

LEGAL NOTICE NO. 166

REPUBLIC OF TRINIDAD AND TOBAGO

THE PRIVILEGES AND IMMUNITIES (DIPLOMATIC, CONSULAR AND
INTERNATIONAL ORGANISATIONS) ACT, CHAP. 17:01

ORDER

MADE BY THE PRESIDENT UNDER SECTION 9 OF THE PRIVILEGES AND
IMMUNITIES (DIPLOMATIC, CONSULAR AND INTERNATIONAL
ORGANISATIONS) ACT

THE PRIVILEGES AND IMMUNITIES (ANDEAN DEVELOPMENT
CORPORATION) ORDER, 1996

1. This Order may be cited as the Privileges and Immunities
(Andean Development Corporation) Order, 1996. Citation

2. In this Order—

Interpretation

“Agreement” means the operating conditions agreement
between the Government of the Republic of Trinidad and
Tobago and the Corporación Andina de Fomento, the
Andean Development Corporation;

“Corporation” means the Andean Development Corporation;

“Government” means the Government of the Republic of
Trinidad and Tobago.

3. The Corporation shall be accorded all the privileges and
immunities set out in Part 1 of the Schedule. Privileges and
Immunities of
the
Corporation

4. The foreign staff of the Corporation shall be accorded all the
privileges and immunities set out in Part 2 of the Schedule. Privileges and
Immunities of
officials of the
Corporation

5. (1) With the exception of the privileges and immunities
applicable only to the foreign staff of the Corporation in a
representative office in Trinidad and Tobago, the privileges and
immunities accorded to the Corporation shall apply whether or not the
Corporation maintains an office, agent, manager, representative or any
other staff in Trinidad and Tobago. Privileges and
Immunities to
apply in
certain
circum-
stances

(2) The President may, by Order, grant to a wholly-owned
investment subsidiary of the Corporation any of the privileges and
immunities accorded to the Corporation under this Order.

SCHEDULE

PART 1

PRIVILEGES AND IMMUNITIES OF THE CORPORATION
LEGAL PERSONALITY AND CAPACITY

1. Subject to paragraphs 2 and 3 the Corporation shall have legal personality and the legal capacity—

- (a) to contract;
- (b) to acquire and dispose of real and personal property; and
- (c) to sue and be sued in a court of competent jurisdiction.

2. A judicial action against the Corporation may only be filed in Trinidad and Tobago if it has established an office in Trinidad and Tobago or has appointed an agent or a representative empowered to accept service or note of process in Trinidad and Tobago or where it may have issued or guaranteed securities.

3. The Government and the persons who represent or derive their rights from it may not file any legal action against the Corporation save that the Government as a shareholder of the Corporation may assert such rights pursuant to special procedure which may be designated in the Agreement, in the regulations of the Corporation or in the contracts entered into by both parties in order to settle any controversies that may arise between the Government and the Corporation.

4. The Corporation is not required to be licensed under the Moneylenders Act, Chap. 84:04 or the Financial Institutions Act, 1993 (No. 18 of 1993), and is not required to be registered under the Companies Ordinance, Ch. 31. No. 1.

ASSETS

5. The property and other assets of the Corporation, wherever located, shall enjoy immunity from expropriation, search, requisition, confiscation, seizure, sequestration, attachment, retention or any other form of forceful seizure which disturbs the Corporation's dominion on the property and other assets by reason of executive or administrative action of the Government.

6. The property and other assets of the Corporation shall have identical immunity and are exempt with respect to judicial action until a final judgment has been pronounced against the Corporation.

7. The property and other assets of the Corporation shall be exempt from any type of restrictions, regulations, controls and moratory measures to the extent necessary for the accomplishment of the Corporation's objectives and functions.

ARCHIVES AND COMMUNICATIONS

8. The Government undertakes to recognise the inviolability of the Corporation's archives.

9. The Government undertakes to accord to the official communications of the Corporation the same treatment given to the official communications of diplomatic agents of member countries of the Corporation.

10. The Corporation's correspondence, including packages and printed matter, when bearing its franchise seal, shall circulate postage free through the mail of Trinidad and Tobago.

