

Registration
SOR/99-350 26 August, 1999

FOREIGN MISSIONS AND INTERNATIONAL ORGANIZATIONS ACT

Organization of American States Privileges and Immunities in Canada Order

P.C. 1999-1491 26 August, 1999

His Excellency the Governor General in Council, on the recommendation of the Minister of Foreign Affairs, pursuant to paragraphs 5(1)(a), (b), (c), (g) and (h) of the *Foreign Missions and International Organizations Act* (see footnote a), hereby makes the annexed *Organization of American States Privileges and Immunities in Canada Order*.

ORGANIZATION OF AMERICAN STATES PRIVILEGES AND IMMUNITIES IN CANADA ORDER

INTERPRETATION

1. The definitions in this section apply in this Order.

"Convention" means the Convention on the Privileges and Immunities of the United Nations set out in Schedule III to the *Foreign Missions and International Organizations Act*. (*Convention*)

"Organization" means the Organization of American States. (*Organisation*)

PRIVILEGES AND IMMUNITIES

2. (1) The Organization shall have, in Canada, the legal capacities of a body corporate and the privileges and immunities set out in Sections 2, 3 and 4 of Article II and in Section 10 of Article III of the Convention.

(2) No censorship shall be applied in Canada to the official correspondence and other official communications of the Organization, as provided by Section 9 of Article III of the Convention.

(3) Representatives of foreign states who are members of the Organization shall have, during their journey to and from the place of a meeting of the Organization in Canada, as well as in Canada,

(a) the following privileges and immunities set out in Section 11 of Article IV of the Convention, namely,

(i) immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind,

(ii) inviolability for all papers and documents,

(iii) the right to use codes and to receive papers or correspondence by courier or in sealed bags,

(iv) exemption from immigration restrictions and alien registration,

(v) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys, and

(vi) such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes; and

(b) the privileges and immunities set out in Sections 12, 14, 15 and 16 of Article IV of the Convention.

(4) Officials of the Organization who are not Canadian citizens or permanent residents shall have in Canada the following privileges and immunities set out in Section 18 of Article V of the Convention:

(a) immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity; and

(b) immunity from immigration restrictions and alien registration.

(5) Officials of the Organization who are Canadian citizens or permanent residents shall have in Canada immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity, as provided by paragraph 18(a) of Article V of the Convention.

(6) Experts who are not Canadian citizens or permanent residents and who are performing missions for the Organization shall have, during their journey to and from the place of their mission in Canada, as well as in Canada, the following privileges and immunities set out in Section 22 of Article VI of the Convention:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind, which immunity shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the Organization;

(c) inviolability for all papers and documents; and

(d) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

(7) Experts who are Canadian citizens or permanent residents and who are performing missions for the Organization shall have in Canada the following privileges and immunities set out in Section 22 of Article VI of the Convention:

(a) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind, which immunity shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the Organization; and

(b) inviolability for all papers and documents.

COMING INTO FORCE

3. This Order comes into force on the day on which it is registered.

REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Order.)

Description

Canada became Party to the Organization of American States in 1989. The purpose of this Order is to grant to the Organization, the representatives of its Member States, its officials and its experts on missions, certain privileges and immunities. These are also granted to the representatives of Member States for the period while they exercise their functions as well as during their journey to and from the place of a meeting of the Organization. Privileges and immunities herewith granted do not include fiscal privileges which are normally granted to international governmental organizations, their officials, their experts on missions for them and the representatives of their Member States.

The privileges and immunities granted are from the Convention on Privileges and Immunities of the United Nations set out in Annex III of the *Foreign Missions and International Organizations Act*.

The granting of these privileges and immunities is required to ensure compliance by the Canadian Government with the international obligations contracted when it became member of the Organization.

Alternatives

To allow the Government of Canada to fulfil its international commitments, there is no alternative solution but to adopt this Order.

Benefits and Costs

No impact is anticipated on the Canadian economy.

Consultation

Discussions have been held between officials of the Departments of Foreign Affairs and International Trade and Finance.

Compliance and Enforcement

As the purpose of this Order is to grant specific privileges and immunities, appropriate actions are taken on a case by case basis.

Contact

Alan H. Kessel
Director
United Nations, Criminal and Treaty Law Division
Department of Foreign Affairs and International Trade
125 Sussex Drive

Ottawa, Ontario
K1A 0G2
Tel.: (613) 992-6296
FAX: (613) 944-0870

[Footnote a](#)

S.C. 1991, c. 41