

No. S 19

CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83{3})

INTERNATIONAL FINANCE CORPORATION ORDER, 2021

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CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))

INTERNATIONAL FINANCE CORPORATION ORDER, 2021

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

Citation and long title

1. (1) This Order may be cited as the International Finance Corporation Order, 2021.

(2) The long title of this Order is “An Order to implement the International Agreement for the establishment and operation of the International Finance Corporation and to enable Brunei Darussalam to become a member thereof and for matters connected therewith”.

Interpretation

2. In this Order, unless the context otherwise requires —

“Agreement” means the Articles of Agreement opened for signature at Washington on 25th May 1955 (as may be subsequently amended) providing for the establishment and operation of the international body known as the International Finance Corporation;

“Corporation” means the International Finance Corporation established under the Agreement;

“Minister” means the Minister of Finance and Economy.

Acceptance of Agreement

3. The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, by instrument under his hand empower such person as may be named in the instrument, on behalf of the Government —

(a) to sign the Agreement; and

(b) to deposit with the International Bank for Reconstruction and Development an instrument of acceptance stating that the Government has accepted without reservation in accordance with the laws of Brunei

Darussalam the Agreement and the terms and conditions of the Resolution by the Board of Governors of the Corporation, dated 26th February 2020, providing for the admission of Brunei Darussalam to membership, and has taken all steps necessary to enable the Government to carry out all its obligations under the Agreement and the Resolution.

Financial provisions

4. There shall be charged on and paid out of the Consolidated Fund all sums required for the purpose of making payments on behalf of the Government —

(a) under section 3 of Article II of the Agreement (which provides for the subscription of shares of stock of the Corporation); and

(b) under section 4 of Article V of the Agreement (which relates to the cessation of membership of the Corporation).

Power to raise loans

5. For the purposes of providing any sum required for making any payment to the Corporation, the Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, on behalf of the Government, raise loans by the creation and issue of securities bearing such rates of interests and subject to such conditions as to repayment, redemption or otherwise as he may think fit, and the principal and interest of those securities and any expenses incurred in connection with their issue shall be charged on and paid out of the Consolidated Fund.

Receipts

6. All sums received by or on behalf of the Government from the Corporation shall be paid into the Consolidated Fund.

Certain provisions of Agreement to have force of law

7. (1) Notwithstanding anything to the contrary in any other written law, the provisions of the Agreement set out in the Schedule shall have the force of law:

Provided that nothing in section 9 of Article VI of the Agreement shall be construed as —

(a) entitling the Corporation to import into Brunei Darussalam goods free of any duty of customs without any restriction on their subsequent sale therein;

(b) conferring on the Corporation any exemption from taxes or duties which form part of the price of goods sold; or

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

(2) The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*, amend the Schedule in conformity with any amendment to the provisions of the Agreement set out therein which may hereafter be duly made and adopted.

Power to make rules

8. The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, make rules for carrying out or giving effect to the provisions of this Order.

Repeal of Enactment No. 5 of 1956

9. The International Finance Corporation Enactment, 1956 is repealed.

SCHEDULE

(section 7)

PROVISIONS OF AGREEMENT HAVING FORCE OF LAW

ARTICLE VI

STATUS, IMMUNITIES AND PRIVILEGES

Section 2. Status of the Corporation

The Corporation shall possess full juridical personality and, in particular, the capacity —

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

Section 3. Position of the Corporation with Regard to Judicial Process

Actions may be brought against the Corporation only in a court of competent jurisdiction in the territories of a member in which the Corporation has an office, 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. The property and assets of the Corporation shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Corporation.

Section 4. Immunity of Assets from Seizure

Property and assets of the Corporation, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

Section 5. Immunity of Archives

The archives of the Corporation shall be inviolable.

Section 6. Freedom of Assets from Restrictions

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of Article III, section 5, and the other provisions of

this Agreement, all property and assets of the Corporation shall be free from restrictions, regulations, controls and moratoria of any nature.

Section 7. Privilege for Communications

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

Section 8. Immunities and Privileges of Officers and Employees

All Governors, Directors, Alternates, officers and employees of the Corporation —

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity;
- (ii) not being 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 restrictions as are accorded by members to the representatives, officials and employees of comparable rank of other members;
- (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.

Section 9. Immunities from Taxation

(a) The Corporation, its assets, property, income and its operations and transactions authorised by this Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Corporation to Directors, Alternates, officials or employees of the Corporation who are not local citizens, local subjects or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Corporation (including any dividend or interest thereon) by whomsoever held —

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

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Corporation (including any dividend or interest thereon) by whomsoever held —

- (i) which discriminates against such obligation or security solely because it is guaranteed by the Corporation; or
- (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Corporation.

Section 11. Waiver

The Corporation in its discretion may waive any of the privileges and immunities conferred under this Article to such extent and upon such conditions as it may determine.

Made this 12th. day of Zulkaedah, 1442 Hijriah corresponding to the 23rd. day of June, 2021 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN,
BRUNEI DARUSSALAM.