

Privileges and immunities of the Developmental International Financial organization

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Abstract: The acquisition of privileges and immunities of the Developmental International Financial organization has its jurisprudence and legal basis . as a special international organization , their privileges and The scope of the exemption is subject to many restrictions . however , from the foundational agreements of the developmental international financial organizations and the provisions and practices of the Convention on Privileges and Immunities , the scope of privileges and immunities currently enjoyed by the developmental international Financial organization is moderate , is sufficient to effectively perform its functions and achieve its purpose . China's Legal documents General and special provisions on the privileges and Immunities of the Developmental International Financial Organization in China .

Keywords: Developmental International Financial organization ; Privilege ; exempt ; Scope ; China

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the Developmental International Financial organization can be divided into global organizations and regions organization . Global organizations including World Bank Group (WorldBank Group, hereinafter called World Bank Group The International revival in is open issuing bank (International Bank for reconstruction , Development, hereafter IBRD), International Development Association (International Development Association, Hereinafter referred to AS IDA) and IFC (International Finance Corporation , Hereinafter referred to AS IFC), regional organizations including Asia Open issuing bank , the African Development Bank , Inter-American Development Bank , European RenaissanceDevelopment Bank and Other continental development banks and the West African development Bank , Central African Development Bank , the Caribbean Development Bank and other continents internal partitions Domain Development Bank . differs from other international organizations by , their Enterprise Strong . They typically provide financial support and technical assistance in the form of projects to developing countries . and customers for these items may not just government and state enterprises ,and private enterprise , such as IFC The customer of is mainly small and medium-sized private enterprise ; Project Stakeholders is also very extensive , may also include Aboriginal people . These items may have Negative effects on the environment and Society. so , as special International Organization , if enjoyed with other international organizations like special Rights and immunities , Their business will not work , whose purpose is no

The method implements the . in recent years , China in the developmental International Financial organization The speech and representation are significantly enhanced ,contacts are becoming more frequent . If we do not complete the full depth of their privileges and immunities Analysis , may affect the depth of interaction between China and them .

the privileges and immunities of the Developmental International Financial organization are very Broad concept , including developmental international financial Institution itself and its staff , expert , representative of Member States

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and Representative office , Office etc. Privileges and immunities of missions abroad and their personnel . Developmental International Finance Privileges and immunities of organizations with other international organizations there are big difference .

1. the privileges and immunities of the Developmental International Financial organization obtained by

1.1 legal basis

legal basis for the privileges and immunities of international organizations function required To say , representative said , Fair Benefits said , organization Independent said and organization Equality, and other doctrines .

The function needs to say that an international organization should have access to the Privileges and immunities necessary for the independent exercise of its functions for the purpose of achieving its purposes

free of . United Nations Charter " un specialized agencies and other the Terms of privileges and immunities in the basic documents of an international organization are stated in the Specify , the privileges and immunities of international organizations are for the implementation of the organizations ' purpose and required for performing functions . example Sister " un Charter " The purpose of the United Nations is set by the 1, and then then the clause , and in other clauses The duty of the principal organs to achieve the purposes of the United Nations . can ; The The section stipulates , United Nations should enjoy reaching its Privileges and immunities necessary for Decree ,United Nations staff and Member States on behalf of "" shall also enjoy the Privileges and immunities necessary for their independent exercise of the functions of the organization. visible , International Organization's special Rights and immunities are necessary for international organizations to achieve their functions .

The representative says that , the privileges and immunities of international organizations come from Diplomatic privileges and immunities , at least with diplomatic privileges and immunities tangent . a It has two main reasons : _ is an international organization that represents the public The common will of multiple sovereign states , is in accordance with the collective wishes of sovereign States log . Since sovereign states enjoy diplomacy as subjects of international law Privileges and immunities , , An international organization as a collection of sovereign states body , also entitled to appropriate privileges and immunities . ² Two international organizations the is the product of a sovereign state agreement , It is made up of sovereign states and is unique State participates in international exchanges . International organizations realize their purposes and principles . Out Member States ' will . so , International organizations in achieving their purpose and The scope of the principle , can be said to be in _ to a degree represents members countries ' wishes and interests . This doctrine applies to the countries of the Permanent International organization Delegation and its personnel particularly applicable . ³

Fair benefit say , should guarantee the economic interests of Member States The equality of the and the economic independence of international organizations . with tax exemptions cases , because the organization's funds are from Member States , should be a member In The common interests of the state , If the host country is on its territory International Organization taxes or imports of goods class with customs duties , The country does not will only harm other Member States to gain undue benefit ,and also violates the The national equality Principle , and because the tax authorities in the host country This Organization forms indirect control , More likely to undermine the politics of international organizations through the Jinan Independence , thereby affecting the common interests of Member States . so , country Inter-organization and its employees must have domestic tax and customs exemptions . the public ping Benefit says it can also explain the civil judicial immunity of international organizations , Roomyfield , property , inviolability of files and files . all in all,, like the host country does not grant international organizations privileges and immunities jurisdiction , can only benefit the host country unilaterally . , so that all other The interests of Member States are compromised . ²³⁹

The organization says independently ^H considers , _ An international organization only in a single Autonomous , perform their functions without interference , to TrueThe actively serves the common interests of its Member States .

