STATUTORY INSTRUMENTS

1988 No. 791

OVERSEAS DEVELOPMENT AND CO-OPERATION

The Multilateral Investment Guarantee Agency (Overseas Territories) Order 1988

Made - - - -	*27th April 1988*
Coming into force -	*18th May 1988*

At the Court of Saint James, the 27th day of April 1988

Present,

The Counsellors of State in Council

Whereas Her Majesty in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 28th day of March 1988, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and His Royal Highness The Prince Charles, Prince of Wales, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred by section 9(4) of the Multilateral Investment Guarantee Agency Act 1988(a) and all other powers enabling Her Majesty, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:

1. This Order may be cited as the Multilateral Investment Guarantee Agency (Overseas Territories) Order 1988 and shall come into force on 18th May 1988.

2. The provisions of sections 3, 4, 5 and 6 of the Multilateral Investment Guarantee Agency Act 1988, modified as in Schedule 1 hereto, shall extend to the Territories specified in Schedule 2 hereto.

3. For the purpose of construing the said Act as so extended as part of the law of any Territory to which it extends–

"the Agency" means the Multilateral Investment Guarantee Agency;

"the Convention" means the Convention establishing the Multilateral Investment Guarantee Agency, which was signed on behalf of the United Kingdom on 9th April 1986;

"the Governor" means the officer for the time being administering the government of that Territory or any person whom the Governor may by order designate to perform such of the Governor's functions under the Act as may be specified in such order;

(a) 1988 c.8.

"the Supreme Court" means the court (by whatever name styled) having unlimited original jurisdiction in that Territory in civil matters;

"the Territory" means that Territory, including its territorial waters.

G. I. de Deney
Clerk of the Privy Council

SCHEDULE 1

Article 2

SECTIONS 3, 4, 5 AND 6 OF THE MULTILATERAL INVESTMENT GUARANTEE AGENCY ACT 1988 AS MODIFIED

STATUS, PRIVILEGES AND IMMUNITIES OF THE AGENCY

3.—(1) The Articles of the Convention specified in subsection (2) below shall have the force of the law in the Territory.

(2) The Articles referred to in subsection (1) above are Articles 1(b), 44, 45, 46(a), 47, 48(i) and 50.

(3) Nothing in Article 47(a) shall be construed–

(a) as entitling the Agency to import goods free of duty or tax without restriction on their subsequent sale in the country to which they were imported;

(b) except as provided in subsection (4) below, as conferring on the Agency any exemption from duties or taxes which form part of the price of goods sold; or

(c) as conferring on the Agency any exemption from duties or taxes which are no more than charges for services rendered.

(4) The Governor shall make arrangements for refunding to the Agency, subject to compliance with such conditions as may be imposed in accordance with the arrangements, car tax paid on new vehicles, and value added tax paid on the supply of goods or services, which are necessary for the exercise of the official activities of the Agency.

(5) If in any proceedings any question arises whether a person is or is not entitled to any privilege or immunity by virtue of this section, a certificate issued by or under the authority of the Governor stating any fact relevant to that question shall be conclusive evidence of that fact.

ARBITRATION PROCEEDINGS UNDER THE CONVENTION

4.—(1) A party to a dispute which is the subject of an award rendered pursuant to Article 4 of Annex II to the Convention shall be entitled to have the award registered in the Supreme Court subject to proof of such matters as are prescribed by rules of court and to the other provisions of this section.

(2) In addition to any sum payable under the award, the award shall be registered for the reasonable costs of and incidental to registration.

(3) If at the date of the application for registration any sum payable under the award has been partly paid, the award shall be registered only in respect of the balance and accordingly if that sum has then been wholly paid the award shall not be registered.

(4) An award registered under this section shall be of the same force and effect for the purpose of execution as if it had been a judgment of the Supreme Court given when the award was rendered as mentioned in subsection (1) above and entered on the date of registration under this section and–

(a) proceedings may be taken on the award;

(b) any sum for which the award is registered shall carry interest; and

(c) the Supreme Court shall have the same control over the execution of the award,

as if the award had been such a judgement of the Supreme Court.

(5) This section shall bind the Crown but not so as to make an award enforceable against the Crown in a manner in which a judgment would not be enforceable against the Crown; and an

award shall not be enforceable against any State in a manner in which a judgment would not be enforceable against that State.

(6) In this section "award" includes any decision interpreting an award; and for the purposes of this section an award shall be deemed to have been rendered pursuant to Article 4 of Annex II when a copy of it is transmitted to each party as provided in paragraph (h) of that Article.

5. Any power to make rules under any enactment forming part of the law of the Territory enabling rules of court to be made with respect to the practice and procedure of the Supreme Court of the Territory in civil proceedings shall include the power–

(a) to prescribe the procedure for applying for registration under section 4 above and to require an applicant to give prior notice of his intention to other parties;

(b) to prescribe the matters to be proved on the application and the manner of proof;

(c) to provide for the service of notice of registration of the award by the applicant on other parties; and

(d) to make provision requiring the court on proof of such matters as may be prescribed by the rules to stay execution of an award registered under section 4 above in cases where enforcement of the award has been stayed pursuant to Article 4 of Annex II to the Convention.

6.—(1) The Governor may by order make provision, in relation to such arbitration proceedings pursuant to Annex II to the Convention as are specified in the order, for the attendance of witnesses, the hearing of evidence and the production of documents.

(2) Except as provided by any order made under subsection (1) of this section, no enactment relating to arbitration which forms part of the law of the Territory shall apply to proceedings pursuant to the Convention, but this subsection shall not be taken as affecting any provision of such an enactment relating to staying court proceedings where there is submission to arbitration.

SCHEDULE 2

Article 2

Anguilla
Cayman Islands
Falkland Islands
Gibraltar
Hong Kong
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends the provisions of sections 3, 4, 5 and 6 of the Multilateral Investment Guarantee Agency Act, subject to modifications and exceptions, to the Territories specified in Schedule 2 hereto.