

LEGISLATIVE COUNCIL BRIEF

International Organizations (Privileges and Immunities) Ordinance
(Chapter 558)

INTERNATIONAL ORGANIZATIONS (PRIVILEGES AND IMMUNITIES) (AMENDMENT) BILL 2022

INTRODUCTION

At the meeting of the Executive Council on 1 November 2022, the Council ADVISED and the Chief Executive ORDERED that the International Organizations (Privileges and Immunities) (Amendment) Bill 2022 (Bill), at the **Annex**, should be introduced into the Legislative Council (LegCo).

Annex

JUSTIFICATIONS

2. For the purpose of implementing an arrangement between the Ministry of Foreign Affairs (MFA) of the Central People's Government (CPG) and the Government of the Hong Kong Special Administrative Region (HKSAR) in relation to the establishment of the Preparatory Office of the International Organization for Mediation (IOMed Preparatory Office) in the HKSAR, we need to amend the International Organizations (Privileges and Immunities) Ordinance (Chapter 558) (Ordinance) in order to provide for the privileges and immunities in relation to the IOMed Preparatory Office under Hong Kong laws.

3. With a view to strengthening the HKSAR as an international legal and dispute resolution services centre in the Asia Pacific region under the National 14th 5-Year Plan and the Greater Bay Area Development Plan, MFA and the Department of Justice (DoJ) have been discussing the possibility of establishing a new international inter-governmental organization in the HKSAR. For this purpose, the People's Republic of China has been negotiating with a number of interested States on the establishment of the International Organization for Mediation (IOMed) in the past few years, and has signed with various foreign States a Joint Statement on the Future Establishment of the International Organization for Mediation (Joint Statement).

4. The IOMed will be an international inter-governmental

organization established through consultations among all parties. It will provide friendly, flexible, economical and efficient mediation services for international disputes. It will be a useful supplement to the existing dispute resolution institutions and means of dispute resolution, providing a new platform for the peaceful settlement of international disputes.

5. Taking into account the experience of establishing the Asian Infrastructure Investment Bank in Beijing, it is planned that the IOMed Preparatory Office should first be established to take forward the relevant work, with a view to transforming it into the secretariat and headquarters of the IOMed after the conclusion of the negotiation of the relevant international convention (IOMed Convention).

6. According to the Joint Statement, the IOMed Preparatory Office will be set up in the HKSAR. It is expected that, from 2023, the IOMed Preparatory Office will commence and organize the negotiation of the IOMed Convention and the preparatory work relating to the establishment of the IOMed.

7. In order to give effect to the Joint Statement, MFA has prepared the Arrangement on the Establishment of the International Organization for Mediation Preparatory Office in the Hong Kong Special Administrative Region (Arrangement), which contains provisions relating to the status of the IOMed Preparatory Office and the privileges and immunities of the IOMed Preparatory Office, its personnel and representatives attending negotiation of the IOMed Convention. With the authorization from the Chief Executive of the HKSAR, the Secretary for Justice has signed the Arrangement on behalf of the Government of the HKSAR (HKSARG) with MFA in October 2022. In order to implement the Arrangement, the relevant provisions of the Arrangement need to be given legal effect under Hong Kong laws.

8. The Ordinance needs to be amended by the Bill in order to provide that the privileges and immunities of bodies concerned in the establishment of international organizations, and of persons connected with such bodies, under arrangements between MFA and the HKSARG, may be implemented in Hong Kong.

9. After the Bill comes into effect, an order is to be made by the Chief Executive in Council under section 3 of the amended Ordinance for implementing the Arrangement so that the IOMed Preparatory Office can commence actual operation in early 2023 as planned.

OTHER OPTIONS

10. Amending the Ordinance is the only way to implement the Arrangement to, among others, give legal effect to the privileges and

immunities related to the IOMed Preparatory Office. There is no other option.

