

《國際組織 (特權及豁免權) (世界貿易組織) 令》
(第 558 章, 附屬法例 B)

International Organizations (Privileges and Immunities) (World Trade Organization)
Order
(Cap. 558 sub. leg. B)

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尚未實施的條文 / 修訂 ——

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《國際組織(特權及豁免權)(世界貿易組織)令》

(第 558 章, 附屬法例 B)

目錄

條次		頁次
1.	(已失時效而略去)	1
2.	釋義	1
3.	《1947 年公約》條文在香港具有法律效力	1
附表	在香港具有法律效力的《1947 年公約》條文	S-1

International Organizations (Privileges and Immunities)
(World Trade Organization) Order

(Cap. 558 sub. leg. B)

Contents

Section		Page
1.	(Omitted as spent)	2
2.	Interpretation	2
3.	Provisions of 1947 Convention have force of law in Hong Kong	2
Schedule	Provisions of 1947 Convention Having Force of Law in Hong Kong	S-2

《國際組織(特權及豁免權)(世界貿易組織)令》

International Organizations (Privileges and Immunities) (World Trade Organization) Order

(第 558 章第 3 條)

(Cap. 558, section 3)

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1. (已失時效而略去——2020 年第 1 號編輯修訂紀錄)

1. (Omitted as spent—E.R. 1 of 2020)

2. 釋義

2. Interpretation

在本命令中——

In this Order—

《1947 年公約》(1947 Convention) 指聯合國大會藉於 1947 年 11 月 21 日通過的決議而批准的《各專門機關特權及豁免公約》；

1947 Convention (《1947 年公約》) means the Convention on the Privileges and Immunities of the Specialized Agencies, approved by the General Assembly of the United Nations by resolution adopted on 21 November 1947;

世貿組織(WTO)指根據於 1994 年 4 月 15 日在馬拉喀什簽署的《馬拉喀什建立世界貿易組織協定》而於 1995 年 1 月 1 日在日內瓦設立的世界貿易組織。

WTO (世貿組織) means the World Trade Organization established in Geneva on 1 January 1995 under the Marrakesh Agreement Establishing the World Trade Organization signed at Marrakesh on 15 April 1994.

3. 《1947 年公約》條文在香港具有法律效力

3. Provisions of 1947 Convention have force of law in Hong Kong

(1) 現宣布附表指明的《1947 年公約》條文在香港具有法律效力，而為該目的，該等條文須按照本條其他條文解釋。

(1) It is declared that the provisions of the 1947 Convention as specified in the Schedule shall have the force of law in Hong Kong and shall for that purpose be construed in accordance with the other provisions of this section.

(2) 在應用該等《1947 年公約》條文時——

(2) In applying those provisions of the 1947 Convention—

(a) 對專門機關(不論實際如何稱述)的提述，須解釋為對世貿組織的提述，而在不局限前文的一般性的原

則下，在《1947年公約》第一節第(六)項中對“專門機關所召開之會議”的提述，亦須據此解釋；

- (b) 對會員國(不論實際如何稱述及是否連同對任何專門機關的提述)的提述，須解釋為對世貿組織成員的提述，而在不局限前文的一般性的原則下，在《1947年公約》第一節第(五)項中對“各會員國代表”的提述，亦須據此解釋；
- (c) 在《1947年公約》第九節(乙)項中對“除與物品輸入國政府約定者外，不得在該國出售”的提述，須解釋為對“除與中華人民共和國香港特別行政區政府約定者外，不得在中華人民共和國香港特別行政區出售”的提述；
- (d) 在《1947年公約》第十一節中對“其公約當事國領土”的提述，須解釋為對中華人民共和國香港特別行政區區域的提述；
- (e) 在《1947年公約》第十一節中對“該國政府”的提述，須解釋為對中華人民共和國中央人民政府的提述；
- (f) 在不影響(a)段的概括性的原則下，在《1947年公約》第十二節中對“本節規定不得認為禁止本公約某當事國與某專門機關決定採取適當之安全防範辦法”的提述，須解釋為對“本節規定不得認為禁止中華人民共和國香港特別行政區與世貿組織決定採取適當之安全防範辦法”的提述；
- (g) 儘管(b)段具一般性的原則，在《1947年公約》第十五節中對“居住於某會員國”的提述，須解釋為對“居住於中華人民共和國香港特別行政區”的提述；
- (h) 《1947年公約》第十七節須在猶如其措詞如下的情況下予以解釋：“當有關人士是中華人民共和國香港特別行政區永久性居民或是現任或曾任中華人民共和國香港特別行政區代表，第十三節(甲)、(乙)、(丙)

