

L.N. 166 of 2003

International Organizations (Privileges and Immunities) (Office of the Commission of

The European Communities) 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 14 November 2003.

2. Interpretation

In this Order---

"Commission" (委員會) means the Commission of the European Communities;

"Convention" (《公約》) means the Vienna Convention on Consular Relations done at Vienna on 24 April 1963;

"European Communities" (歐洲共同體) means the European Coal and Steel Community, the European Community and the European Atomic Energy Community;

"Office Agreement" (《辦事處協議》) means the agreement concluded by exchange of letters in June 1997 between the Government of the People's Republic of China and the Commission concerning the maintenance of the Office of the Commission of the European Communities in Hong Kong from 1 July 1997.

3. Provisions of Office Agreement

(1) The provisions set out in the Schedule (being Articles of the Office Agreement) shall have the force of law in Hong Kong and shall for that purpose be construed in accordance with subsections (2) to (4).

(2) In those Articles---

"Head" (主任) shall be construed as meaning the person charged with the duty of acting as the Head of the Office;

"Office" (辦事處) shall be construed as meaning the Office of the Commission of the European Communities in Hong Kong;

"permanent resident of the Hong Kong Special Administrative Region" (香港特別行政區永久性居民) shall be construed as meaning a person who belongs to a class or description of persons specified in Schedule 1 to the Immigration Ordinance (Cap. 115).

(3) The reference to any other law of the People's Republic of China in Article 3 of the Office Agreement shall be construed as a reference to any national law of the People's Republic of China listed in Annex III to the Basic Law and applied in Hong Kong by way of promulgation or legislation in accordance with Article 18 of the

Basic Law.

(4) The reference to the members of the Office in Article 4 of the Office Agreement shall be construed as a reference to---

- (a) the officers of the Office (including the Head) entrusted in that capacity with the exercise of the functions of the Office;
- (b) the persons employed in the administrative or technical service of the Office; and
- (c) the persons employed in the domestic service of the Office.

(5) The reference to the provisions of the Convention in Article 4 of the Office Agreement shall be construed as a reference to paragraph 3 of Article 15, the Articles in Chapter II and Article 71 of the Convention as set out in the Schedule to the Consular Relations Ordinance (Cap. 557).

4. Authorized refund of duties paid on hydrocarbon oils

(1) The Chief Executive may authorize the Commissioner of Customs and Excise to make such arrangements as the Chief Executive thinks fit for securing the refund of duties imposed on hydrocarbon oils under the Dutiable Commodities Ordinance (Cap. 109) where such hydrocarbon oils are---

- (a) imported into Hong Kong; and
- (b) used for such purpose that, had they been imported for that use, exemption from customs duty would have been required to be granted under Article 50 of the Convention as set out in the Schedule to the Consular Relations Ordinance (Cap. 557) as read with Article 4 of the Office Agreement.

(2) Any arrangements made under this section may impose conditions subject to which any refund shall be made.

(3) Any amount of money refunded under arrangements made under this section shall be paid from the general revenue.

SCHEDULE [s. 3]

Provisions of Office Agreement Having the Force of Law in Hong Kong

3. The European Communities---the European Coal and Steel Community, the European Community and the European Atomic Energy Community---shall each have legal personality in the Hong Kong Special Administrative Region of the People's Republic of China.

Accordingly, the European Communities shall have the capacity to conclude contracts, to acquire and dispose of immovable and movable property as necessary for the effective fulfillment of their duties, in accordance with the procedural and administrative requirements imposed by the law of the Hong Kong Special Administrative Region of the People's Republic of China and by any other law of the

People's Republic of China, and to conduct legal proceedings, and shall be represented for that purpose by the Commission.

4. The Office, its Head and members accredited by the Commission of the European Communities who are nationals of the member states of the European Communities but not in their capacity as the permanent residents of the Hong Kong Special Administrative Region, as well as the members of their families forming part of their respective households, shall enjoy consular privileges and immunities as correspond to those enjoyed by consular posts, Heads and members of consular posts in accordance with the provisions of the Vienna Convention on Consular Relations of 24 April 1963.

They will, consistent with the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and the other national laws of China applicable in the Hong Kong Special Administrative Region in accordance with the Basic Law, enjoy such rights and consular privileges and immunities as are necessary for the effective fulfillment of their duties.

5. The laissez-passer issued by the European Communities to officials and other servants of its institutions shall be recognized as a valid travel document.

CHENG Mei-sze, Maisie

Clerk to the Executive Council

Council Chamber

24 June 2003

Explanatory Note

The Government of the People's Republic of China and the Commission of the European Communities concluded an agreement in June 1997 concerning the maintenance by the Commission of its Office in Hong Kong from 1 July 1997. This Order gives effect to the privileges and immunities accorded to the Office and its Head and members in Hong Kong under the agreement.