

ANTIGUA AND BARBUDA

STATUTORY INSTRUMENTS

1997, No. 38

The Inter-Governmental Agreement on Establishment of Caricom Foundation for Art and Culture, approved by Resolution of the House of Representatives pursuant to section 3(1)(c) of the Ratification of Treaties Act (Cap 364).

Preamble

THE GOVERNMENTS OF MEMBER STATES OF THE CARIBBEAN COMMUNITY:

CONSCIOUS of the need for co-operation in the cultural field;

HAVING REGARD to Article 4 of the Treaty of Chaguaramas which declares that one of the objectives of the Community is—

"the promotion of greater understanding among its peoples and the advancement of their social, cultural and technological development;"

RECOGNISING the need to foster and promote development in the arts, humanities and social sciences;

COGNISANT of the need to facilitate such development with the establishment of a CARICOM Foundation for Art and Culture and the securing of funding for it from several sources;

MINDFUL of the potential role of Non-Governmental Organisations in the management and functioning of such a Foundation;

HEREBY AGREE AS FOLLOWS:

CHAPTER I

ESTABLISHMENT, MEMBERSHIP AND OBJECTIVES OF THE FOUNDATION

ARTICLE 1

ESTABLISHMENT

The Caribbean Community Foundation for Art and Culture (hereinafter in this Agreement referred to as the "CARICOM Foundation") is hereby established having the membership, powers and functions hereinafter specified in this Agreement.

ARTICLE 2
INTERPRETATION

In this Agreement —

"Board" means the Board of Directors of the foundation appointed pursuant to Article 5;

"Caribbean Community" means the Caribbean Community established by the Treaty done at Chaguaramas on 4 July 1973;

"Member States" means a Member State of the Caribbean Community and includes an Associate Member of the Caribbean Community;

"Regional Cultural Committee" means the Committee known by that name comprising Directors of Culture in Member States and other persons representing different areas of cultural and artistic activity in the Caribbean Community and recognised by the Standing Committee as the body competent to advise it generally on the adoption and implementation of policies relating to culture in the Community;

"Secretary-General" means the Secretary-General of the Caribbean Community;

"Standing Committee" means the Standing Committee of Ministers responsible for Culture.

ARTICLE 3
MEMBERSHIP

Participation in this Agreement shall be open to —

- (a) The Member States and Associate Members of the Caribbean Community listed in the Annex to this Agreement;
- (b) Any other country in the Caribbean Region which becomes a Member State or Associate Member of the Caribbean Community;
- (c) Any other country in the Caribbean Region admitted to participate in this Agreement in accordance with Article 29.

ARTICLE 4

OBJECTIVES

The objectives of the CARICOM Foundation are to foster and promote the enjoyment of, and the production of works in, the arts, humanities and social sciences and, without prejudice to the generality of the foregoing, the Foundation may, in particular —

- (a) assist, co-operate with and enlist the aid of organisations, the objects of which are similar to or compatible with any of the objects of the Foundation;
- (b) provide, through appropriate organisations or otherwise, grants, scholarships, bursaries or loans to persons in any Member State for study or research in the arts, humanities or social sciences in any Member State or elsewhere or to persons in other countries for study or research in those fields in any Member State;
- (c) make awards to persons resident in any Member State or elsewhere in the Caribbean Region and to persons resident elsewhere who are citizens of or previously belonging to the Caribbean who are producing work of Caribbean content, for outstanding accomplishment in the arts, humanities or social sciences;
- (d) arrange for sponsor exhibitions, performances and publications of works in the arts, humanities or social sciences;
- (e) exchange with other countries or organisations or persons therein knowledge and information respecting the arts, humanities and social sciences; and
- (f) arrange for the representation and interpretation of the arts, humanities and social sciences of Caribbean Countries in other countries.

CHAPTER II

MANAGEMENT

ARTICLE 5

MANAGEMENT OF THE FOUNDATION

The Governing Body of the CARICOM Foundation shall be a Board of Directors consisting of the following seven persons appointed by the Secretary-General —

(a) four persons nominated by the Regional Cultural Committee or such other successor body appearing to the Secretary-General to be representative of persons associated with different areas of cultural and artistic activity in the Caribbean Community; and

(b) three persons nominated by the Standing Committee.

2. Nominations for appointment pursuant to paragraph 1 of this Article shall be made from among persons recognised within the Caribbean Community for their knowledge and deep interest in the art and culture of the Caribbean Community.

3. The Secretary-General shall appoint the Chairperson and Deputy Chairperson of the Foundation from among its members.

4. In the case of the absence or inability of the Chairperson to act, the Deputy Chairperson shall exercise the functions of the Chairperson.