TAXES AND DUTIES

11. In respect of the Corporation's operations in Trinidad and Tobago, the Government undertakes to procure that—

- (a) the Corporation shall be exempt from all direct or indirect taxes, duties, levies, deductions or other imposts of any kind imposed in Trinidad and Tobago;
- (b) the Government, governmental agencies, public and private companies in Trinidad and Tobago which make payments of interests, dividends, fees or other monies to the Corporation shall not be obliged to withhold or make any deduction on account of any such taxes, levies or imposts;
- (c) no tax of any kind shall be levied on any obligations or securities issued by the Corporation, including any dividend or interest thereon, by whomsoever held—
 - (i) if such taxes discriminate against such obligations or securities solely because they are issued by the Corporation; or
 - (ii) if the sole jurisdictional basis for such taxes is the place or currency issued, made payable or paid, or the location of any office or place of business maintained by the Corporation;
- (d) there shall not be tax of any kind levied on any obligations or securities guaranteed by the Corporation, including any dividend or interest thereon, by whomsoever held—
 - (i) if such taxes discriminate against such obligations or securities solely because they are guaranteed by the Corporation;
 - (ii) if the sole jurisdictional basis for such taxes is the location of an office or place of business maintained by the Corporation.

12. The Corporation shall be authorised to import free of customs or import duties, vehicles, goods and technical equipment necessary for the operation of any representation it may decide to maintain in Trinidad and Tobago and such vehicles, goods and technical equipment may be subsequently re-exported free of export duties and other fiscal charges.

FOREIGN INVESTMENT AND EXCHANGE CONTROL

13. The Government undertakes to procure that the departments or offices for the time being responsible for foreign investment and foreign exchange control matters shall—

- (a) deal expeditiously with any request for any approval for foreign investment or foreign exchange control purposes that may be required for a proposed investment by the Corporation in any enterprise in Trinidad and Tobago;
- (b) grant all authorisations that may be required—
 - (i) for the remittance out of Trinidad and Tobago of all dividends and other distributions, interest, profits, gains, proceeds or realisation, income, fees and monies of any kind whatsoever arising from or in connection with any investment by the Corporation in Trinidad and Tobago;
 - (ii) for the purchase at the best authorised exchange rate available of any foreign currency that may be required in connection with any such remittances.

LOCAL OFFICE

14. The Corporation may, at its own expense, maintain a representative office in Trinidad and Tobago from which to carry on its operations but, prior to doing this, shall carry on those operations by visits of its employees.

PART 2

PRIVILEGES AND IMMUNITIES OF STAFF OF THE AGENCY

15. The Corporation's staff shall enjoy immunity with respect to judicial and administrative process relative to acts performed by them in their official capacity, except when the Corporation expressly waives such immunity.

16. The Corporation's staff who are not citizens of Trinidad and Tobago shall be accorded exemptions, concessions and privileges in respect of taxation, import duties and otherwise, no less favourable than those accorded to such employees of international institutions to the extent that they shall—

- (a) not be subject to income tax or similar taxes in respect of salaries and emoluments received from the Corporation; and
- (b) be entitled within six months of arriving in Trinidad and Tobago to import free of customs or import duties, personal effects, including not more than one vehicle per staff member for personal or family use, and household goods and to export the same free of export duties and other fiscal charges at the end of their stay in Trinidad and Tobago.

17. The Government undertakes to procure that the departments or offices for the time being responsible for foreign investment and foreign exchange control matters shall grant all authorisations that may be required for the remittance out of Trinidad and Tobago of any monies belonging to employees of the Corporation and their spouses and children who are not citizens of Trinidad and Tobago.

ENTRY VISAS AND WORK PERMITS

18. The Government undertakes to facilitate the issue of all visas, permits and other authorisations required to enable the Corporation's staff and their families to work in Trinidad and Tobago and to enter, remain and reside in and leave Trinidad and Tobago at any time and from time to time as required in order to carry out the Corporation's purposes subject always to compliance with the laws of Trinidad and Tobago.

19. The Government undertakes to give sympathetic consideration to applications for work permits for spouses of the Corporation's staff who are not citizens of Trinidad and Tobago.

Made this 3rd day of June, 1996.

A. LEUNG WOO-GABRIEL
Acting Secretary to Cabinet

Approved by the House of Representatives this 9th day of August, 1996.

J. SAMPSON
Clerk of the House

Approved by the Senate this 17th day of September, 1996.

N. COX
Clerk of the Senate