

CHAPTER 223

THE INTERNATIONAL FINANCIAL ORGANISATION ACT

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INTERNATIONAL FINANCIAL ORGANISATION

(18th February, 1982.)

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WHEREAS pursuant to the Articles of Agreement drawn up at the United Nations Monetary and Financial Conference held in the year nineteen hundred and forty-four at Bretton Woods in New Hampshire in the United States of America, two international bodies known as the International Monetary Fund and the International Bank for Reconstruction and Development were established:

AND WHEREAS pursuant to the Articles of Agreement approved by the executive directors of the said International Bank for Reconstruction and Development in the year nineteen hundred and fifty-five an international body known as the International Finance Corporation was established:

AND WHEREAS pursuant to the Articles of Agreement approved by the Directors of the said International Bank for Reconstruction and Development in the year nineteen hundred and sixty an international body known as the International Development Association was established:

AND WHEREAS in pursuance of the said several Articles of Agreement the said international bodies have each prescribed terms and conditions on which Antigua and Barbuda may become a member of each such body and on which the Articles of Agreement relating to each such body may be signed and accepted on behalf of Antigua and Barbuda:

AND WHEREAS it is expedient that Antigua and Barbuda should be a member of the said International bodies:

1. This Act may be cited as the International Financial Organisation Act. Short title.

Interpretation.

2. In this Act:—

"Association" means the International Development Association;

"Association Agreement" means the Articles of Agreement for the establishment and operation of the Association;

"Bank" means the International Bank for Reconstruction and Development;

"Bank Agreement" means the Articles of Agreement for the establishment and operation of the Bank;

"Corporation" means the International Finance Corporation;

"Corporation Agreement" means the Articles of Agreement for the establishment and operation of the Corporation as amended;

"Fund" means the International Monetary Fund;

"Fund Agreement" means the Articles of Agreement for the establishment and operation of the Fund;

"Membership Resolutions" means the resolutions adopted by the Board of Governors of the Fund, the Bank, the Corporation and the Association, respectively, specifying the terms and conditions upon which Antigua and Barbuda shall be admitted to membership in these organisations;

"Minister" means the Minister to whom responsibility for the subject of Finance is assigned.

Authorisation for signing of and accepting the agreements.

3. (1) The Minister is hereby authorised on behalf of Antigua and Barbuda to accept membership and to sign any or all of the following agreements, that is to say, the Fund Agreement, the Bank Agreement, the Corporation Agreement and the Association Agreement and to deposit, in the cases of the Fund Agreement and the Bank Agreement, with the Government of the United States, and, in

the cases of the Corporation Agreement, and the Association Agreement, with the Bank, instruments of acceptance of the said Agreements and to accept the terms and conditions of the Resolutions respectively prescribed thereunder relating to the admission of Antigua and Barbuda to membership, or by instruments under his hand, to empower such person as may be named in such instruments to sign the said Agreements and to deposit the said instruments of acceptance as aforesaid.

(2) The Minister is hereby authorised to execute and deposit with the Fund on behalf of Antigua and Barbuda an-instrument stating that Antigua and Barbuda undertakes all the obligations of a participant in the Special Drawing Rights department of the Fund in accordance with the law of Antigua and Barbuda and representing that Antigua and Barbuda has taken all steps necessary to enable it to carry out all of these obligations, or by instruments under his hand to empower such person as may be named in such instruments to deposit the instrument of participation with the Fund.

4. (1) There shall be paid out of the Consolidated **Financial Provisions.** Fund, on the warrant of the Minister, all sums required for the purposes of making:—

(a) All payments required to be made from time to time to the Fund under the terms and conditions of the Membership Resolution and the Fund Agreement;

(b) all payments required to be made from time to time to the **Bank** under the provisions of the Membership Resolution and the Bank Agreement;

(c) all payments required to be made from time to time to the Corporation under the provisions of the Membership Resolution and the Corporation Agreement;

(d) all payments required to be made from time to time to the Association under the Membership Resolution and the Association Agreement.

(2) The Minister may, if he thinks fit, create and issue to the Fund, the Bank or the Association non-interest bearing and non-negotiable notes or other obligations as are provided for by section 4 of Article III of the Fund Agreement, by section 12 of the Article V of the Bank Agreement and by paragraph (e) of section 2 of Article II of the Association Agreement (which sections relate to the acceptance by the Fund, the Bank, or the Association, as the case may be, of notes or similar obligations in place of currency), and the sums payable under such notes or obligations so created and issued shall be a charge on the Consolidated Fund.

(3) Any sums received by the Government of Antigua and Barbuda from the Fund (other than sums received by reason of operation or transactions under Article V of the Fund Agreement), any sums received by the Government of Antigua and Barbuda from the Bank or the Corporation on account of its subscription to the capital stock thereof and any sums received by the Government of Antigua and Barbuda from the Association on account of its subscriptions therein or of supplementary resources provided by it, shall be paid into the Consolidated Fund.

Designation of Fiscal Agency.

