

**AFRICAN DEVELOPMENT BANK (IMMUNITIES AND PRIVILEGES) DECREE,
1967 (NLCD 173)**

ARRANGEMENT OF SECTIONS

Section

1. Articles of agreement to have the force of law
2. Commencement

Schedule

Schedule

WHEREAS an Agreement establishing the African Development Bank (in this Decree referred to as the "Agreement") was signed on behalf of the Government of Ghana in Khartoum on the 4th day of August 1963, and ratified by the said Government on the 30th day of June 1964:

AND WHEREAS it is decided to give effect to the Agreement and for that purpose to provide that certain provisions thereof shall have the force of law in Ghana:

NOW THEREFORE, in pursuance of the "Proclamation for the constitution of a National Liberation Council for the administration of Ghana and for other matters connected therewith" published in Gazette No.11 of Monday, 28th February, 1966 this Decree is hereby made:—

Section 1—Articles of Agreement to have the Force of Law.

The following articles of the Agreement which are fully set out in the Schedule to this Decree, shall have the force of law in Ghana, namely—

- (a) Articles 50 and 51 (status)
- (b) Articles 52 (judicial proceedings)
- (c) Articles 53 and 54 (immunity of assets and archives)
- (d) Articles 55 (privilege for communications)
- (e) Articles 56 and 59 (personal immunities and privileges)
- (f) Articles 57 (exemption from taxation).

Section 2—Commencement.

This Decree shall come into operation on the **12th day of May, 1967.**

SCHEDULE

CHAPTER VII

STATUS, IMMUNITIES, EXEMPTIONS AND PRIVILEGES

Article 50

STATUS

To enable it to fulfil its purpose and the functions with which it is entrusted, the Bank shall possess full international personality. To those ends, it may enter into agreements with members, non-member States and other international organisations. To the same ends, the status, immunities, exemptions and privileges set forth in this chapter shall be accorded to the Bank in the territory of each member.

Article 51

STATUS IN MEMBER COUNTRIES

In the territory of each member the Bank shall possess full juridical personality and, in particular, full capacity:

- (a) To contract;
- (b) To acquire and dispose of immovable and movable property; and
- (c) To institute legal proceedings.

Article 52

JUDICIAL PROCEEDINGS

(1) The Bank shall enjoy immunity from every form of legal process except in cases arising out of the exercise of its borrowing powers when it may be sued only in a court of competent jurisdiction in the territory of a member in which the Bank has its principal office, or in the territory of a member or non-member States where it has appointed an agent for the purpose of accepting service or notice of process or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members.

(2) The property and assets of the Bank shall, wherever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

Article 53

IMMUNITY OF ASSETS AND ARCHIVES

(1) Property and assets of the Bank, wherever located and by whosoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

(2) The archives of the Bank and, in general, all documents belonging to it, or held by it, shall be inviolable, wherever located.

Article 54

FREEDOM OF ASSETS FROM RESTRICTION

To the extent necessary to carry out the purpose and functions of the Bank and subject to the provisions of this Agreement, all property and other assets of the Bank shall be exempt from restrictions, regulations, controls and moratoria of any nature.

Article 55

PRIVILEGE FOR COMMUNICATIONS

Official communications of the Bank shall be accorded by each member the same treatment that it accords to the official communications of other members.

Article 56

PERSONAL IMMUNITIES AND PRIVILEGES

(1) All governors, directors, alternates, officers and employees of the Bank:

(i) shall be immune from legal process with respect to acts performed by them in their official capacity;

(ii) where they are not local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations, and the same facilities as regards exchange regulations as are accorded by members to the representatives, officials and employees of comparable rank of other members; and

(iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

(2) Experts and consultants performing missions for the Bank shall be accorded such immunities and privileges as are, in the opinion of the Bank, necessary for the independent exercise of their functions during the period of their mission, including the time spent on journeys in connexion therewith.

Article 57

EXEMPTION FROM TAXATION

(1) The Bank, its property, other assets, income and its operations and transactions shall be exempt from all taxation and from all customs duties. The Bank shall also be exempt from any obligation relating to the payment, withholding or collection of any tax or duty.

(2) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to directors, alternates, officers and other professional staff of the Bank.

(3) No tax of any kind shall be levied on any obligation or security issued by the Bank, including any dividend or interest thereon, by whosoever held:

(i) which discriminates against such obligation or security solely because it is issued by the Bank; or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

(4) No tax of any kind shall be levied on any obligation or security guaranteed by the Bank, including any dividend or interest thereon, by whosoever held:

(i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or

(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

Article 59

APPLICATION OF IMMUNITIES, EXEMPTIONS AND PRIVILEGES

The immunities, exemptions and privileges provided in this chapter are granted in the interest of the Bank. The Board of Directors may waive to such extent and upon such conditions as it may determine the immunities and exemptions provided in articles 52, 54, 56 and 57 of this Agreement in cases where its action would in its opinion further the interests of the Bank.

The President shall have, the right and the duty to waive the immunity of any official in cases where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Bank.

Made this 12th day of May, 1967.

LT.-GEN. J. A. ANKRAH

Chairman of the National Liberation Council

Date of Gazette Notification: 2nd June, 1967.