- (a) a reference to any specialized agency, however expressed, shall be construed as a reference to the WTO, and, without limiting the generality of the foregoing, the reference to “meetings convened by a specialized agency” in section 1(vi) of the 1947 Convention shall be construed accordingly;
- (b) a reference to any member, however expressed and whether with or without reference to any specialized agency (with the exception of section 13(f) of the 1947 Convention), shall be construed as a reference to a WTO member, and, without limiting the generality of the foregoing, the reference to “representatives of members” in section 1(v) of the 1947 Convention shall be construed accordingly;
- (c) (i) the reference to “will not be sold in the country into which they were imported except under conditions agreed to with the Government of that country” in section 9(b) of the 1947 Convention shall be construed as a reference to “will not be sold in the Hong Kong Special Administrative Region of the People’s Republic of China except under conditions agreed to with the Government of the Hong Kong Special Administrative Region of the People’s Republic of China”;
- (ii) the reference to “Have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question” in section 19(f) of the 1947 Convention shall be construed as a reference to “Have the right to import free of duty their furniture and effects at the time of first taking up their post in the Hong Kong

及(己)項、第十四節及第十五節之規定並不就中華人民共和國香港特別行政區的當局而適用。”；

- (i) 在《1947年公約》第二十一節中對“第十九節……”的提述，須解釋為對“第十九節(甲)、(乙)及(己)項”的提述。

Special Administrative Region of the People's Republic of China”;

- (d) the reference to “the territory of each State party to this Convention in respect of that agency” in section 11 of the 1947 Convention shall be construed as a reference to the area of the Hong Kong Special Administrative Region of the People's Republic of China;
- (e) the reference to “the Government of such State” in section 11 of the 1947 Convention shall be construed as a reference to the Central People's Government of the People's Republic of China;
- (f) without prejudice to the generality of paragraph (a), the reference to “Nothing in this section shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a State party to this Convention and a specialized agency” in section 12 of the 1947 Convention shall be construed as a reference to “Nothing in this section shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between the Hong Kong Special Administrative Region of the People's Republic of China and the WTO”;
- (g) notwithstanding the generality of paragraph (b), the reference to “present in a member State” in section 15 of the 1947 Convention shall be construed as a reference to “present in the Hong Kong Special Administrative Region of the People's Republic of China”;

- (3) 為免生疑問，在《1947 年公約》第十三及十四節中對世貿組織成員代表的職務或任務的提述，在按照第 (2) 款解釋的該等條文中，須解釋為對該等代表的關乎世貿組織所召開的會議的職務或任務 (視屬何情況而定) 的提述。
-

- (h) section 17 of the 1947 Convention shall be construed as if it read as follows: “The provisions of sections 13(a), (b), (c) and (f), 14 and 15 are not applicable in relation to the authorities of the Hong Kong Special Administrative Region of the People’s Republic of China in the case where the person concerned is a permanent resident of the Hong Kong Special Administrative Region of the People’s Republic of China or is or has been a representative of the Hong Kong Special Administrative Region of the People’s Republic of China.”;
- (i) the reference to “sections 19 ..” in section 21 of the 1947 Convention shall be construed as a reference to “section 19(a), (b) and (f)”.
- (3) For the avoidance of doubt, a reference to any functions or duties of the representatives of WTO members in sections 13 and 14 of the 1947 Convention means the functions or duties, as the case may be, of such representatives as referred to in those sections, which are construed in accordance with subsection (2), relating to the meetings convened by the WTO.
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附表

[第 3 條]

在香港具有法律效力的《1947 年公約》條文

第一條

定義及範圍

第一節

本公約內：

.....

(四)第三條內“財產及資產”包括專門機關為執行其組織法所規定之職掌而管轄之財產及基金。

(五)第[五]條.....內“各會員國代表”包括各代表團之所有代表、副代表、顧問、專門委員及秘書。

(六)第十三、十四、十五.....各[節]內，“專門機關所召開之會議”計包括下列各種：(一)專門機關之全體大會及其行政機關(不論其名稱如何)所舉行之會議；(二)其組織法內所規定之任何委員會之會議；(三)其所召集之任何國際會議；及(四)任何此等組織所屬委員會之會議。

(七)稱“行政首長”者謂有關專門機關之主要行政長官，其職稱或為“幹事長”或以其他名之者。

.....