Conzi (Kunz) once stated, Granting international organizations The reasons for and immunities with privileges and purposes, is the legal and practical independence of international organizations, so they can complete the task. page about this theory, has two cases example can be corroborated by, one is IBRD Case for defendant. in This case, The United States Court of Appeal considers the granting of immunity to international organizations for the Purpose of enabling international organizations to perform their functions more effectively, especially for To make international organizations independent of the States concerned. Another is v. EBRD case. The court that hears the case, to, The international organization enjoys judicial immunity based on the purpose of implementing the group " woven purposes, maintain organizational independence and neutrality from East the influence or control of the state of the word, also in order to pass its representative without to perform its functions. ^{modified}

another, There is also the organization Fair saying that, _ International organization only The has a "in a convincing way", to be on equal base Treat all Member States. in _ International Organization, always has a _ A disgruntled Member State blocking the decision-making process of the organization, thereby endangering and to the validity and uniformity of the organization. only fair operation, a an international organization can serve the interests of all its Member States. give privileges and Immunities of international Organizations, is beneficial to the fairness of the organization sex. ^{modified}

organization Equality say, Although different international organizations enjoy the varying degrees of privileges and immunities, but every _ International organizations need to more or less guarantee its independent functioning privileges and immunities. host No discrimination any _ International Organization. ⁸

The above doctrine, the most representative function needs to say, Generation table Sex and fair benefit say, One of the first and most important should be When the function needs to say. There may also be a cross between doctrine and doctrine, such as the function needs to say and the organization Independent say is between this is so. sometimes, When interpreting the privileges and immunities of an organization, may use a variety of doctrine.

specific to the developmental international Financial organization, its privileges and immunities The legal basis for is multiple. (For example ,, "for instance)Representative said can be reasonably interpreted representatives of Member States of the developmental International Financial Organization and other members of the special "" Rights and immunities: Tax exemption for developmental international financial organizations with public Ping Benefit said as the basis may be most appropriate. of course, on these several grounds with, most important, the applies to the widest range of functions or the function needs to say. because the main purpose behind all the rules for developmental International Financial organization the is to ensure that the developmental international Financial organization is able to perform its functions, and Ensure that the developmental international financial organization is not interfered with by any Member State It is only the _ for the _ purpose of. in a sense, organization says it can be included in the function need to say, do not have to list.

The function needs to say that the core is ' function (function). in the "" Convention on the Privileges and immunities of United Nations specialized agencies approval time, Union Conference of the General Assembly appeals: " Special agencies for effective exercise of their authority See, must enjoy all necessary privileges and immunities as soon as possible, this career by recognition. " ① the Basic Agreement of the Developmental International Financial organization the first 1 The bar is generally clear about its purpose and function, To lay its enjoyment the basis for privileges and immunities. then specify, to make the developmental international gold the ability of the organization to perform a fiduciary function, should be allowed on each member in country with exempt and privileged. ② visible, Developmental the privileges and immunities of international financial organizations are necessary for them to achieve their functions rights.

but, We also want to see, The function is both a developmental international gold the basis for the privileges and Immunities of the Organization, also about developmental international Restrictions on the privileges and Immunities of financial organizations. in other words, Developmental International Financial organizations can only be granted privileges to perform their functions. and exempt. International Law Commission on draft " Vienna Diplomatic

relations " Convention "" also considered ,immunity for international organizations can only be Functional Requirements . ® We can use ' ' if and only if "" ' , function ' and ' Privileges and immunities ' logicrelationship . that is , when the developmental international Financial organization has an exercise level need , and only when the developmental international Financial organization has a line make functional needs , The Developmental international Financial organization is entitled to the corresponding Privileges and immunities .

1.2 legal basis

with the theory of the privileges and Immunities of international Organizations , especially its method based on development , Privileges and immunities of international organizations appear system The development trend of the degree and the Convention , legal basis more and more . This some legal basis rests on the basis of jurisprudence, Is also a jurisprudential the application and development of the basis is . Initial review , Developmental International Gold The legal basis of the Organization's privileges and immunities can be broadly divided into four categories :

_ The class is the basic document of the developmental International Financial organization about The Various provisions of the privileges and immunities issue are . For example ,IBRD contract 7 and IFC Contract 6 The section lists the exclusive with privileges and immunities .