5. The Eastern Caribbean Central Bank shall serve as the Fiscal Agency as required under Article V, Section 1, of the Articles of the Agreement of the Fund and Article III Section 2 of the Articles of Agreement of the Bank, and is accordingly authorised to carry out, on behalf of Antigua and Barbuda all operations and transactions authorised under the various provisions of the Articles of Agreement of the Fund and the Bank. The Eastern Caribbean Central Bank is designated as depository for the holdings of currency in Antigua and Barbuda by the Fund and the Bank.

Credits under agreements payable to Fiscal Agency.

6. The Eastern Caribbean Central Bank shall be credited with any amount which may be paid or transferred to Antigua and Barbuda in operations and transactions authorised under the various provisions of the Articles of Agreement of the Fund and the Bank.

Certain provisions of Agreements given the force of law in Antigua and Barbuda.

7. The provisions of:—

(a) sections 2 to 9 inclusive of Article IX and paragraph (b) of Article XXI of the Fund Agreement;

(b) sections 2 to 9 inclusive of Article VII of the Bank Agreement;

(c) sections 2 to 9 inclusive of Article VI of the Corporation Agreement;

(d) sections 2 to 9 inclusive of Article VIII of the Association Agreement;

set forth in the Schedules of this Act shall have the force of law in Antigua and Barbuda.

8. Exchange contracts which involve the currency of any member and which are contrary to the exchange control regulations of that member maintained or imposed consistently with the Fund Agreement shall be unenforceable in Antigua and Barbuda.

Unenforceability of certain exchange contracts.

9. The Governor-General may by order make such regulations as are necessary for carrying into effect the obligations under any of the provisions of the Fund Agreement, the Bank Agreement, the Corporation Agreement, the Association Agreement and the Resolutions referred to in section 3 (1) above, and to give full force and effect to the provisions of this law.

Power of Governor-General to make orders.

FIRST SCHEDULE

(Section 7)

ARTICLES OF AGREEMENT I, IX AND XXI

of the

INTERNATIONAL MONETARY FUND

ARTICLE I

Purposes

The purposes of the International Monetary Fund are:—

- (i) To promote international monetary co-operation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems.
- (ii) To facilitate the expansion and balanced growth of international trade, and contribute thereby to the promotion and maintenance

of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy.

- (iii) To promote exchange stability to maintain orderly exchange arrangements among members, and to avoid competitive exchange depreciation.
- (iv) To assist in the establishment of a multilateral system of payments in respect of current transactions between members and in the elimination of foreign exchange restrictions which hamper the growth of the world trade.
- (v) To give confidence to members by making the Fund's resources available to them under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity.
- (vi) In accordance with the above, to shorten the duration and lessen the degree of disequilibrium in the international balances of payments of members.

The Fund shall be guided in all its policies and decisions by the purposes set forth in this Article.

ARTICLE IX

STATUS, IMMUNITIES AND PRIVILEGES

Section 1. Purpose of Article—To enable the Fund to fulfil the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Fund in the territories of each member.

Section 2. Status of the Fund—The Fund shall possess full juridical personality, and in particular, the capacity

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

Section 3. Immunity from judicial process—The Fund, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any proceedings or by the terms of any contract.

Section 4. Immunity from other action—Property and assets of the Fund, 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 Fund shall be inviolable.

Section 6. Freedom of assets from restrictions—To the extent necessary to carry out the operations provided for in this Agreement, all property and assets of the Fund shall be free from restrictions, regulations, control and moratoria of any nature.

Section 7. Privilege for communications—The official communications of the Fund shall be accorded by members the same treatment as the official communications of other members.

Section 8. Immunities and privileges of officers and employees—All Governors, Executive Directors, Alternates, members of committees, representatives appointed under Article XII, section 3 (j) advisors of any of the foregoing persons, officers and employees of the Fund;

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Fund waives this immunity;
- (ii) not being local nationals, shall be granted 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; 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.

Section 9. Immunities from taxation—(a) The Fund, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Fund 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 Fund to Executive Directors, Alternates, officers, or employees of the Fund 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 Fund, including any dividend or interest thereon, by whomsoever held—

- (i) which discriminates against such obligation or security solely because of its origin; 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 Fund.

Section 10. Application of Article—Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Fund of the detailed action which it has taken.

ARTICLE XXI

ADMINISTRATION OF THE GENERAL DEPARTMENT AND THE SPECIAL DRAWING RIGHTS DEPARTMENT

(b) In addition to the privileges and immunities that are accorded under Article IX of this Agreement, no tax of any kind shall be levied on special drawing rights or on operations or transactions in special drawing rights.

SECOND SCHEDULE

(Section 7)

ARTICLES I AND VII OF THE ARTICLES OF AGREEMENT OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

ARTICLE I

Purposes

The purposes of the Bank are:

- (i) To assist in the reconstruction and development of territories of members by facilitating the investment of capital for productive purposes, including the restoration of economies destroyed or disrupted by war, the reconversion of productive facilities to peacetime needs and the encouragement of the development of productive facilities and resources in less developed countries.
- (ii) To promote private foreign investment by means of guarantees or participations in loans and other investments made by private investors; and when private capital is not available on reasonable terms, to supplement private investment by providing, on suitable conditions, finance for productive purposes out of its own capital, funds raised by it and its other resources.
- (iii) To promote the long-range balanced growth of international trade and the maintenance of equilibrium in balances of payments by encouraging international investment for the development of the productive resources of members, thereby assisting in raising productivity, the standard of living and conditions of labour in their territories.

