

L.N. 233 of 2022

**International Organizations (Privileges and Immunities)
(International Organization for Mediation Preparatory
Office) Order**

(Made by the Chief Executive in Council under section 3 of the
International Organizations (Privileges and Immunities) Ordinance
(Cap. 558))

1. Interpretation

In this Order—

Arrangement (《安排》) means the Arrangement on the Establishment of the International Organization for Mediation Preparatory Office in the Hong Kong Special Administrative Region (which is a translation of “《關於在香港特別行政區設立國際調解院籌備辦公室的安排》”) made between the Ministry of Foreign Affairs of the Central People’s Government and the Government of the Hong Kong Special Administrative Region signed on 21 October 2022;

Preparatory Office (籌備辦公室) means the International Organization for Mediation Preparatory Office (which is a translation of “國際調解院籌備辦公室”) established under the Arrangement.

2. Provisions of Arrangement having force of law in Hong Kong

(1) It is declared that the provisions of the Arrangement as specified in the Chinese text of the Schedule (*specified provisions*)—

(a) have the force of law in Hong Kong; and

- (b) for that purpose, are to be construed in accordance with subsection (3).
- (2) An English translation of the specified provisions is set out in the English text of the Schedule.
- (3) In applying Articles 1, 5, 7, 9 and 11 of the Arrangement, a reference to “香港特區” (which is translated into English as “HKSAR” in this Order) is to be construed as meaning the Hong Kong Special Administrative Region.
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Schedule

[s. 2]

Provisions of Arrangement Having Force of Law in Hong Kong

(English Translation)

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Article 1

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2. Within the HKSAR, the Preparatory Office has the legal capacity to perform its functions and duties.

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Article 5

1. The Preparatory Office, and its property and assets, regardless of where they are located or by whom they are held, are to enjoy immunity from all legal proceedings in the HKSAR, except:

in the case of any civil action for damages brought by a third party in respect of any damage that results from an accident caused by a motor vehicle belonging to or operated for the Preparatory Office, where the damages are not covered by insurance, or in respect of a motor traffic offence or an unlawful act involving such a vehicle.

2. The Preparatory Office may expressly waive the immunities provided for in paragraph 1 of this Article in any specific case. The waiver is not to be understood as extending to any immunity from measure of execution, unless such immunity has been expressly and separately waived by the Preparatory Office.

Article 6

1. The premises occupied as the Preparatory Office, whether owned by the Preparatory Office or not, is inviolable.

2. All data, archives, documents and records of the Preparatory Office are inviolable, regardless of their form or medium, where they are located or by whom they are held.

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4. Free communication by the Preparatory Office for official purposes is to be permitted and protected. All official correspondence and communications, regardless of the means by which, and the form in which, they are transmitted or received, are immune from censorship, monitoring and any other form of interception or interference.

Article 7

1. The Preparatory Office may hold any kind of funds, currency or other assets, and may open and operate accounts in any convertible currency. The Preparatory Office is free to transfer its funds, currency and other assets to, from or within the HKSAR, and may convert any currency held by it into another currency.

2. The Preparatory Office and its assets, income and other property within the HKSAR are exempt from all direct taxes and other taxes, dues, duties or rates of any kind, except:

excise duties, taxes on the sale of movable and immovable property, and taxes on the provision of services, that form part of the

price to be paid; but when the Preparatory Office purchases any property or services for official uses on which such duties and taxes have been charged or are chargeable, the HKSAR Government may, as far as possible, make appropriate administrative arrangements for exemption or refund of the amount of such duties or taxes.

3. The Preparatory Office is exempt in the HKSAR from all customs duties, license fees, taxes and other levies, from economic restrictions on imports and exports of all goods and articles, including motor vehicles, spare parts, publications, data and data media, that are imported or exported by the Preparatory Office for its official uses, and from any obligation for the payment, withholding or collection of any customs duty. Goods or articles imported into the HKSAR by the Preparatory Office free of duty are to be used for discharging the functions and duties of the Preparatory Office, and may be disposed of locally in accordance with applicable laws or administrative regulations.