5. The Secretary-General may appoint any person to act temporarily in the place of a director in the case of the absence or inability of such director to function as a member of the Board of Directors.

Provided that the Secretary-General shall not make an appointment under this paragraph, unless —

(a) a nomination is made in like manner as is required under paragraph 1 of this Article;

(b) it appears to him that it is impracticable for a nomination to be made.

ARTICLE 6

TENURE OF OFFICE

1. A Director shall subject to the provisions of this Agreement, hold office for a period not exceeding three years but shall be eligible for re-appointment.

2. The Secretary-General shall revoke the appointment of a Director appointed pursuant to paragraph 1 of Article 5 on the recommendation of the body which nominated that person for appointment as a member of the Board of Directors.

3. Any Director, other than the Chairperson, may at any time resign office as a Director of the Foundation by writing addressed to the Secretary-General and transmitted through the Chairperson and from the date of receipt thereof by the Secretary-General, that Director shall cease to be a member of the Board.

4. The Chairperson may, at any time, resign office in writing addressed to the Secretary-General and such resignation shall take effect from the date of the receipt thereof by the Secretary-General.

ARTICLE 7

HEADQUARTERS OF THE FOUNDATION

1. The Headquarters of the Foundation shall be located in Montserrat.
2. The Board may, if they consider it necessary or expedient for the fulfillment of the objectives of the Foundation, establish branches in other Member States or elsewhere.

ARTICLE 8

REMUNERATION OF THE DIRECTORS

There shall be paid from the funds of the Foundation to the Chairperson and other members of the Board and the members of any advisory committee appointed by the Trustees such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Board of Directors of the Foundation may determine, with the approval of the Standing Committee.

ARTICLE 9

STAFF OF THE FOUNDATION

1. There shall be an Executive Director of the Foundation to be appointed by the Board on such terms and conditions (including the payment of pension, gratuity or other like benefits by reference to the service of the Director) to be determined by the Board.
2. There shall be employed such other officers and employees of the Foundation on such terms and conditions (including the payment of pension, gratuity or other like benefits by reference to their service) to be determined by the Board.
3. The Executive Director shall, subject to the general policy decisions of the Board, be responsible for the business of the Foundation and answerable therefor to the Board.
4. The Board may delegate to the Executive Director such of their powers under paragraph 2 as they may determine.
5. The remuneration of the Executive Director and other officers and employees of the Foundation shall be paid out of its funds and other resources.

ARTICLE 10

MEETINGS

1. The Board shall meet at least once per year at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Board may decide.

2. Minutes of all meetings of the Foundation shall be recorded.

3. The Chairperson shall, at any time, summon a special meeting of the Foundation to be held within ten days after the receipt of a written request for that purpose addressed to the Chairperson by at least three of the Directors.

4. Four Directors shall constitute a quorum for meetings of the Board.

5. The Chairperson or, in the case of the absence or inability of the Chairperson to act, the Deputy Chairperson or, in the absence of the both of them, the member of the Board elected by the other members present, shall preside at meetings of the Board and, when so presiding, the Chairperson or Deputy Chairperson or the member elected as aforesaid to preside shall have an original and a casting vote.

6. Subject to the provisions of this Article, the Board may regulate their own proceedings.

7. The validity of the proceedings of the Board shall not be affected by any vacancy amongst the members of the Board or by any defect in the appointment of a Director.

CHAPTER III

FINANCIAL PROVISIONS

ARTICLE 11

ENDOWMENT FUND

The Board may, out of the funds and other resources of the Foundation, establish an Endowment Fund for the purposes of the Foundation in fulfillment of its objectives pursuant to this Agreement.

ARTICLE 12

DONATIONS

The Foundation may acquire money, securities or other property by way of gifts, bequests or otherwise and may spend, administer or otherwise dispose of any such

money, securities or other property subject to the terms, if any, upon which such money, securities or other property was donated, bequeathed or otherwise made available to the Foundation.

ARTICLE 13

INVESTMENTS

1. The Foundation may make investments out of its moneys and the investments may be made in such securities as may be approved by the Board.
2. The proceeds of the sale or other disposition of any investment made out of the Endowment Fund of the Foundation shall be credited to that Fund.

ARTICLE 14

AUDIT

1. The accounts and financial transactions of the Foundation shall be audited annually by an auditor appointed by the Board and a report thereon shall be made to the Board.
2. The Board shall, as soon as practicable after the accounts have been audited, send the statement of the accounts of the Foundation to the Secretary-General for transmission to the Standing Committee together with a copy of any report thereon made by the auditor.
3. The fees of the auditor and any other expenses of the audit shall be subject to the approval of the Board and shall be paid by the Foundation.

