
STATUTORY INSTRUMENTS

1975 No. 411

**DIPLOMATIC AND INTERNATIONAL
IMMUNITIES AND PRIVILEGES**

The International Cocoa Organization
(Immunities and Privileges) Order 1975

Laid before Parliament in draft

<i>Made</i>	- - - -	<i>18th March 1975</i>
		<i>On a date to be notified in the</i>
		<i>London, Edinburgh</i>
<i>Coming into Operation</i>		<i>and Belfast Gazettes</i>

At the Court at Buckingham Palace, the 18th day of March 1975

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before Parliament in accordance with section 10(1) of the International Organisations Act 1968 (hereinafter referred to as the Act) and has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, by virtue and in exercise of the powers conferred on Her by sections 1 and 10(3) of the Act or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

GENERAL

Citation and Entry into Force

1. This Order may be cited as the International Cocoa Organization (Immunities and Privileges) Order 1975. It shall come into operation on the date on which the Headquarters Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Cocoa Organization(1) enters into force. This date shall be notified in the London, Edinburgh and Belfast Gazettes.

(1) Cmnd. 5833.

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Interpretation

2.—(1) For the purposes of this Order, the official activities of the International Cocoa Organization shall include its administrative activities and those undertaken pursuant to the International Cocoa Agreement, 1972(2) or any succeeding agreement.

(2) In this Order “the 1961 Convention Articles” means the Articles (being certain Articles of the Vienna Convention on Diplomatic Relations signed in 1961) which are set out in Schedule 1 to the Diplomatic Privileges Act 1964.

(3) The Interpretation Act 1889 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament, and as if this Order and the Orders hereby revoked were Acts of Parliament.

Revocation

3. The International Cocoa Organization (Immunities and Privileges) Order 1973(3) and the International Cocoa Organization (Immunities and Privileges) (No. 2) Order 1973(4) are hereby revoked.

PART II

THE ORGANIZATION

4. The International Cocoa Organization (hereinafter referred to as the Organization) is an organisation of which Her Majesty's Government in the United Kingdom and the Governments of foreign sovereign Powers are members.

5. The Organization shall have the legal capacities of a body corporate.

6.—(1) The Organization shall have immunity from suit and legal process except:—

- (a) to the extent that the Organization shall have expressly waived such immunity in a particular case;
- (b) in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to, or operated on behalf of, the Organization, or in respect of a motor traffic offence involving such a vehicle; or
- (c) in respect of the enforcement of an arbitration award made under Article 24 or Article 25 of the Headquarters Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Cocoa Organization.

(2) The provisions of the preceding paragraph shall not prevent the taking of such measures as may be permitted by law in relation to the property and assets of the Organization in so far as they may be temporarily necessary in connection with the prevention of, and investigation into, accidents involving motor vehicles belonging to, or operated on behalf of, the Organization.

7.—(1) The Organization shall have the like inviolability of official archives as, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives of a diplomatic mission.

(2) The Organization shall have the like inviolability of premises as, in accordance with the 1961 Convention Articles, is accorded in respect of the premises of a diplomatic mission, provided that nothing in this paragraph shall preclude service of legal process by post.

(2) Cmnd. 5263.

(3) (1973 II, p.3321).

(4) 1973 III, p.7532).

8. Within the scope of its official, activities, the Organization shall have the like exemption or relief from taxes, other than customs duties and taxes on the importation of goods, as is accorded to a foreign sovereign Power.

9. The Organization shall have the like relief from rates on its official premises as, in accordance with Article 23 of the 1961 Convention Articles, is accorded in respect of the premises of a diplomatic mission.

10. The Organization shall have exemption from customs duties and taxes on the importation of goods imported by the Organization and necessary for the exercise of its official activities, or on the importation of any publications of the Organization imported by it, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the Revenue.

11. The Organization shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the Organization and necessary for the exercise of its official activities and in the case of any publications of the Organization imported or exported by it.

12. The Organization shall have relief, under arrangements made by the Commissioners of Customs and Excise, by way of refund of customs duty paid on any hydrocarbon oil (within the meaning of the Hydrocarbon Oil (Customs and Excise) Act 1971) which is bought in the United Kingdom and necessary for the exercise of the official activities of the Organization, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

13. The Organization shall have relief, under arrangements made by the Secretary of State, by way of refund of car tax paid on any vehicles and value added tax paid on the supply of any goods or services which are necessary for the exercise of the official activities of the Organization, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

PART III

REPRESENTATIVES

14.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Government of the Member country or by the intergovernmental organisation whom they represent, representatives of Member countries of the Organization, and of intergovernmental Organisations participating in the International Cocoa Agreement, 1972 in accordance with Article 4 thereof or a corresponding article in any succeeding agreement, shall enjoy:—

- (a) immunity from suit and legal process in respect of things done or omitted to be done by them in the exercise of their functions, except in the case of a motor traffic offence committed by a representative or in the case of damage caused by a motor vehicle belonging to or driven by him;
- (b) while exercising their functions and during their journeys to and from the place of meetings convened by the Organization, the like immunity from personal arrest or detention and the like inviolability for all their official papers and documents as is accorded to a diplomatic agent;
- (c) while exercising their functions and during their journeys to and from the place of meetings convened by the Organization, the like exemptions and privileges in respect of their personal baggage as, in accordance with Article 36 of the 1961 Convention Articles, are accorded to a diplomatic agent.

(2) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on the official staff of representatives other than alternate representatives.

(3) Neither the provisions of the preceding paragraphs of this Article nor those of Part IV of Schedule 1 to the Act shall operate so as to confer any privilege or immunity on any person as the representative or alternate representative of Her Majesty's Government in the United Kingdom or on any person who is a citizen of the United Kingdom and Colonies.