The second category is multilateral Treaties , is primarily United Nations specialized Machine Constitutive Privileges and immunities Convention . The purpose of the Convention is , is to maximize privileges and immunities enjoyed by the United Nations and the specialized agencies . After United Nations approval , It is hoped that the specialized agencies will accept the , and unite Member States and participation in one or more specialized agencies for the member states for other countries join . ④ in particular the annex to the Convention 6, @ and also specifically discusses IBRD, IFC and IDA and other countries

organizations different privileges and immunities . General Assembly considers : " Future Compliance Charter Article Any specialized agency that has relations with the United Nations , should have the above _ Convention (Refers to the Exemption Convention) to enjoy special The only basis for rights and immunities is . " " recommend any future special

door mechanism , The Specialized agency itself should not be defined in detail in its organizational law Privileges and immunities that are or are related to the specialized agency , but subject to To set these privileges and immunities when the above _ Convention is the norm , and make a Necessary revision . " ⑤ in accordance with the above provisions , respectively 1944 year , 1956 Year and 1960 IBRD, IFC and IDA contract there should be no IBRDin, IFC and IDA Privileges and immunities body Specify , and the convention should be IBRD,IFC and IDA Special The sole legal basis for rights and immunities . however , when they are established when , The drafters did not think they would become the UN's special door body . but , since they have become United Nations specialized machines construct , They follow this _ The convention is also a certainty . but , then Think further , If agreement conflicts with Convention on application , to Bottom What precedence ? If the agreement is first , will violate the Conventiononly - base rules ; If the convention overrides , will impact status . because IBRD, IFC and IDA The contract is like a country's Constitution , If a country has no Constitution , will lose its statehood . This is a dilemma .. but , only review international law and theory and practice of domestic law relations know , Even in those who serve International treaty Priority countries , The national Constitution is still high. No status . same as, if breach agreement , equals violates Gazette . The validity of the contract is compromised , The legal basis of their existence will be shaken . to avoid ambiguity , Exempt convention expressly provided for , this Convention (including this attachment) No changes or amendments , or request change or fix IBRD,IFC and IDA Bar of the contract paragraph , or derogation or limit IBRD,,IFC and IDA contract terms or IBRD , IFC and IDA any Member State or any of its political institutions Legal regulations or other grant IBRD, IFC and IDA or its Member States , directors , Executive Director , Deputy Director ,Deputy Director , Staff and any employee's rights , exempt , privilege or exemption . © This rule Specify ,IBRD, IFC and IDA Whether the contract is valid or is Superior to Convention .

In addition to this Convention , Drafting of the United Nations International Law Commission

- ① the coordination Issues on the privileges and immunities between United and its nations specialized, Re Solution 179 (II), General Assembly of the United Nations , November, 1947.
- ② IBRD Articles of agreement, Article VII, section 1:ifc Articles of agreement, Article Vi., section 1.
- ③ International Yearbook of Commission, Vol. 2, 1967, p. .
- ④ Convention on the Privileges and Immunities of the specialized agencies, preamble.
- ⑤ the coordination Issues on the privileges and immunities between United and its nations specialized, Re Solution 179 (II), General Assembly of the United Nations , November, 1947.
- ⑥ Convention on the Privileges and Immunities of the specialized agencies, Annex XIII, Article 5.

and in the 1975 adopted at the Vienna Diplomatic Conference of the Year Vienna off On the State's representation in relation to the Universal International organization about The provides a more comprehensive set of privileges and immunities .

The third category is a bilateral treaty , primarily the developmental international Financial Group Weaving in home Office , delegates and other missions or events , with the special privileges and immunities specified in the country . example , Our government and IBRD and IFC signed on Hong Kong East Asia and Pacific Regional Office Memorandum of Understanding on the Act The Privileges and immunities of the and their personnel are specifically described . ①

The fourth category is domestic legislation . Some countries specifically set up International organization (Privileges and immunities to international organizations in this The Privileges and immunities of the State are specified in detail , such as UK and United States etc . China does not have specific legislation , but in Diplomacy Privilege and exemption regulations "" the bar explicitly stipulates that , International Organization Privileges and immunities in China , to be entered into or signed by China International treaties and agreements for, are handled by . also , Treasury also specifically A notification was issued for the IFC tax exemption issue ... ⁹ 1998 year fiscal The Department and the General Administration of taxation also , the The International organization's representative office in China and its officials to purchase Chinese-made items in the The issue of drawback special provisions . ^M All of these can be opened The legal basis for the granting of privileges and immunities by international financial organizations .

2. the privileges and immunities of the Developmental International Financial organization main contents

The main content of the privileges and immunities of the Developmental International Financial organization in the Developmental International Financial Organization agreement and Exemption Convention and other some the has specific provisions in international and domestic law . mainly from development the International Financial organization itself and its staff , Member States represent , Abroad the privileges and immunities of the Mission are described in four respects .