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- (iv) To arrange the loans made or guaranteed by it in relation to international loans through other channels so that the more useful and urgent projects, large and small alike, will be dealt with first.
 - (v) To conduct its operations with due regard to the effect of international investment on business conditions in the territories of members and, in the immediate post-war years, to assist in bringing about a smooth transition from a wartime to a peacetime economy.

The Bank shall be guided in all its decisions by the purposes set forth above.

ARTICLE VII

STATUS, IMMUNITIES AND PRIVILEGES

Section 1. **Purposes of Article.**

To enable the Bank to fulfill the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Bank in the territories of each member.

Section 2. **Status of the Bank.**

The Bank 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 Bank with regard to Judicial process.**

Actions may be brought against the Bank only in a court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No action shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank 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 Bank.

Section 4. **Immunity of assets from seizure.**

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

Section 7. Privileges for communications.

The official communications of the Bank 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, Executive 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 except when the Bank waives this immunity;
- (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 regard 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 Bank, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Bank 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 Bank to Executive Directors, Alternates, officials or employees of the Bank 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 Bank (including any dividend or interest thereon) by whomsoever held—

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- (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.
- (d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Bank (including any dividend or interest thereon) by whomsoever 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.

Section 10. **Application of Article.**

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Bank of the detailed action which it has taken.

THIRD SCHEDULE

(Section 7)

ARTICLES I AND VI OF AGREEMENT OF THE INTERNATIONAL FINANCE CORPORATION

ARTICLE I

Purpose

The purpose of the Corporation is to further economic development by encouraging the growth of productive private enterprise in member countries, particularly in the less developed areas, thus supplementing the activities of the International Bank for Reconstruction and Development (hereinafter called the Bank).

In carrying out this purpose, the Corporation shall:

- (i) in association with private investors, assist in financing the establishment, improvement and expansion of productive private enterprises which would contribute to the development of its member countries by making investments, without guarantee of repayment by the member government concerned, in cases where sufficient private capital is not available on reasonable terms;

- (ii) seek to bring together investment opportunities domestic and foreign private capital, and experienced management; and
- (iii) seek to stimulate, and to help create conditions conducive to, the flow of private capital, domestic and foreign, into productive investment in member countries.

The Corporation shall be guided in all its decisions by the provisions of this Article.

ARTICLE VI

STATUS, IMMUNITIES AND PRIVILEGES

Section 1. **Purposes of Article.**

To enable the Corporation to fulfill the functions with which it is entrusted the status, immunities and privileges set forth in this Article shall be accorded to the Corporation in the territories of each member.

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 action 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 operation 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. Privileges 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, Executive 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 and 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:

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- (i) which discriminates against such obligations or security solely because it is issued by the Corporation; or
 - (ii) if the sole jurisdictional basis for 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 10. **Application or Article.**

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Corporation of the detailed action which it has taken.

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.

FOURTH SCHEDULE

(Section 7)

ARTICLES I AND VIII OF AGREEMENT OF THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Article I

Purposes

The purposes of the Association are to promote economic development, increase productivity and thus raise standards of living in the less-developed areas of the world included within the Association's membership, in particular by providing finance to meet their important developmental requirements on terms which are more flexible and bear less heavily on the balance of payments than those

of conventional loans, thereby furthering the developmental objectives of the International Bank for Reconstruction and Development (hereinafter called "the Bank") and supplementing its activities.

The Association shall be guided in all its decisions by the provisions of this Article.

ARTICLE VIII

STATUS, IMMUNITIES AND PRIVILEGES

Section 1. **Purposes of Article.**

To enable the Association to fulfill the functions with which it is entrusted, the status, immunities and privileges provided in this Article shall be accorded to the Association in the territories of each member.

Section 2. **Status of the Association.**

The Association 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 Association with Regard to Judicial Process.**

Action may be brought against the Association only in a court of competent jurisdiction in the territories of a member in which the Association has an office, has appointed an agent for the purpose of accepting service or notice of process or has issued or guaranteed securities. No action shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Association 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 Association.

Section 4. **Immunity of Assets from Seizure**

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

Section 5. **Immunity of Archives.**

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

Section 7. Privileges for Communications.

The official communications of the Association 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, Executive Directors, Alternates, officers and employees of the Association:

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Association waives this immunity;
- (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 Association, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Association 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 Association to Executive Directors, Alternates, officials or employees of the Association 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 Association (including any dividend or interest thereon) by whomsoever held

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- (i) which discriminates against such obligation or security solely because it is issued by the Association; or
 - (ii) if the sole jurisdictional basis for such taxation is the location or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Association.

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

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

Section 10. Application of Article.

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Association of the detailed action which it has taken.
