

LEGAL NOTICE NO. 193

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
ORGANISATION) ACT

THE PRIVILEGES AND IMMUNITIES (CARIBBEAN EXPORT
DEVELOPMENT AGENCY) ORDER, 1997

- Citation 1. This Order may be cited as the Privileges and Immunities
(Caribbean Export Development Agency) Order, 1997.
- Interpreta-
tion 2. In this Order—
 “Agency” means the Caribbean Export Development Agency;
 “Agreement” means the Agreement establishing the Caribbean
Export Development Agency;
 “Board” means the Board of Directors of the Caribbean Export
Development Agency;
 “CARICOM” means the Caribbean Community and the
Caribbean Common Market established by the Treaty of
Chaguaramas in 1973;
 “Council” means Council of Ministers of the Member States;
 “Executive Committee” means the Executive Committee of the
Board;
 “Executive Director” means the Chief Executive Officer of the
Caribbean Export Development Agency;
 “Member State” means any one of the States referred to in
Article 4, paragraphs 1 and 2 of the Agreement;
 “Staff” means all personnel contracted and appointed by the
Agency.
- Juridical
personality 3. The Agency, being a regional organisation, shall have legal
personality and such legal capacity as may be necessary for the exercise
of its functions and the fulfillment of its purposes and, in particular, it
shall have capacity—
 (a) to contract;
 (b) to acquire and dispose of real and personal property;

- (c) to be a party to legal proceedings; and
- (d) to create new legal entities, within the framework of its objectives and functions.

4. (1) Officials and individuals representing the Agency performing duties within the framework of its objectives shall be accorded the privileges and immunities specified in Schedule 1.

Privileges and immunities of officials and individuals Schedule

(2) The privileges and immunities granted under subparagraph (1) are accorded in the interest of the Agency and not for the personal benefit of the officials and individuals who are granted the benefits.

5. The assets and property of the Agency, their furnishings and other property thereon as well as their means of transport shall be immune from attachment, execution, search or requisition.

Immunity of assets and property

6. The archives and documents of the Agency, however held or stored, shall be inviolable at any time, wherever they are located.

Inviolability of archives and documents

7. (1) To the extent necessary to effectively carry out the purpose and functions of the Agency and subject to the provisions of the Agreement, the Agency—

Powers of Agency

- (a) may hold property, funds and assets of whatever nature and may operate accounts in any currency; and
- (b) shall be free to transfer its assets from one country to another or within any country and to convert any currency held by it into any other currency.

(2) In exercising its rights under this paragraph, the Agency shall pay due regard to any representations made by any member State.

8. All correspondence relating to the Agency and its functions shall be inviolable.

Inviolability of correspondence and functions

9. Any dividend or profit realized from the commercial activity of the Agency through any legal entity created under paragraph 3(d) shall not be subject to fiscal charges or taxation.

No charges or taxation

10. (1) The property of the Agency shall be exempt from—

Property not subject to taxes or duties

- (a) any form of direct taxation so, however, that the Agency shall not claim exemption from taxes that are in fact, no more than charges levied for specific services rendered;

- (b) customs duties and from prohibition and restrictions on exports and imports in respect of articles exported or imported by the Agency for its official use; and
- (c) custom duties and other levies, prohibitions and restrictions in respect of the export, import and sale of its publications.
- (2) Articles imported under the exemption of subparagraph 10(1)(b) shall not be sold within the territory of the Member State, except under conditions agreed to by the Government of that Member State.
- Waiver by Council 11. The Council may waive to such extent and upon such conditions as it may determine, the exemptions, immunities and privileges provided in this Order in cases where such action would, in its opinion, be in the best interests of the Agency.
- Waiver by Executive Director 12. The Executive Director, after approval by a qualified majority of the Executive Committee, may waive any exemption, immunity or privilege in respect of any Staff member, consultant or representative of the Agency, when in his opinion, the exemption, immunity or privilege would impede the course of justice.
- Waiver by Board 13. The Board, after approval by a qualified majority of the Executive Committee may waive any exemption, immunity or privilege respecting the Executive Director.
- Restrictions on benefits 14. Nothing in this Order shall be construed as obliging any party to the Agreement to grant any of the privileges or immunities referred to therein to any person who is its national or who is permanently resident in its territory, whether as a representative or an official, except immunity from jurisdiction and inviolability in respect of official acts performed in the exercise of his functions.

SCHEDULE I

PERSONAL PRIVILEGES AND IMMUNITIES

1. Staff members of the Agency of the specified classes shall enjoy:
 - (a) immunity from legal process in respect of words, spoken or written, and all acts done by them in the course of the performance of official duties, even after the person concerned has ceased to be a Staff member of the Agency. However, this immunity shall only extend to official acts and oral or written expressions performed during the tenure of office;
 - (b) exemption from any form of taxation or any other fiscal charge on salaries and emoluments received as Staff members of the Agency;
 - (c) immunity from national service obligations;

- (d) exemption for themselves, members of their families and dependents forming part of their household from immigration restrictions and alien registration;
- (e) the same facilities in respect of currency and exchange restrictions as are accorded to members of diplomatic missions of comparable rank; and
- (f) the same repatriation facilities in time of international crisis for themselves, their families and dependents forming part of their household accorded to members of diplomatic missions of comparable rank.

