African Development Fund (Privileges and Immunities) Order 1980

GN No. 37 of 1981

28th February

Order made by the Minister under section 19 of the International Organisations and Conferences (Privileges and Immunities) Act 1970

1. This Order may be cited as the African Development Fund (Privileges and Immunities) Order 1980,

2. In this Order-

"Act" means the International Organisations and Conferences (Privileges and Immunities) Act 1970;

"Agreement" means the Agreement establishing the Fund done at Abidjan on 29 November 1972;

"Fund" means the African Development Fund;

"Member" means a State member of the Fund.

3. Part V of the Act shall apply to the Fund.

4. The Fund shall have the capacity-

(a) to contract;
(b) to acquire and dispose of immovable and movable property; and
(c) to institute legal proceedings.

5. (1) Subject to paragraph (2), the Fund shall enjoy immunity from every form of legal process.

(2) The Fund may, in relation to the exercise of its borrowing powers, be sued before a court of competent jurisdiction in Mauritius if it has-

(a) appointed an agent for the purpose of accepting service or notice of process; or
(b) agreed to be sued.

(3) The property and assets of the Fund shall, wherever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Fund.

6. (1) The property and assets of the Fund, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other from of taking or foreclosure.

(2) The archives of the Fund and in general, documents belonging to it, or held by it, shall be inviolable, wherever located.

7. To the extent necessary to carry out the purpose and functions of the Fund but subject to the Agreement, the property and assets of the Fund shall be exempt from restrictions, regulations, controls and moratoria of any nature.

8. Every official communication of the Fund shall be accorded the same treatment as is, under any other enactment, accorded to the official communications of members.

9. (1) Every governor, director, alternate, officer and employee of the Fund-

(a) shall be immune from legal process with respect to acts performed by him in his official capacity;

(b) who is not a citizen of Mauritius, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations, and the same facilities as regards exchange regulations as are, under any other enactment, accorded to a representative, official or employee of comparable rank of a member; and

(c) shall be granted the same treatment in respect of travelling facilities as is, under any other enactment, accorded to a representative, official or employee of comparable rank of a member.

(2) Every expert or consultant performing a mission for the Fund shall be accorded such immunities and privileges, as are, in the opinion of the Fund, necessary for the independent exercise of his functions during the period of his mission, including the time spent on journeys in connexion with it.

10. (1) The Fund, its property, other assets, income and its operations and transactions, shall be exempt from all taxation and from all customs duties.

(2) The Fund shall be exempt from any obligation relating to the payment, withholding or collection of any tax or duty.

(3) No tax shall be levied on or in respect of salaries and emolument paid by the Bank to a director, alternate officer or other professional of the Fund who is not a citizen of Mauritius.

(4) No tax shall be levied on any obligation or security issued by the Fund, including any dividend or interest thereon, by whomsoever held-

(a) which discriminates against such obligation or security solely because it is issued by the Fund; or
(b) if the sole jurisdictional basis for the taxation is the place of currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Fund.

(5) No tax shall be levied on any obligation or security guaranteed by the Fund, including any dividend or interest thereon, by whomsoever held-

(a) which discriminates against such obligation or security solely because it is guaranteed by the Fund; or
(b) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Fund.

Made by the Minister on 23 February 1981.