(4) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on families of representatives or alternate representatives.

PART IV OFFICERS

High Officer

15.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Council of the Organization, there shall be accorded to or in respect of the Executive Director of the Organization and, in his absence or incapacitation, the officer designated to act in his place:—

- (a) the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from taxes and rates, other than income tax in respect of his emoluments and customs duties and taxes on the importation of goods, as are accorded to or in respect of a diplomatic agent;
- (b) the like exemption from customs duties and taxes on the importation of articles imported for his personal use or the use of members of his family forming part of his household, including articles intended for his establishment as, in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles, is accorded to a diplomatic agent;
- (c) the like exemption and privileges in respect of his personal baggage as, in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles, are accorded to a diplomatic agent;
- (d) relief, under arrangements made by the Commissioners of Customs and Excise, by way of refund of customs duty paid on any hydrocarbon oil (within the meaning of the Hydrocarbon Oil (Customs and Excise) Act 1971) which are bought in the United Kingdom by him or on his behalf, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements;

provided that the provisions of this Article shall not apply to any person who is a citizen of the United Kingdom and Colonies or a permanent resident of the United Kingdom.

(2) Part IV of Schedule 1 to the Act shall not operate so as to confer any immunity or privilege on the families of officers to whom this Article applies.

All Officers

16. Except in so far as in any particular case any privilege or immunity is waived by the Executive Director of the Organization or (in the case of the Executive Director) by the Council of the Organization, the Buffer Stock Manager and all officers appointed or recruited by the Executive Director for full-time employment with the Organization and who are subject to its staff regulations, with the exception of those who are recruited locally and assigned to hourly rates of pay, shall enjoy:—

- (a) immunity from suit and legal process in respect of things done or omitted to be done by them in the course of the performance of their official duties, except in the case of a motor

traffic offence committed by an officer or in the case of damage caused by a motor vehicle belonging to or driven by him;

- (b) as from the date on which the emoluments received by them as officers of the Organization become subject to taxation by the Organization for its benefit, exemption from income tax in respect of such emoluments;
- (c) unless they are citizens of the United Kingdom and Colonies, the like exemption from customs duties and taxes on the importation of articles which—
 - (i) at or about the time when they first enter the United Kingdom as officers of the Organization are imported for their personal use or that of members of their families forming part of their households, including articles intended for their establishment, and
 - (ii) are articles which were in their ownership or possession or that of such members of their families, or which they or such members of their families were under contract to purchase, immediately before they so entered the United Kingdom,

as, in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles, is accorded to a diplomatic agent;

- (d) unless they are citizens of the United Kingdom and Colonies or permanently resident in the United Kingdom, exemptions whereby, for the purposes of the enactments relating to national insurance and social security, including enactments in force in Northern Ireland,
 - (i) services rendered for the Organization by them shall be deemed to be excepted from any class of employment in respect of which contributions or premiums under those enactments are payable, but
 - (ii) no person shall be rendered liable to pay any contribution or premium which he would not be required to pay if those services were not deemed to be so excepted,

provided that until the day appointed for the coming into force of section 2 of the Social Security Act 1973 the following shall apply in substitution for the foregoing provisions of this sub-paragraph—

“unless they are citizens of the United Kingdom and Colonies or permanently resident in the United Kingdom, exemptions whereby, for the purposes of the National Insurance Acts 1965 to 1969, the National Insurance (Industrial Injuries) Acts 1965 to 1968, any enactment for the time being in force amending any of those Acts, and any enactment of the Parliament of Northern Ireland corresponding to any of those Acts or to any enactment amending any of those Acts,—

- (i) services rendered by them for the Organization shall be deemed to be excepted from any class of employment which is insurable employment, or in respect of in respect of which contributions are required to be paid, but
- (ii) no person shall be rendered liable to pay any contribution which he would not be required to pay if those services were not deemed to be so excepted.”.

PART V

EXPERTS

17. Except in so far as in any particular case any privilege or immunity is waived by the Executive Director of the Organization, an expert (other than an officer of the Organization) serving on any committee of the Organization or employed on missions on its behalf shall, so far as is necessary for the carrying out of his functions, including during journeys made in carrying out his functions and in the course of such missions, enjoy:—

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- (a) immunity from suit and legal process in respect of things done or omitted to be done by him in exercise of his functions, except in the case of a motor traffic offence committed by him or in the case of damage caused by a motor vehicle belonging to or driven by him;
- (b) while he is employed by the Organization, the like inviolability for all his official papers and documents as is accorded to a diplomatic agent;
- (c) unless he is a citizen of the United Kingdom and Colonies or a permanent resident of the United Kingdom, while carrying out his functions and during journeys made in carrying out his functions and in the course of such missions, the like exemptions and privileges in respect of his personal baggage as, in accordance with Article 36 of the 1961 Convention Articles , are accorded to a diplomatic agent.

N. E. Leigh

EXPLANATORY NOTE

This Order supersedes the International Cocoa Organization (Immunities and Privileges) Order 1973 and the International Cocoa Organization Immunities and Privileges), (No. 2) Order 1973, and confers privileges and immunities upon the International Cocoa Organization, its officers, representatives on its organs, and experts serving on committees or employed on missions on its behalf. These privileges and immunities are conferred in accordance with:—

- (i) Article 21 of the International Cocoa Agreement (Cmnd. 5263), opened for signature in New York on 15th November 1972; and
- (ii) a Headquarters Agreement which has been negotiated between the Government of the United Kingdom and the International Cocoa Organization (Cmnd 5833).

This Order will enable Her Majesty's Government to give effect to the Headquarters Agreement, which will enter into force on signature.