

L.N. 52 of 2016

**International Organizations (Privileges and Immunities)
(Asian Infrastructure Investment Bank) 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 11 July 2016.

2. Interpretation

In this Order—

Agreement (《協定》) means the Articles of Agreement of the
Bank done at Beijing on 29 June 2015;

Bank (銀行) means the Asian Infrastructure Investment Bank.

**3. Certain provisions of Agreement having force of law in Hong
Kong**

- (1) It is declared that the provisions of the Agreement as specified in the Schedule have the force of law in Hong Kong, and for that purpose are to be construed in accordance with subsections (2) and (3).
- (2) In applying paragraph 1 of Article 44, paragraph 2 of Article 46, Article 49 and Article 50 of the Agreement, the reference to “member” is to be construed as a reference to member of the Bank, and “members” is to be construed accordingly.

- (3) In applying Article 50 of the Agreement, the reference to “local citizens or nationals” is to be construed as a reference to Hong Kong permanent residents or Chinese nationals.
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Schedule

[s. 3]

Provisions of Agreement Having Force of Law in Hong Kong

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CHAPTER IX

STATUS, IMMUNITIES, PRIVILEGES AND EXEMPTIONS

Article 44 Purposes of Chapter

1. To enable the Bank to fulfill its purpose and carry out the functions entrusted to it, the status, immunities, privileges and exemptions set forth in this Chapter shall be accorded to the Bank in the territory of each member.

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Article 45 Status of the Bank

The Bank shall possess full juridical personality and, in particular, the full legal capacity:

- (i) to contract;
- (ii) to acquire, and dispose of, immovable and movable property;
- (iii) to institute and respond to legal proceedings; and
- (iv) to take such other action as may be necessary or useful for its purpose and activities.

Article 46 Immunity from Judicial Proceedings

1. The Bank shall enjoy immunity from every form of legal process, except in cases arising out of or in connection with the exercise of its powers to raise funds, through borrowings or other means, to guarantee obligations, or to buy and sell or underwrite the sale of securities, in which cases actions may be brought against the Bank only in a court of competent jurisdiction in the territory of a country in which the Bank has an office, or has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.

2. Notwithstanding the provisions of paragraph 1 of this Article, no action shall be brought against the Bank by any member, or by any agency or instrumentality of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member or from any agency or instrumentality of a member. Members shall have recourse to such special procedures for the settlement of controversies between the Bank and its members as may be prescribed in this Agreement, in the by-laws and regulations of the Bank, or in the contracts entered into with the Bank.

3. Property and assets of the Bank 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.

Article 47 Immunity of Assets and Archives

1. Property and assets of the Bank, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

2. The archives of the Bank, and, in general, all documents belonging to it, or held by it, shall be inviolable, wheresoever located and by whomsoever held.

Article 48 Freedom of Assets from Restrictions

To the extent necessary to carry out the purpose and functions of the Bank effectively, 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.

Article 49 Privilege for Communications

Official communications of the Bank shall be accorded by each member the same treatment that it accords to the official communications of any other member.

Article 50 Immunities and Privileges of Officers and Employees

All Governors, Directors, Alternates, the President, Vice-Presidents and other officers and employees of the Bank, including experts and consultants performing missions or services for 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 the immunity and shall enjoy inviolability of all their official papers, documents and records;
- (ii) where they are not local citizens or nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations, and the same facilities as regards exchange regulations, as are accorded by members to the representatives, officials and employees of comparable rank of other members; and
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

Article 51 Exemption from Taxation

1. The Bank, its assets, property, income and its operations and transactions pursuant to this Agreement, shall be exempt from all taxation and from all customs duties. The Bank shall also be exempt from any obligation for the payment, withholding or collection of any tax or duty.

2. No tax of any kind shall be levied on or in respect of salaries, emoluments and expenses, as the case may be, paid by the Bank to Directors, Alternate Directors, the President, Vice-Presidents and other officers or employees of the Bank, including experts and consultants performing missions or services for the Bank, ...

3. No tax 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.

4. No tax 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.

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Article 52 Waivers

1. The Bank at its discretion may waive any of the privileges, immunities and exemptions conferred under this Chapter in any case or instance, in such manner and upon such conditions as it may determine to be appropriate in the best interests of the Bank.

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Kinnie WONG
Clerk to the Executive Council

COUNCIL CHAMBER

26 April 2016

Explanatory Note

On 29 June 2015, the Government of the People's Republic of China signed the Articles of Agreement of the Asian Infrastructure Investment Bank (*Agreement*). The Agreement was ratified by the Standing Committee of the National People's Congress of the People's Republic of China on 4 November 2015. The Asian Infrastructure Investment Bank (*AIIB*) supports infrastructure development in Asia with a view to expanding regional connectivity and improving regional integration.

2. This Order is to give effect to the privileges and immunities accorded to the AIIB and its officers and employees under Chapter IX of the Agreement.