Schedule

[s. 3]

Provisions of 1947 Convention Having Force of Law in Hong Kong

Article I—Definitions and Scope

Section 1

In this Convention:

...

(iv) For the purposes of article III, the words “property and assets” shall also include property and funds administered by a specialized agency in furtherance of its constitutional functions.

(v) For the purposes of articles V ..., the expression “representatives of members” shall be deemed to include all representatives, alternates, advisers, technical experts and secretaries of delegations.

(vi) In sections 13, 14, 15 ..., the expression “meetings convened by a specialized agency” means meetings: (1) of its assembly and of its executive body (however designated), and (2) of any commission provided for in its constitution; (3) of any international conference convened by it; and (4) of any committee of any of these bodies.

(vii) The term “executive head” means the principal executive official of the specialized agency in question, whether designated “Director-General” or otherwise.

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S-3
第 558B 章

附表

Schedule

S-4
Cap. 558B

第二條

法人資格

第三節

各專門機關具有法人資格，且有下列行為能力：(甲)訂結契約；(乙)取得及處分動產及不動產；(丙)從事訴訟。

第三條

財產、基金及資產

第四節

各專門機關，其財產及資產，不論其位於何處及執管者為何人，除在特殊情形下，經其表明拋棄各種豁免者外，均應免受各種方式之訴究。但豁免之拋棄，不得延及任何執行辦法。

第五節

各專門機關之會所應不受侵犯。各專門機關之財產及資產不論其位於何處及執管者為何人，應免受由執行、行政、司法或立法行為而生之搜索、徵用、沒收、徵收及其他任何方式之干涉。

第六節

各專門機關之檔案以及其所屬或所執管之任何文件，不論其在何處均應不受侵犯。

Article II—Juridical Personality

Section 3

The specialized agencies shall possess juridical personality. They shall have the capacity (a) to contract, (b) to acquire and dispose of immovable and movable property, (c) to institute legal proceedings.

Article III—Property, Funds and Assets

Section 4

The specialized agencies, their property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case they have expressly waived their immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

Section 5

The premises of the specialized agencies shall be inviolable. The property and assets of the specialized agencies, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

Section 6

The archives of the specialized agencies, and in general all documents belonging to them or held by them, shall be inviolable, wherever located.

S-5
第 558B 章

附表

Schedule

S-6
Cap. 558B

.....

...

第九節

Section 9

各專門機關、其資產、收入、以及其他財產應予：

The specialized agencies, their assets, income and other property shall be:

(甲)免除一切直接稅；但稅捐之實為公用事業所徵收之費用者，則各專門機關不得請求免除；

(a) Exempt from all direct taxes; it is understood, however, that the specialized agencies will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

(乙)各專門機關為供其公務用途而輸進或輸出之物品，應予免除關稅及進出口之禁止或限制；但免稅進口之物品除與物品輸入國政府約定者外，不得在該國出售；

(b) Exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the specialized agencies for their official use; it is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed to with the Government of that country;

(丙)免除其出版物之進出口稅以及進出口之禁止及限制。

(c) Exempt from duties and prohibitions and restrictions on imports and exports in respect of their publications.

...

.....

第四條

Article IV—Facilities in respect of Communications

通訊便利

Section 11

第十一節

關於郵件、海陸電報、無線電、無線電傳真、電話、及其他交通之優先權、收費及稅捐、以及拍發報界及廣播消息之報價，各專門機關在其公約當事國領土內所應享之公務通訊上待遇，應不次於該國政府所予任何他國政府及其外交團之待遇。

Each specialized agency shall enjoy, in the territory of each State party to this Convention in respect of that agency, for its official communications, treatment not less favourable than that accorded by the Government of such State to any other Government, including the latter's diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications, and press rates for information to the press and radio.

第十二節

Section 12

S-7

附表

第 558B 章

各專門機關之官方函件及其他官方通訊應不受檢查。

各專門機關應有使用密碼及由信差或用密封郵袋收發函件之權利，其信差郵袋應享外交信差及外交郵袋之同樣豁免及特權。

本節規定不得認為禁止本公約某當事國與某專門機關決定採取適當之安全防範辦法。

第五條

各會員國代表

第十三節

出席專門機關所召集會議之各會員國代表，在行使職務時，及在其赴會往返途中，應享有下列特權及豁免：

(甲)免受逮捕或拘押，其私人行李不受扣押，其以代表資格所發表之言論及一切行為，免受任何訴究；

(乙)其一切文書及文件不得侵犯；

(丙)有使用密碼，以及由信差或用密封郵袋收發文書或函件之權；

.....