2.1 The privilege of the developmental International Financial organization itself vs. exempt

the privileges and immunities of the Developmental International Financial organization itself include division Law governs , property and assets , exemptions for taxes ,files, and so on and communication concessions .

2.1.1 Jurisdictional Exemptions . the The Developmental International Financial organization can not have the "" all exempt from the jurisdiction of the domestic courts . but ,on accept domestic Court Jurisdiction , still have _ Some exemptions . its _ , exempt from some improper The territorial jurisdiction of is . only in the developmental international Financial organization There is a service. Place , An agency that specifies a summons or notice of action , or jurisdiction of Member States that have issued or secured securities in the Territory , to accept the plea of the Developmental International Financial organization . in other words , in non-member country Court , does not have A domestic court or a level of jurisdiction or special jurisdiction in a Member State that complies with the above actions , All

Developmental international financial organizations can exempt . ② its two , exempt from litigation for certain plaintiffs . subject to a developmental international restrictions on business objects for financial organizations , only natural persons of Member States , legal entities and other organizations are qualified plaintiffs , and member States and representatives member States or organizations and individuals that inherit the rights of Member States , Do not mention out of action . its third , exempt from pre-litigation security measures and prior to execution , The assets and assets of the developmental International Financial organization , no matter where at the, Why people are in custody , before sentencing for a developmental international financial organization last , are exempt from any form of seizure , Seize or hold the line . ③

2.1.2 questions about property and asset exemptions . Exploitation International Financial organization property and assets including developmental international Financial organization for property and funds for the implementation of the functions under the Developmental International Financial organization Agreement . (®) They are everywhere , by whomsoever insured tube , all exempt from search , Requisition , confiscate , To impose a , or another line Any form of seizure of political or legislative acts ; ⑤ They are in the desired scope , should also be exempt from any kind of restriction , control , Control with The and the deferred reimbursement method are limited by . ©

2.1.3 Tax Jurisdictional exemption . Developmental International Financial organization and its assets , Property , Benefits and business activities authorized by this agreement to operate and Transactions , and should be exempt from all taxes and duties . Developmental International Collection or payment of any taxes or tariffs , should be excluded free of liability . no Debts issued by the Developmental International Financial organization Security and any

① See Hong Kong Gazette 5 Special Supplement No. 5 Volume period , 2001 Year 7 Month Day .

② Convention on the Privileges and immunities of the specialized agencies , Annex VI , XIII and XIV , Article 1. has no such provision for the International Monetary Fund . and under this Convention 4 Section , other ' ' Specialized Agencies , its property and assets , regardless of location , And regardless of who holds the , for various ways of the legal process , should be exempt . but no in special cases , expressly discards its exemption by the specialized agency , not at this limit . The should understand that the abandonment exemption should not apply to any execution .

③ Articles IBRD of , , Article VII, section 3: IFC Articles of agreement , Article M , Section 3: ADB Articles of agreement , Article L , Section 3.

④ Convention on the Privileges and immunities of the specialized agencies , Article I , Section 1 (iv) .

⑤ IBRD Articles of agreement , Article VII , Section 4 / IFC Articles of agreement , Article ^ , Section 4 / ADB Articles of agreement , Article LI.

⑥ IBRD Articles of agreement , Article VII , Section 6 / IFC Articles of agreement , Article ^ , Section 6 / ADB Articles of agreement , Article LIII.

imposition of discriminatory taxes on debt or securities . ®

2.1.4 file Exempt . Archives of the Developmental International Financial organization not violated ; ® _ - like , Belongs to the Developmental International Financial organization or Any files held by the Developmental International Financial organization , regardless of whence , also inviolable . ®

2.1.5 Communication Concession . Member States for Developmental International Finance Organization correspondence should be in correspondence with other Member States to treat . (®) Exemption Convention for this _ privileges are specified in detail , To apply to the developmental International Financial organization . ⑤

2.2 the privileges of the personnel of the developmental International Financial organization vs. exempt

The personnel of the developmental international Financial organization here have a broad understanding of the , including the chief executive of the Developmental International Financial organization , directors and vice- directors things , officials and employees and other experts . for Directors and Vice-Presidents things , Although the developmental International Financial organization is, to some extent, viewed as a Senior official of the developmental International Financial Organization , but , the Special the Rights and immunities are determined by the representative

of the Member State . for other privileges and immunities for experts , The Developmental International Financial organization basically does not have the The This makes the provision , is simply exempt from convention the convenience of obtaining a pass on it The has some implications for . ^328-339 so , This section is only for developmental international gold the privileges and immunities of officials and employees and executive heads of the organization Jane to analyze .