THE BILL

11. The main provision of the Bill is as follows –

- (a) Section 3 of the Ordinance provides for a mechanism to implement in Hong Kong privileges and immunities of international organizations, and of persons connected with those organizations, through giving legal effect to the provisions of an international agreement. **Clause 4** amends section 3 of the Ordinance so that, in addition, privileges and immunities of bodies concerned in the establishment of international organizations, and of persons connected with those bodies, may be implemented in Hong Kong through giving legal effect to the provisions of an arrangement between MFA and the HKSARG.

LEGISLATIVE TIMETABLE

12. The legislative timetable will be as follows –

Publication in the Gazette	4 Nov 2022
First Reading and commencement of Second Reading debate	9 Nov 2022
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

13. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The Bill will not affect the binding effect of the Ordinance and its subsidiary legislation. The proposal has no financial, civil service, economic, productivity, environmental, sustainability, family or gender implications.

PUBLIC CONSULTATION

14. As the establishment of the IOMed Preparatory Office and the granting of the relevant privileges and immunities under the Arrangement between MFA and the HKSARG is a matter of foreign affairs, which falls under the CPG's responsibility, public consultation is deemed inappropriate.

PUBLICITY

15. A press release will be issued regarding the gazettal of the Bill.

ENQUIRY

16. Any enquiries on the brief should be addressed to Mr. Joel Lee, Government Counsel, International Law Division, Department of Justice at 3918 4217 or ild@doj.gov.hk (file ref.: IL/IO/2/1).

Department of Justice
2 November 2022

A BILL
To

Amend the International Organizations (Privileges and Immunities) Ordinance so that the privileges and immunities of bodies concerned in the establishment of international organizations, and of persons connected with such bodies, under arrangements between the Ministry of Foreign Affairs of the Central People's Government and the Government of the Hong Kong Special Administrative Region, may be implemented in Hong Kong.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the International Organizations (Privileges and Immunities) (Amendment) Ordinance 2022.

2. International Organizations (Privileges and Immunities) Ordinance amended

The International Organizations (Privileges and Immunities) Ordinance (Cap. 558) is amended as set out in sections 3 and 4.

3. Long title amended

The long title, after “agreements,”—

Add

“and the privileges and immunities of bodies concerned in the establishment of international organizations and of persons connected with such bodies under arrangements between the Ministry of Foreign Affairs of the Central People's

Government and the Government of the Hong Kong Special Administrative Region,”.

4. Section 3 amended (provisions of international agreements to have the force of law)

(1) Section 3, heading—

Repeal

“**international agreements to have the**”

Substitute

“**certain agreements or arrangements to have**”.

(2) Section 3—

Repeal paragraph (a)

Substitute

“(a) by order published in the Gazette, declare that the provisions of—

(i) an international agreement relating to the status, privileges and immunities of an international organization and of persons connected with such an organization; or

(ii) an arrangement in writing that is entered into between the Ministry of Foreign Affairs and the Government of the Hong Kong Special Administrative Region relating to the status, privileges and immunities of a body concerned in the establishment of an international organization and of persons connected with such a body,

that are specified in the order have the force of law in Hong Kong; and”.

(3) Section 3(b), after “agreement”—

Add

“or arrangement”.

Explanatory Memorandum

The object of this Bill is to amend the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) (*principal Ordinance*) so that the privileges and immunities of bodies concerned in the establishment of international organizations, and of persons connected with such bodies, under arrangements between the Ministry of Foreign Affairs of the Central People’s Government and the Government of the Hong Kong Special Administrative Region (*arrangement between MFA and HKSARG*), may be implemented in Hong Kong.

2. Clause 1 sets out the short title.
3. Clause 3 amends the long title of the principal Ordinance because of a change to the objects of the principal Ordinance made by the Bill.
4. Section 3 of the principal Ordinance provides for a mechanism to implement in Hong Kong privileges and immunities of international organizations, and of persons connected with those organizations, through giving legal effect to the provisions of an international agreement. Clause 4 amends that section 3 so that, in addition, privileges and immunities of bodies concerned in the establishment of international organizations, and of persons connected with those bodies, may be implemented in Hong Kong through giving legal effect to the provisions of an arrangement between MFA and HKSARG.