(己)其私人行李，應予以外交使節等級相當者所享之同樣豁免及便利[。]

第十四節

Schedule

S-8

Cap. 558B

No censorship shall be applied to the official correspondence and other official communications of the specialized agencies.

The specialized agencies shall have the right to use codes and to dispatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

Nothing in this section shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a State party to this Convention and a specialized agency.

Article V—Representatives of Members

Section 13

Representatives of members at meetings convened by a specialized agency shall, while exercising their functions and during their journeys to and from the place of meeting, enjoy the following privileges and immunities:

(a) Immunity from personal arrest or detention and from seizure of their personal baggage, and in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind;

(b) Inviolability for all papers and documents;

(c) The right to use codes and to receive papers or correspondence by courier or in sealed bags;

...

(f) The same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions.

Section 14

In order to secure for the representatives of members of the specialized agencies at meetings convened by them complete freedom of speech and

S-9
第 558B 章

附表

Schedule

S-10
Cap. 558B

為使出席各專門機關所召開會議之各會員國代表執行其任務時，有絕對言論自由及行動自由起見，其於執行職務時所作一切言論行動雖在其不復執行職務後，仍應繼續免受訴究。

complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

第十五節

Section 15

稅捐之徵課以居住為條件者，各專門機關會員國代表出席各該專門機關所召開會議時，因其執行公務而居住於某會員國之期間，不得視為居住期間。

Where the incidence of any form of taxation depends upon residence, periods during which the representatives of members of the specialized agencies at meetings convened by them are present in a member State for the discharge of their duties shall not be considered as periods of residence.

第十六節

Section 16

賦予會員國代表之特權及豁免，並非為私人利益，而係保障其得自由執行有關各專門機關之公務而設。故如援用豁免有礙司法之進行，而拋棄該項豁免並不妨礙賦予豁免之原意時，則會員國不但有權且有責任拋棄其代表所享之豁免。

Privileges and immunities are accorded to the representatives of members, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the specialized agencies. Consequently, a member not only has the right but is under a duty to waive the immunity of its representatives in any case where, in the opinion of the member, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.

第十七節

Section 17

第十三、十四、十五各節之規定，不得由一國人民或一國代表(或曾為代表)對其本國當局援用之。

The provisions of sections 13, 14 and 15 are not applicable in relation to the authorities of a State of which the person is a national or of which he is or has been a representative.

第六條

Article VI—Officials

職員

...

Section 19

S-11
第 558B 章

附表

Schedule

S-12
Cap. 558B

.....

第十九節

各專門機關職員享受下列豁免與特權：

(甲)因公務而為之言論行為，免受訴究；

(乙)由專門機關給予之薪給及津貼免稅，此項豁免及其條件與聯合國職員所享受者等[；]

.....

(己)初次赴任時，有免稅輸入傢具及個人用品之權利。

.....

第二十一節

除第十九節.....所規定之特權及豁免外，各專門機關行政首長(包括其不在任期間之代理人)其配偶及未成年子女應獲得依據國際法所予外交使節之同樣特權、豁免、納稅與服役之免除及便利。

第二十二節

特權及豁免之賦予，原為各專門機關之利益而非為各該職員之私人便利而設。各專門機關倘認為任何職員之豁免足以妨礙司法之執行，而拋棄是項豁免並無害於該專門機關之利益時，應有權責拋棄任何職員之豁免。

.....

Officials of the specialized agencies shall:

(a) Be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) Enjoy the same exemptions from taxation in respect of the salaries and emoluments paid to them by the specialized agencies and on the same conditions as are enjoyed by officials of the United Nations;

...

(f) Have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

...

Section 21

In addition to the immunities and privileges specified in sections 19 .., the executive head of each specialized agency, including any official acting on his behalf during his absence from duty, shall be accorded in respect of himself, his spouse and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

Section 22

Privileges and immunities are granted to officials in the interests of the specialized agencies only and not for the personal benefit of the individuals themselves. Each specialized agency shall have the right and the duty to waive the immunity of any official in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the specialized agency.

...