ARTICLE 15

ANNUAL REPORT

1. As soon as the accounts of the Foundation have been audited in accordance with Article 14, the Board shall submit to the Secretary-General for transmission to the Standing Committee a report on its activities throughout the year, together with a statement of the audited accounts of the Fund.
2. A copy of the report mentioned in paragraph 1 of this article together with a copy of the report of the auditor shall be printed at the expense of the Foundation and shall be available for inspection by the public in Member States.

CHAPTER IV

LEGAL STATUS, IMMUNITIES AND PRIVILEGES

ARTICLE 16

PURPOSE OF CHAPTER

In order to enable the Foundation effectively to carry out its objectives and perform its functions pursuant to this Agreement, the status, immunities, exemptions and privileges set out in this Chapter, shall be accorded to the Foundation in the territory of each Contracting Party.

ARTICLE 17

LEGAL STATUS

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

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

ARTICLE 18

PROPERTY, FUNDS AND ASSETS

The Foundation, its property and assets wherever located and by whomever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity. No waiver of immunity shall extend to any measure of execution.

ARTICLE 19

INVIOLABILITY OF PREMISES AND PROPERTY

1. The premises of the Foundation shall be inviolable.
2. The archives of the Foundation and, in general, documents belonging to or held by it shall be inviolable wherever located.
3. The property of the Foundation wherever located and by whomever held shall be immune from search, requisition, confiscation, expropriation and any other form of interference whether by executive, administrative or judicial action.

ARTICLE 20

FINANCIAL PRIVILEGES

EXEMPTION FROM EXCHANGE CONTROLS

1. Without being restricted by financial controls, regulations or moratoria of any kind, the Foundation may —

- (a) holds funds, gold or currency of any kind and operate accounts in any currency;
- (b) freely transfer its funds, gold or currency from one country to another or within any country and convert any currency held by it into any other currency.

2. In exercising its rights under paragraph 1 of this Article, the Foundation shall pay due regard to any representations made by any Contracting Party and shall give effect to such representations insofar as it is considered possible to do so without detriment to the interest of the Foundation.

ARTICLE 21

EXEMPTION FROM TAXATION

The property of the Foundation shall be exempt from —

- (a) any form of direct taxation, but the Foundation shall not claim exemption from taxes which are in fact, no more than charges levied for specific services rendered;
- (b) customs duties and from prohibition and restrictions on imports and exports in respect of articles imported or exported by the Foundation for its official use, but articles imported under such exemption shall not be sold within the territory of the Contracting Party under conditions agreed to with the Government of that Contracting Party.
- (c) customs duties and other levies and prohibitions and restrictions in respect of the importation, sale and exportation of its publications.

ARTICLE 22

FACILITIES IN RESPECT OF COMMUNICATIONS

1. The Foundation shall enjoy in the territory of each Contracting Party for its official communications treatment not less favourable than that accorded by the Government

of that Contracting Party to any other Government, international organisation or foreign diplomatic mission.

2. The Foundation shall be immune from censorship of its official correspondence and other official communications.

3. The Foundation shall have the right to use codes and despatch and receive correspondence by courier or in sealed bags, which have the same immunities and privileges as diplomatic couriers and bags.

4. Nothing in this Article shall be construed so as to preclude the adoption of appropriate security measures in the interests of the Contracting Party concerned.

ARTICLE 23

IMMUNITIES AND PRIVILEGES OF DIRECTORS AND OFFICIALS OF THE FOUNDATION AND OF EXPERTS PERFORMING MISSIONS FOR THE FOUNDATION

The Directors, officials and other employees of, and experts performing missions for, the Foundation —

- (a) shall be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity, this immunity to continue notwithstanding that the person concerned has ceased to be an official of the Foundation;
- (b) shall be immune from seizure of their personal and official baggage and enjoy inviolability for all papers and documents as is accorded to a diplomatic agent in accordance with international law;
- (c) shall be exempt from any form of taxation on remuneration received from the Foundation;
- (d) shall be exempt from national service obligations;
- (e) shall enjoy exemption for themselves, and members of their families and dependents forming part of their households from immigration restrictions and alien registration; and
- (f) shall enjoy such facilities as regards exchange control as are not less favourable than those accorded by the Contracting Parties concerned to the representatives, officials and other employees of diplomatic missions of comparable rank.

ARTICLE 24

WAIVER OF IMMUNITIES AND PRIVILEGES

The privileges and immunities accorded by this Agreement are granted in the interest of the Foundation and not for the personal benefit of the individuals themselves. The Executive Director may waive the immunity of any person entitled thereto in any case where, in the opinion of the Executive Director, such immunity impedes or is likely to impede the course of justice and can be waived without prejudice to the interest of the Foundation. In the case of the Executive Director, the Board of Directors may waive the immunity.