4. The Preparatory Office, as an employer, is exempt from the Employment Ordinance, the Employees' Compensation Ordinance, the Mandatory Provident Fund Schemes Ordinance and any Ordinance applicable in the HKSAR regarding old-age and surviving-dependents insurance, incapacity insurance, unemployment insurance, insurance of health care or against accident, occupational pension schemes or welfare systems of any kind, except in respect of the personnel engaged by the Preparatory Office as local employees.

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Article 8

1. The personnel of the Preparatory Office are to enjoy the following privileges, immunities and facilities:

(1) immunity from any legal proceedings in respect of words spoken or written, and acts performed, by them in the course of discharging their duties, and the immunity is to continue to be enjoyed

by them even after they have ceased to discharge their duties in connection with the Preparatory Office. However, the immunity does not apply to an action arising from a traffic accident caused by a vehicle belonging to or driven by them;

(2) inviolability of documents and information for the purpose of communicating with the Preparatory Office and relating to the discharge of their duties;

(3) exemption from taxation on any fees, salaries, emoluments and subsidies paid to them by the Preparatory Office for the discharge of their duties (except for the personnel engaged by the Preparatory Office as local employees).

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Article 9

1. Representatives participating in the negotiation for the Convention on the Establishment of the International Organization for Mediation are to enjoy the following privileges, immunities and facilities that are necessary for the independent discharge of their duties:

(1) immunity from personal arrest or detention and from seizure of their personal baggage while attending any negotiation meeting for the Convention and during their journeys to and from the place of the meeting; immunity from any legal proceedings in respect of words spoken or written, and acts performed, by them in the course of their participation in any negotiation meeting for the Convention, and the immunity is to continue to be enjoyed by them even after they have ceased to discharge their duties in connection with their participation in the negotiation meeting for the Convention. However, these immunities do not apply to an action arising from a traffic accident caused by a vehicle belonging to or driven by them;

(2) inviolability of all documents and information relating to their participation in any negotiation meeting for the Convention, regardless of the form and materials of the documents and information, and the immunity is to continue to be enjoyed by them even after they have ceased to discharge their duties in connection with their participation in the negotiation meeting for the Convention;

(3) the right to send and receive documents and information in any form by duly recognized couriers or in sealed bags for the purpose of communications in relation to their participation in any negotiation meeting for the Convention;

(4) exemption from immigration restrictions and alien registration when they travel for the purpose of participating in any negotiation meeting for the Convention;

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(6) the same repatriation facilities in time of international crises as representatives of other inter-governmental international organizations.

2. The privileges, immunities and facilities referred to in paragraph 1 of this Article are to cease to apply after five consecutive days following the date on which the negotiation meetings for the Convention conclude, on the condition that the negotiation representatives have had an opportunity to leave the HKSAR during that period.

3. The negotiation representatives who are citizens of the People's Republic of China, permanent residents of the People's Republic of China or permanent residents of the HKSAR may only enjoy the privileges, immunities and facilities under paragraph 1(1), (2), (3) ... of this Article.

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Article 10

1. In all circumstances, the privileges, immunities and facilities provided for in this Arrangement are granted to ensure effective performance of the Preparatory Office's functions and duties, and effective conduct of the work relating to the negotiation for the Convention, but not for the personal benefit of those persons.

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Article 11

1. Nothing in this Arrangement affects the right to apply any appropriate safeguard for the national security of the People's Republic of China, including the security of the HKSAR.

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Carmen KONG
Clerk to the Executive Council

COUNCIL CHAMBER

20 December 2022

Explanatory Note

On 21 October 2022, the Ministry of Foreign Affairs of the Central People's Government and the Government of the Hong Kong Special Administrative Region signed the Arrangement on the Establishment of the International Organization for Mediation Preparatory Office in the Hong Kong Special Administrative Region (*Arrangement*).

2. This Order declares that the provisions of the Arrangement that are specified in the Order have the force of law in Hong Kong. Those provisions relate to—
- (a) the status of the International Organization for Mediation Preparatory Office (*Preparatory Office*); and
 - (b) the privileges and immunities of—
 - (i) the Preparatory Office;
 - (ii) the personnel of the Preparatory Office; and
 - (iii) the representatives participating in the negotiation for the Convention on the Establishment of the International Organization for Mediation.