Special for officials and employees of the developmental International Financial organization Rights and immunities , The foundational agreements of the developmental international Financial organization are governed by set , Act when doing business immunity from legal action ; page two , If a non-local national citizen , is eligible for immigration restrictions , outside Chinese registration Scheme and military service duty exemption , and in foreign exchange restrictions convenient for , should be given to other Member States Same level of officials and employees ; Third , on travel Convenience , should be accorded the same level of membership to other member states Same as employee ; © Fourth , Official of the developmental International Financial organization workers and employees , if not national citizen , A country of people or other nature People , salaries and remuneration of their own international financial organizations , All should be exempt from tax . ⑦ other , in the event of an international crisis ,The gives the Embassy A level in conjunction with his spouse and dependent relatives . the same repatriation facility for officials ; immigration restrictions and Aliens registration is exempt from their spouses and dependent relatives . ®

Privileges and immunities for executive heads , Developmental International Finance The Organization Agreement does not specify . is just under exempt Convention ,except Privileges and immunities of officials and employees of the developmental International Financial organization free of the, their own (Includes the for which the job was done during the separation any staff), spouses and minor children and shall be entitled to the International the same privileges granted to diplomats , Exempt ,exemptions and conveniences . ®

2.3 representatives of States members of the developmental International Financial organization Privileges and immunities

representatives of Member States generally include all representatives of delegations , Vice Rep , advisor , Special commissioners and Secretaries . 璫 for Developmental international Financial organization , mainly includes the director of the Developmental International Financial organization and vice director , even includes directors and deputy directors , and related people member . They are attending the conference of the developmental International Financial organization. discussion ® procedure , is included during the execution of the job and the round trip on the journey , all enjoy _ privileges and exemptions set by . on people body , baggage , statement , Newsletter ,Foreign currency exchange , Immigration Restrictions , outside overseas registrations and more .. Rong overall , their privileges and exclusion is slightly lower than the diplomatic staff of the embassy ..

2.4 Developmental International Financial organization missions abroad Privileges and immunities

the overseas missions of the developmental international Financial organization refer to the developmental international Financial organization in its relationship to other or multiple international law subjects

① IBRD Articles of agreement, Article VII, section 9/ifc Articles of agreement, Article ^, section 9/adb Art Icles of agreement, Article LVI.

② IBRD Articles of agreement, Article VII, section 5/ifc Articles of agreement, Article ^, 5/adb A Rtibles of agreement, Article LII.

③ Convention on the Privileges and Immunities of the specialized agencies, Article II, section 6.

④ IBRD Articles of agreement, Article VII, section 7/ifc Articles of agreement, Article ^, section 1, ADB Articles of agreement, Article LIV.

⑤ Convention on the Privileges and immunities of the specialized agencies, Article II, section one and.

⑥ IBRD Articles of agreement, Article VII, section 8/ IFC Articles of agreement, Article ^, section 8, ADB

Articles of agreement, Article LV.

⑦ IBRD Articles of agreement, Article VII, section 9 (b)/IFC Articles of agreement, Article VI, section 9 (b)/ADB Articles of agreement, Article LVI. .

⑧ Convention on the Privileges and Immunities of the specialized agencies, Article II, section.

⑨ Convention on the Privileges and Immunities of the specialized agencies, Article II, section.

⑩ Convention on the Privileges and immunities of the specialized agencies, Article I, section 1 (v).

The includes the plenary Assembly and its administrative organs (regardless of its name) meetings held by ; meetings of any Committee under its organizational law ; Any international meetings that it convenes ; any is a meeting of the Subcommittee . Convention on the Privileges and Immunities of the specialized agencies, Article I, section 1 (vi).

⑪ Convention on the Privileges and Immunities of the specialized Agencies, Article v., section and.

on , sent to a place outside of Washington headquarters , To perform a specific make delegation , including permanent missions and temporary missions abroad . formerincluding New York Office accredited to the United Nations , the is responsible for the regional transactions of the east the Beijing , office in Paris and Frankfurt and in Hong Kong East Asia and Pacific Regional Office , in contact with Member States , and so on etc the latter includes locations in project development centers , They save continue shorter .

Overview from the scope of privileges and immunities granted See , Permanent missions are usually larger than temporary missions abroad ; in international organization The mission of is greater than that in the region and the country . ; one like Mission ① greater than Specialized Missions ; ② Missions in the region are larger than missions in the country . with IBRD and East Asia and Pacific Regional Office IFC for example , Office the privileges and immunities of the,, and the IBRD and IFC Differences between Headquarters not large ; Privileges and immunities of Head of Office with other United Nations specialized The basic same for the executive heads of the door bodies ; IBRD and IFC official and employees have fewer privileges and exemptions . ®

3. the Developmental International Financial organization is the privilege andexclusion

One of the smallest international organizations

If the privileges and immunities of the Developmental International financial organization are to be set with its Comparison of privileges and immunities of international organizations it is not difficult to find , Open International financial organizations should be one of the international organizations with relatively minimal privileges and immunities .