ARTICLE 25

SAVING

Nothing in this Agreement shall be construed as obliging any Contracting Party to accord any of the privileges or confer any of the immunities referred to therein to any person who is a national of, or permanently resident in, the territory of that Contracting Party, whether as a member of the Board of Directors or an official or other employee of the Foundation, except immunity from jurisdiction and inviolability in respect of words spoken or written or official acts performed in the exercise of his functions.

ARTICLE 26

SETTLEMENT OF DISPUTES

Any dispute arising between the Contracting Parties out of the interpretation or application of this Agreement shall be settled by the Standing Committee of Ministers responsible for Education or its appointee, provided that negotiation between the Contracting Parties has failed.

ARTICLE 27

SIGNATURE AND RATIFICATION

This Agreement shall be open for signature by the Member States listed in the Annex to this Agreement and shall be subject to ratification in accordance with their respective constitutional procedures.

ARTICLE 28

ENTRY INTO FORCE

1. This Agreement shall enter into force when Instruments of Ratification have been deposited by at least five of the Member States listed in Part A of this Annex to this Agreement, including Montserrat.

2. The Secretary-General shall notify the Contracting Parties of the entry into force of this Agreement.

ARTICLE 29

ACCESSION

1. Any country referred to in paragraphs (b) or (c) of Article 3 may, after the entry into force of this Agreement, apply to the Board of Directors to become a party to this Agreement.

2. The Board may approve the application on such terms and conditions as it deems fit and such country shall become a Party to the Agreement on the date on which an appropriate Instrument of Accession is deposited with the Secretary-General.

ARTICLE 30

AMENDMENT

1. This Agreement may be amended on a proposal of a Contracting Party or on the recommendation of the Board and, in either case, with the adoption by two-thirds of the Contracting Parties.

2. An amendment of this Agreement shall enter into force when ratified by all the Contracting Parties.

3. Instruments of Ratification shall be deposited with the Secretary-General.

ARTICLE 31

DEPOSITARY

1. This Agreement and any amendments thereto shall be deposited with the Secretary-General of the Caribbean Community.

2. The Secretary-General shall notify the Contracting Parties and the Chairperson of the Board of the deposit of Instruments of Ratification or Accession.

ARTICLE 32

WITHDRAWAL

1. Any Contracting Party wishing to withdraw from this Agreement shall give to the Board twelve months' notice of its intention to do so and the Chairperson of the Board shall forthwith notify the other Contracting Parties.

2. The notice mentioned in paragraph 1 of this Article may be withdrawn at any time prior to the date on which the withdrawal is to take effect.

3. A Contracting Party withdrawing from this Agreement shall honour any financial obligations duly assumed by it during the period of its being a Contracting Party.

IN WITNESS WHEREOF the undersigned representatives, being duly authorised by their respective Governments, have signed this Agreement.

Signed by

For the Government of Antigua and Barbuda on 16 September, 1994

at Belize City, Belize.

Signed by

For the Government of The Bahamas on

at

Signed by

For the Government of Barbados on 10th April, 1996

at Bridgetown, Barbados

Signed by

For the Government of Belize on 16 September, 1994

at Belize City, Belize.

Signed by

For the Government of The Commonwealth of Dominica on 16 September, 1994

at Belize City, Belize.

Signed by

For the Government of Grenada on 22 November, 1994

at Port-of Spain, Trinidad.

Signed by

For the Government of Guyana on 16 September, 1994

at Belize City, Belize.

Signed by

For the Government of Jamaica on 16 September, 1994

at Belize City, Belize.

Signed by

For the Government of Montserrat on 28 September, 1994

at Plymouth, Montserrat.

Signed by

For the Government of St. Kitts and Nevis on 29 October, 1996.

at Basseterre, St. Kitts.

Signed by

For the Government of Saint Lucia on 28 October, 1994

at Castries, St. Lucia.

Signed by

For the Government of St. Vincent and the Grenadines on 27th June, 1996

at Georgetown, Guyana.

Signed by

For the Government of Trinidad and Tobago on 23 November, 1994

at Port-of-Spain, Trinidad & Tobago.

Signed by

For the Government of The British Virgin Islands on

at

Signed by

For the Government of The Turks and Caicos on

at

PART A

LIST OF MEMBER STATES OF THE CARIBBEAN COMMUNITY

Antigua and Barbuda

The Bahamas

Barbados

Belize

Commonwealth of Dominica

Grenada

Guyana

Jamaica

Montserrat

St. Kitts and Nevis

Saint Lucia

St. Vincent and the Grenadines

Trinidad and Tobago

Passed by Resolution of the House of Representatives this 6th day of October, 1997.

Bridget Harris,
Speaker.

Sylvia Walker,
Clerk to the House of Representatives.

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