STATUTORY INSTRUMENTS

1981 No. 1802

INTERNATIONAL IMMUNITIES AND PRIVILEGES

The Common Fund for Commodities (Immunities and Privileges) Order 1981

Laid before Parliament in draft

Made - - - - 16*th December* 1981

Coming into Operation *On a date to be notified in the London, Edinburgh and Belfast Gazettes*

At the Court at Buckingham Palace, the 16th day of December 1981

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(**a**) (hereinafter referred to as the Act) and has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, by virtue and in exercise of the powers conferred on Her by section 1 of the Act (**b**) 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

1. This Order may be cited as the Common Fund for Commodities (Immunities and Privileges) Order 1981. It shall come into operation on the date on which the Agreement establishing the Common Fund for Commodities (**c**) opened for signature at New York on 1st October 1980 (hereinafter referred to as the Agreement) enters into force in respect of the United Kingdom. That date shall be notified in the London, Edinburgh and Belfast Gazettes.

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(**d**).

(**a**) 1968 c.48. (**b**) As amended by section 1 of the International Organisations Act 1981 (c.9).
(**c**) Cmnd. 8192. (**d**) 1964 c.81.

PART II

THE FUND

3. The Common Fund for Commodities (hereinafter referred to as the Fund) is an organisation of which the United Kingdom and other sovereign Powers are members.

4. The Fund shall have the legal capacities of a body corporate.

5. The Fund shall have immunity from suit and legal process except:

(*a*) (i) in respect of an action relating to funds borrowed by the Fund which is brought by the lender of such funds or his assignees or successors in title;

(ii) in respect of an action relating to securities issued by the Fund which is brought by a buyer or holder of such securities or his assignees or successors in title:

but any such action may only be brought:

(i) if the Fund has agreed in writing with the other party to the dispute to be subject to the courts of the United Kingdom; or

(ii) if the Fund has its headquarters in the United Kingdom or has appointed an agent for the purpose of accepting service or notice of process in the United Kingdom, and:

1. no agreement has been made between the Fund and the other party to the dispute as to the forum; or

2. such an agreement is not effective for reasons other than the fault of the plaintiff in the action against the Fund;

(*b*) to the extent that the Fund shall have waived immunity.

6. The Fund 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.

7. Within the scope of its official activities the Fund shall have the like exemption or relief from taxes, other than duties and taxes on the importation of goods, as is accorded to a foreign sovereign Power; but nothing in this Article shall prevent the levying of such taxes on commodities which originate from the territory of the United Kingdom and which are forfeited to the Fund through any circumstance.

8. Within the scope of its official activities the Fund shall have the like relief from rates as, in accordance with Article 23 of the 1961 Convention Articles, is accorded in respect of the premises of a diplomatic mission.

9. The Fund shall have exemption from duties (whether of customs or excise) and taxes on the importation of goods imported by or on behalf of the Fund for its official use, 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: but nothing in this Article shall prevent the levying of such duties and taxes on commodities which originate from the territory of the United Kingdom and which are forfeited to the Fund through any circumstance.

10. The Fund shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by it for its official use.

11. The Fund shall have relief, under arrangements made by the Commissioners of Customs and Excise, by way of refund of duty (whether of customs or excise) paid on imported hydrocarbon oil (within the meaning of the Hydrocarbon Oil Duties Act 1979(a)) or value added tax paid on the importation of such oil which is bought in the United Kingdom and is used for and is necessary for the official purposes of the Fund, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

12. The Fund shall have relief, under arrangements made by the Secretary of State, by way of refund of car tax and value added tax paid on the purchase of new motor cars of United Kingdom manufacture and of value added tax paid on the supply of other goods or services which are of substantial value and which are used for and are necessary for the official purposes of the Fund, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

PART III

GOVERNORS, OFFICERS AND EXPERTS

13.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Fund, the Governors, Executive Directors, their alternates, the Managing Director, the members of the Consultative Committee, experts performing missions for the Fund, and the staff members of the Fund shall enjoy:—

(*a*) immunity from suit and legal process in respect of acts performed by them in their official capacity; but this exemption does not apply to staff members in the domestic service of the Fund; and

(*b*) except in the case of a citizen of the United Kingdom and Colonies, exemption from income tax in respect of salaries and emoluments paid to them by the Fund.

(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 alternates, nor on the families of representatives or alternates.

(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.

N. E. Leigh,
Clerk of the Privy Council.

(a) 1979 c.5.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order confers privileges and immunities upon the Common Fund for Commodities, its staff and other persons connected with it. The privileges and immunities are conferred in accordance with the Agreement establishing the Common Fund for Commodities (Cmnd. 8192) opened for signature on 1st October 1980. The Order will enable the United Kingdom to give effect to the Agreement, and will come into force on the date on which the Agreement enters into force with respect to the United Kingdom.

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