

FOREIGN MISSIONS AND INTERNATIONAL ORGANIZATIONS ACT

Order Amending the Organization of American States Privileges and Immunities in Canada Order

P.C. 2000-660 4 May, 2000

Her Excellency the Governor General in Council, on the recommendation of the Minister of Foreign Affairs and the Minister of Finance, pursuant to paragraphs 5(1)(a), (b), (c), (g) and (h) of the Foreign Missions and International Organizations Act (<Reference a> S.C. 1991, c. 41) hereby makes the annexed Order Amending the Organization of American States Privileges and Immunities in Canada Order.

ORDER AMENDING THE ORGANIZATION OF AMERICAN STATES PRIVILEGES AND IMMUNITIES IN CANADA ORDER

AMENDMENT

1. Section 2 of the Organization of American States Privileges and Immunities in Canada Order (<Reference 1> SOR/99-350) is replaced by the following:

2. (1) The Organization shall have the legal capacities of a body corporate and the privileges and immunities set out in Articles II and III of the Convention.

(2) Representatives of foreign states that 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, alien registration and national service obligations in Canada when visiting or passing through Canada in the exercise of their functions,

(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, 13 and 14 of Article IV of the Convention subject to Sections 15 and 16 of that Article.

(3) Officials of the Organization who are not Canadian citizens or permanent residents shall have 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;

(b) exemption from taxation on the salaries and emoluments paid to them by the Organization;

(c) immunity from national service obligations;

(d) immunity from immigration restrictions and alien registration;

(e) the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government of Canada;

(f) the same repatriation facilities in time of international crisis as diplomatic envoys; and

(g) the right to import free of duty their furniture and effects at the time of first taking up their post in Canada.

(4) Officials of the Organization, who are Canadian citizens or permanent residents, shall have 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) the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government of Canada.

(5) 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 privileges and immunities set out in Article VI of the Convention.

(6) Experts who are 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, subject to the restrictions set out in Section 23 of that Article:

(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

2. 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 (OAS) in 1989. This Order grants to the OAS, the representatives of its Member States, its officials and its experts on missions, certain fiscal privileges in addition to the privileges granted in the Organization of American States Privileges and Immunities in Canada Order, adopted in August 1999 (SOR/99-350).

For example, the privileges granted exempt the OAS, its assets, income and other property from all direct taxes. They also exempt it from customs duties and prohibitions and restrictions on imports and exports in respect of articles that it imports or exports, as well as from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

Experts on missions for the OAS enjoy the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions.

Officials are exempt from taxation on the salaries and emoluments paid to them by the OAS, are accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions accredited to the Government of Canada and have the right to import free of duty their furniture and effects at the time of first taking up their post in Canada.

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 Act requires that such privileges be granted through Order in Council following the recommendation of both the Minister of Finance and the Minister of Foreign Affairs.

Alternatives

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

Benefits and Costs

By hosting technical meetings or high level meetings, such as the General Assembly of the Organization which will be held in Windsor in June 2000, Canada maintains its high profile on the international scene. The economic advantages coming from such events are far more

significant than the amount of revenues from taxation that the federal government renounces when granting fiscal privileges to a very limited number of persons. Furthermore, Canadians are not directly affected by this measure.

Consultation

Discussions took place between the Department of Foreign Affairs and International Trade's representatives and those of the Department of 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.

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Registration