3.1 It is based on a dispute arising out of a contract or tort not exempt domestic courts from jurisdiction

Jurisdictional immunities should be other intergovernmental international organizations including

International Monetary Fund (International monetary Fund ,) Typical characteristics of the hereinafter referred to IMF) . But under the exemption Convention , Only three financial institutions in the World Bank Group cannot fully exempt domestic Court jurisdiction . ④

should say , International organizations enjoy the right to judicial immunity . from . 7 First, Domestic courts may have a bias against international organizations See , or domestic judges have no ability to handle such cases or because Other motives to make judgments against international organizations . second , People also form a potential force against international organizations . third , different the Court of May draw a different verdict , and there is no unified it legal system , This may not be conducive to protecting the common interest of Member States benefits .

but , Developmental International Financial organization and IMF is international Financial organization , Why so important difference ? main cause Yes , IMF No access to private capital market lending , and Developmental International Financial organizations can issue or guarantee securities in Member States , and often working with

commercial banks . for the developmental International Financial organization , Place Abandonment of judicial exemption helps eliminate potential investors , customers and Partners Companion's concerns .

Notwithstanding the annex to the Convention and Immunities of the Developmental International Financial Organization (IFC) Restrictions on the acceptance of domestic courts by the developmental International Financial organization system , but anyway , They're still not exempt from the national courts ' jurisdiction . this single ,makes its privileges and immunities scope subject to to strict restrictions . This is the same with other international organizations. big difference .

3.2 Developmental International Financial organization officials and employees privilege and exemption scope small

Developmental International financial organizations and other non-financial United Nations Specialized Agencies different , Its staff is not divided into D , P , G Third Class 12 . ⑤ its staff except for a handful of administrative officials outside , Most are professional employees . because of the developmental international Financial organizationoperating Nature , and more people , the privileges and immunities given by Member States exempt from general not much . Their status can be broadly comparable to that of the diplomatic corps. Technical officer and embassy employee status , but , Privileges and immunities is narrower than the embassy staff , And strictly in the execution of the title is required for the condition .

3.3 Special restrictions on exchange control facilitation

Although under the terms of the exemption Convention , is not subject to any fiscal control system Restrictions on financial regulations or deferred orders ,Developmental International Financial organizations may freely transfer their payments from one country to another or within a country , Gold or currency , And you can change any currency that it retains to to Any other currency . ⑥ but , The Convention has a but no book ' : ' but without violating IFC Terms of Agreement 3 Bar 5 section

① refers to a mission with a full representation function .

② Refers to a Special Mission , A mission for technical posts, such as development assistance .

③ See Hong Kong Gazette 5 Special Supplement No. 5 Volume period , 2001 Year 7 Month Day .

④ Convention on the Privileges and immunities of the specialized agencies , Article II , Section 4 and Annex VI , XIII and XIV.

⑤ D for Senior Administrative Officer , includes D-2 (Department head ,directors) + D-1 (Other principal officials , Principal Officers) ; P As a technical expert (professtion-als) , : P-5 to P-1 five levels ; G for General Service personnel (General Service) , also divided into G-5 to G-1 five levels . and D. Williams, Specialized agencies and the United Nations, New York 1987, p. 131

⑥ Convention on the Privileges and immunities of the specialized agencies , Article III , Section 7 (b) .

Limit . "① and IFC contract 3 article 5 The section stipulates that : "IFC in territory of any Member State , under this article 1 The section stipulates that for investment by IFCrevenue or due to IFC funds , not Single due to any provision of this agreement not implemented in the territory of the Member State General Implementation of foreign exchange control , Rules and administrative measures . " this _ rule to make the IFC has been greatly restricted in terms of exchange control facilitation . its real , Even if there are no attachments " ' " but the book , IFC should also follow this _ limit , because previous reference to , Developmental International Financial Organization Agreement The, is more efficient than the exemption Convention . of course ,IBRD, IDA etc organization No limit on currency exchange .

3.4 the privileges and immunities that are waived are large and many times

either the Developmental International Financial Organization Agreement or the exemption Convention Attachments , all require the developmental international Financial organization to relinquish its own privileges and exemptions granted by the . ② Practice , in Developmental International finance organization contracts with customers

and cooperative banks , _ will be ordered There are terms or statements that waive privileges and immunities , or afterwards 补订 similar clause , or act to express waiver . But the latter is prone to contention discussion . IFC v. Caesar International Group (Kaiser Group InterNational INC.- case ③ It's all about this . a question . % year 6Month 9 Day , Caesar Company and some of its subsidiaries to the United States Bankruptcy Court filed a lawsuit . % year 8 Month EUR Day „IFC submitted A to the courtSome claim evidence , simultaneous declaration , provides evidence only based on the court Mandatory requirements , This commit behavior does not mean IFC governed by court . later , plaintiff also modified the pleadings , turn IFC after Add as defendant . IFC respond to, „IFC on United States International Organization Exemption Act " exemptfrom " , IFC cannot be based on the United States , Bankruptcy Code No. (b) paragraph Waiver , because it is not a governmental department , nor a sovereign state . plus „Even if it can waive the exemption , It will not pass the submit evidence . One to represent . ④

in four cases , The first and second types of are IFC and IBRD,IDA Total , but not in other international organizations ; The third and fourth cases of are the IFC unique to „IBRD and There are no IDA no .

