not be paid upfront but will only be callable on activation of a currency swap transaction under CMIM. So far, there has been no request to activate the emergency liquidity facility of CMIM.

implementation of CMIM, and to monitor the macroeconomic status and financial soundness of all CMIM parties. The unit was initially set up in Singapore in 2011 as a company limited by guarantee under the name of ASEAN+3 Macroeconomic Research Office Limited (“AMRO Limited”)³. It has been the intention of the CMIM parties to upgrade AMRO to, taking over the role of AMRO Limited, become an international organization with full legal personality, so that it can function effectively as an independent macroeconomic surveillance unit for the region. To this end, the Financial Secretary, with the authorisation of the Chief Executive, signed the AMRO Agreement on behalf of the Government of the HKSAR, together with other CMIM participations, in October 2014. The main functions of AMRO as set out in Article 3 of the AMRO Agreement are:

- (i) to monitor, assess and report to the members on their macroeconomic status and financial soundness;
- (ii) to identify macroeconomic and financial risks and vulnerabilities in the region and upon request assist in the timely formulation of policy recommendations to mitigate such risks; and
- (iii) to support the implementation of CMIM.

IMPLEMENTATION OF THE AMRO AGREEMENT

4. Under the AMRO Agreement, each member, including HKC, has agreed to recognise AMRO’s legal status, as well as to implement certain provisions relating to privileges and immunities on AMRO and its personnel, pursuant to the AMRO Agreement, in its respective jurisdiction. In line with the established practice, we need to give effect by local legislation to the provisions of the AMRO Agreement in relation to the legal status, privileges and immunities of AMRO and its personnel.

5. In this connection, pursuant to section 3 of the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) (“the Ordinance”), the Chief Executive in Council may, by order in the Gazette, declare that the relevant provisions relating to the status, privileges and immunities in respect of an international organization and of its personnel as prescribed in a relevant international agreement have the force of law

³ While time was taken for the parties involved to deliberate over the provisions for establishing AMRO as an international organization, AMRO Limited was set up as an interim vehicle to support the operation of CMIM.

in HKSAR. As the AMRO Agreement is expected to become effective in Q1 2016, the Government intends to make the International Organizations (Privileges and Immunities) (ASEAN+3 Macroeconomic Research Office) Order (“the Order”) under the Ordinance.

6. The relevant provisions of the AMRO Agreement to be implemented via the Order are extracted at **Annex**. The privileges and immunities concerned are commensurate with the function of AMRO as a macroeconomic surveillance unit for the region.

WAY FORWARD

7. We intend to table the Order before the Legislative Council for negative vetting in Q1 2016.

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

Financial Services and the Treasury Bureau
Hong Kong Monetary Authority
January 2016

**Agreement Establishing the ASEAN+3 Macroeconomic Research Office
Provisions to be Given Legal Effect**

The Government intends to declare, through the International Organizations (Privileges and Immunities) (ASEAN+3 Macroeconomic Research Office) Order, made under the International Organizations (Privileges and Immunities) Ordinance (Cap. 558), that the following provisions of the Agreement establishing the ASEAN+3 Macroeconomic Research Office (“AMRO”) have the force of law in Hong Kong–

(i) 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.

(ii) 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.

(iii) 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.

(iv) 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.

(v) 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.