2. Observing the Protocols that embody the Headquarters Agreement and the Sub-regional Office Agreement, respectively, Staff members of the Agency shall also enjoy the following privileges and immunities in addition to those listed in item 1 of this Schedule:

- (a) the right to export from a Member State free of duty and taxes or other fiscal charges with a similar effect their personal and household effects and one motor vehicle at the time of first taking up post as a Staff member of the Agency;
- (b) the right to import into the Member State where the Headquarters or Sub-regional Office is located, free of duty and taxes or other fiscal charges with a similar effect, their personal and household effects and one motor vehicle at the time of first taking up post as a Staff member of the Agency;
- (c) the right to import free of duty and taxes or other fiscal charges with a similar effect, into the country of residence or to the country of which they are nationals personal and household effects including one motor vehicle on the termination of duties in the Member State where the Headquarters or sub-regional Office is located;
- (d) the right to replace the motor vehicle and the household effects, under the same conditions as stipulated in sub-paragraph 2(b) of this Schedule; and
- (e) the right to sell to third parties the replaced personal and household effects and the motor vehicle.

3. In addition to the privileges and immunities specified in paragraphs 1 and 2 of this Schedule, the Executive Director and the Deputy Executive Director who heads a Sub-regional Office shall be accorded in respect of self, the spouse and children, the privileges and immunities normally accorded to Heads of diplomatic missions in accordance with international law.

4. A consultant employed on missions on behalf of the Agency, while present in the territory of a Member State party to this Agreement shall in the discharge of his duties, enjoy:

- (a) immunity from personal arrest and detention in respect of official acts and from seizure of his personal baggage, and the same inviolability for all papers and documents relating to the work in which he is engaged for the Agency;
- (b) the same facilities in respect of currency and exchange regulations as are accorded to representatives of foreign Governments on temporary official missions; and
- (c) in respect of words, spoken or written, and all acts done by him in the course of the performance of official duties the same immunity from legal process of every kind as is accorded to a diplomatic agent in accordance with international law, even after the person has ceased to be a Staff member of the Agency. However, this immunity shall only extend to official acts and expressions performed during the tenure of office.

5. A national of a Member State, while representing the Agency in the territory of that or another Member State shall in the discharge of his duties enjoy:

- (a) the same immunity from seizure of his personal and official baggage, and the same inviolability for all papers and documents as is accorded to a diplomatic agent in accordance with international law;
- (b) the right to use codes and to receive and send papers or correspondence by courier or in sealed bags;
- (c) exemption in respect of himself and members of his family forming part of his household from immigration restriction, alien registration and national service obligations; and
- (d) the same facilities in respect of currency or exchange restrictions and in respect of his official and personal baggage as are accorded to a representative of a foreign Government on a temporary official mission.

6. Any such representative shall also enjoy, in respect of words spoken or written and all acts done by him in the course of the performance of official duties, the same immunity from legal process of every kind as is accorded to a diplomatic agent in accordance with international law, even after the person has ceased to be a Staff member of the Agency. However, this immunity shall only extend to official acts and expressions performed during the tenure of office.

7. Schedule 2 shall classify the Staff members to whom Item 2 of this Schedule applies.

8. The Executive Director shall regularly notify the Governments of the Member States of the names and relevant personal data of the Staff members who enjoy the privileges, immunities and exemptions referred to in paragraphs, 1, 2 and 10 of this Schedule.

9. In the event of a change in the marital status of a Staff member during the tenure of office at the Headquarters or at a Sub-regional Office, the Agency shall ensure that immunities, privileges and exemptions derived from the marriage shall not be enjoyed simultaneously by both the former and the current spouse.

10. The Executive Director may, subject to any conditions which may be laid down by the Council from time to time, issue "laissez-passer" to Staff members of the Agency. The "laissez-passer" shall be recognized and accepted as valid and sufficient travel documents by the Member States.

- 11. (a) Upon the presentation of the "laissez-passer" by a staff member of the Agency, travelling on official business of the Agency, the Staff member shall only be subject to customs and immigration formalities as are required for statistical purposes.
- (b) Notwithstanding sub-item 11(a) of this Schedule, the baggage of a Staff member is not exempt from inspection, in accordance with international law, when there are reasonable grounds for presuming that it contains articles, the export or import of which is prohibited by law or controlled by quarantine regulations.
- (c) An inspection under sub-item 11(b) of this Schedule shall be conducted only in the presence of the Staff member concerned.

12. Application for visas from experts and other persons who, though not holders of the Agency's "laissez-passer", present a certificate under the hand of the Executive Director certifying that they are travelling on business of the Agency shall be dealt with as speedily as possible.

13 Staff members of the Agency travelling on Agency's "laissez-passer" on business of the Agency shall be granted the same facilities as are accorded to officials of comparable rank forming part of the diplomatic missions to the Government concerned.

SCHEDULE 2

1. The Executive Director shall, from time to time, provide all member states with:
 - (a) a detailed list of Staff members of the Agency who are holders of a "laissez-passer", issued by the proper authorities;
 - (b) a detailed list of the consultants contracted by the Agency, within the framework of the execution of the programme.
2. The staff members holding positions under the levels 1 and 2, shall enjoy the privileges and immunities referred to in this Order.
3. The staff members holding positions under level 3 shall enjoy the privileges and immunities granted by the Governments that host the Headquarters and the sub-regional offices of the Agency.

Made this 16th day of June, 1997.

A. LEUNG WOO-GABRIEL
Acting Secretary to Cabinet

Approved in the House of Representatives this 18th day of July, 1997.

J. SAMPSON
Clerk of the House

Approved by the Senate this 29th day of July, 1997.

N. COX
Clerk of the Senate