problem analysis here , Maybe someone will ask , Developmental International is the scope of the Financial organization's privileges and immunities too small ?? this is indeed a question that the is worth further discussion . history , diplomatic privileges and exemption once opened the door to abuse of power . United Nations total The location of New York is deeply affected . . for this „2002 Year USA amendment to federal law , New York can stop a diplomat from violating the rules. Put car tow away, If diplomats do not pay parking fines , The amount owed from the United States to the country where the diplomat is located . ⑤ This provision involves only diplomatic privileges and exclusion no , but , Has also inspired the privileges and immunities of international Organizations . with in body , Scope of privileges and immunities of the Developmental International Financial organization How much should be appropriate ? Developmental International Financial organization officials ' cars violation , need to exempt from trailer and fine ?

say according to function , the privileges of the developmental International Financial organization and exemptions should be scoped to "" function required . but it 's in the How much privileges and immunities do international financial organizations need , to be valid To achieve its functions ? practice is difficult to grasp . Some scholars have proposed The Step-analysis method , attempts to resolve this issue . the first determines Whether a international organization is only granted specific privileges and immunities when the to perform its functions smoothly ; Second, after confirming that the organization is really requiring exemption from security , To Select further categories of exemptions to provide this protection ; The third step is after making the above selections ,, finalize the specifics of immunity this method looks like Jane single, may still be difficult to operate . because it only provides a brief Three-step , How each step is made is not detailed in .

specific to the privileges and immunities of the Developmental International Financial organization surround , I think it should be according to the developmental International Financial organization Decree , functions and Functions , theory with practice , for dialectical analysis . on the other hand , The developmental international Financial Organization must have the necessary privileges . vs. exempt . because the funds of the developmental international financial organization are extremely Limited restricted , They are primarily catalytic . International Bank is pleased to cooperate with the the Developmental International Financial organization , except for its AAA and 3 afor credit rating , also fancy the privileges and immunities they enjoy . through this cooperation mechanism , All financial institutions bear their own Commercial Credit risk in the project , and Developmental International Gold Financial organization is still a registered lender . Participation in the Developmental International Finance Group The financial institutions that weave loans will share the developmental international financial organization as a Privileges and immunities granted by multilateral development agencies , Include Precedence for the sinks (;) Where appropriate , participants also can be enforced in the regulatory authority on mandatory withdrawal of reserves

① Convention on the Privileges and Immunities of the specialized agencies, Annex XIII, Article 2.</b21 >

② Convention on the Privileges and immunities of the specialized agencies, Annex XIII, ARTICLE3/IFC Articles

of agreement, Article ^, section ii.

③ International Finance Corp. Kaiser Group International Inc., No. 04-1634, third U. Circuit Court of Appeals, Feb, the

④ Bankruptcy International Finance Groups Waiver of sovereign immunity Subjects it to bankruptcy Court JURISDI ction; In Re Kaiser Group International Inc., (3d Cir. 02/25/05), national financing Digest, April, p. 2.

⑤ See also you can do whatever you want with a diplomatic license. , Download US International Herald Tribune 2006 Year 9 Month Day , quoted from Reference Message2006 Year 9 Month Day .

The section is granted immunity . , Developmental International Financial organization can provide a something a sex investor or a commercial bank cannot provide , such as political security , tax exempt etc . &⁴ so , Developmental International Financial organizations can attract more capital to developing countries , plays a catalytic role . If they lose these privileges , exempt with convenient , The interest of international banks and their cooperation will be greatly reduced , It is difficult to achieve its purpose and function .

another _ Aspect , Privileges and immunities of the Developmental International Financial organization Not too many . because of the stakeholders of the developmental International Financial organization Natural persons with Member States , legal entities and other organizations . in those interests related to, Some have business partnerships with them , Some are subject to Environmental and social impact of their investment or loan projects . assumption to the developmental international financial organization too many privileges and immunities , such as absolute Jurisdictional immunities , These stakeholders , especially creditors "" No door is open . the appearance of this situation will undermine the interests of the The the confidence of those concerned to conduct business with them , also dare not accept it loans and Investments , The bonds they issue are also unsalable . this outside , , If they have too many privileges and exemptions , for those with their Businesses with competitive financial institutions ,also show unfair .

fully , from the foundational agreements of the developmental International Financial Organization and the Exemption Convention and its practice see , They currently enjoy The scope of privileges and immunities is appropriate , to perform its job effectively to ,, and achieve its purpose .

4. Developmental International Finance Organization in China special Rights and immunities

for those treaties relating to international organizations , China has nothing like its He's a binary country. , take the form of national law in the country applies . is usually after The National People's Congress has ratified the International group to which it was joined , is considered to have completed the inclusion program , The Treaty is Domestic effective . , so , about international organizations ' privileges in China and Exempt questions , China also has no special legislation such as the Anglo-American countries . only in our country Regulations for diplomatic privileges and immunities " : " " China participates in international conferences convened by the United Nations and its specialized agencies foreign representative , coming to the United Nations of China and its specialized agencies officials and experts , Representative machines of the United Nations and its specialized agencies in China Construction and personnel treatment , in accordance with the relevant international conventions to which China is a party and China's agreement with the relevant international organizations is in the process of "" . "① United Nations " Convention on Privileges and Immunities of specialized agencies in 1979 Year 9 Month One Day to Our country takes effect . 1981 year 6 Month Japan China government under this Convention page The provisions of the one section , notified the UN Secretary-General , apply this to the public is extended for IBRD,IFC and IDA. so , as IBRD,,IFC and IDA Member States , China should follow Convention on the Privileges and Immunities of United Nations specialized agencies Country of Origin international treaties such as inter-financial organizations accord to the developmental International Financial Group Weaving and its staff necessary privileges and immunities . other than , China also on the international _ and domestic legal instruments for the exploitation of Financial Group _ Certain privileges and exemptions that are woven by the are specifically described in .

The Government of the People's Republic of China and the International Bank for Reconstruction and Development and International Finance Corporation on the People's Republic of China Hong Kong Special Administration Establishment of an International Finance Corporation East Asia and Pacific Regional office and The world the understanding of the Office of the Private Development Department of the East Asia and Pacific region of the World Bank, memo "" Privileges and immunities for the Office and its personnel Special description . ② the MOU ,, 4,,: " The government gives the joint office owner the (includes any officials who perform their functions on behalf of the), their spouse and Non -independent children under age no less than others in the HKSAR United Nations the privileges enjoyed by the head of a specialized agency ,exempt , exempt and then profit . visible , the person in charge of the office enjoys a very good deal in Hong Kong high , equivalent to person in charge of UN specialized agencies . other , The forgive The memo also reaffirms the IBRD,IFC and IDA 's judicial tube Jurisdiction and property execution Exemptions . Protection and jurisdiction of office premises , Freedom of communication , convert HK \$, Tax exemptions, and official and employee mercenaries also have a provision for service . last , to Office officer and employee privileges , exempt , the exemptions and conveniences make the necessary restrictions .

Tax on developmental international financial organizations is excluded from domestic legal documents exempt from special provisions . given the IFC particularity , 1984fiscal Year The Department also issued a special about International Finance Corporation exemption Tax receive notification . notification indicates that , Our country to 1980 year 5 monthly restore after the World Bank Group's seat , has become the World Bank Group , IFC Member States , and to 1984 year 1 Month the Day is issued to IFC Confirmation of contract , confirm this Agreement 6 bar 2 9 Section (with) has been given legal effect in the People's Republic of China . where the first 9 section is exempt from tax . and , for ease of execution, also particularly clear from 1984 year 1 month 1 date to IFC in China property and the profits remitted and transferred by the investment joint venture from our country get shares proceeds ; property in China (includes property) and property out of rent or transfer revenue ; loan to our company ,interest earned by the Enterprise Income or revenue exempt from taxation ...]²⁸³

1998 issued jointly by the Ministry of Finance and the general administration of taxation about International Organization's representative office in China and its officials purchase Chinese-made items with

- ① Regulations of the People's Republic of China on diplomatic privileges and immunities , Bar .
- ② See Hong Kong Gazette 5 Special Supplement No. 5 Volume period , 2001 Year 7 Month Day

Notification of tax refund issues indicates that , According to the Chinese government's participation in the International conventions of the and the agreement between the Chinese Government and the relevant international organizations , International Organization in China Representative office and its officials and foreign countries in China The embassy and its diplomats enjoy equal treatment . 1998 year 4 Month ,, International organization China Representative office and its officials purchase specific Chinese-made items can be in the Ministry of Finance , State Administration of Taxation The about foreign China make (collar) the Museum and its diplomats buy Chinese-made items about back Notification of a tax issue , Enjoy tax refund . ^{M64} as Important international Organizations , the Developmental International Financial organization in China can also Enjoy a similar tax benefit .

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