

No. S 34

CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

EMERGENCY (BRETTON WOODS AGREEMENT) ORDER, 1995

In exercise of the powers conferred by Section 83(3) of the Constitution of Brunei Darussalam, His Majesty The Sultan and Yang Di-Pertuan hereby makes the following Order –

Citation. 1. (1) This Order may be cited as the Emergency (Bretton Woods Agreement) Order, 1995.

(2) The long title of this Order is "An Order relating to the admission of Brunei Darussalam as a member of the International Monetary Fund and the International Bank for Reconstruction and Development".

Interpretation. 2. In this Act –

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

"Fund" means the International Monetary Fund established under the Fund Agreement ;

"Fund Agreement" means the Articles of Agreement of the International Monetary Fund as originally adopted and as subsequently amended ;

"financial authority of Brunei Darussalam" means the authority designated by His Majesty The Sultan and Yang Di-Pertuan for the purposes of this Order.

Subscription to International Monetary Fund. 3. (1) It shall be the function of the financial authority of Brunei Darussalam to pay to the Fund the subscription payable on account of Brunei Darussalam.

(2) The financial authority of Brunei Darussalam may, with the approval of the Minister of Finance, accept on behalf of the Government any increase in the subscription of Brunei Darussalam to the Fund in consequence of an increase in the quota of Brunei Darussalam, and make payment of such part of the increase as may, under section 3 of Article III of the Fund Agreement, be payable in special drawing rights or in the currency of Brunei Darussalam or in any other currency specified by the Fund.

(3) The financial authority of Brunei Darussalam is hereby authorised to create and issue to the Fund in such form as is appropriate

any such non-interest bearing and non-negotiable notes or other obligations as the Fund may, under section 4 of Article III of the Fund Agreement, determine to accept in place of any part of the subscription of Brunei Darussalam which would, but for such acceptance, be payable in the currency of Brunei Darussalam.

4. The financial authority of Brunei Darussalam shall have power from time to time to acquire, hold and deal with special drawing rights of the Government in accordance with the Fund Agreement and to perform all acts supplemental or incidental thereto, including –

Power of financial authority of Brunei Darussalam in respect of special drawing rights.

- (a) the payment of any charges payable to the Fund under section 2 of Article XX of the Fund Agreement and any sums payable to the Fund under section 4 of that Article ;
- (b) the receipt of the interest payable by the Fund in respect of special drawing rights under section 1 of the said Article XX ; and
- (c) the discharge of any other obligations as a participant in the Special Drawing Rights Department maintained by the Fund.

5. The financial authority of Brunei Darussalam is hereby authorised –

Power of financial authority of Brunei Darussalam in relation to operations of General Resources Accounting Fund.

- (a) to take steps to ensure that the balances of the currency of Brunei Darussalam purchased from the Fund by a member of the Fund can be exchanged at the time of purchase, by the member, for a freely usable currency selected by Brunei Darussalam, in accordance with section 3 of Article V of the Fund Agreement ;
- (b) to take steps to ensure that any member of the Fund repurchasing its own currency from the Fund can obtain the currency of Brunei Darussalam (if the currency of Brunei Darussalam is specified by the Fund for repurchase) at the time of repurchase in exchange for a freely usable currency selected by Brunei Darussalam in accordance with section 7 of Article V of the Fund Agreement ;
- (c) to make payment of any charges payable to the Fund under section 8 of Article V of the Fund Agreement or any other sums payable to the Fund ; and
- (d) to receive any remuneration payable by the Fund under section 9 of Article V of the Fund Agreement or any other sums payable by the Fund.

Subscription to International Bank for Reconstruction and Development.

6. (1) (a) There shall be charged on the Consolidated Fund such part of the subscription of Brunei Darussalam as may, in accordance with the provisions of Article II of the Agreement of the International Bank for Reconstruction and Development (in this Order referred to as the Bank Agreement) be payable in gold or United States dollars or in the currency of Brunei Darussalam.

(b) There shall be charged on the Consolidated Fund such part of any increase in the subscription of Brunei Darussalam as may, in accordance with the provisions of Article II of the Bank Agreement, be payable in gold or United States dollars or in the currency of Brunei Darussalam.

(c) Except with the approval of His Majesty The Sultan and Yang Di-Pertuan, the subscription of Brunei Darussalam shall not be increased.

(2) The Minister of Finance is hereby authorised to create and issue to the International Bank for Reconstruction and Development such non-interest-bearing and non-negotiable notes or other obligations as the Bank may, under section 12 of Article V of the Bank Agreement, determine to accept in place of the currency of Brunei Darussalam.

Other payments to International Bank for Reconstruction and Development.

7. There shall be charged on the Consolidated Fund –

- (a) all sums payable to the International Bank for Reconstruction and Development under section 9 of Article II of the Bank Agreement (which relates to changes in the par or foreign exchange value of currencies of members) ; and
- (b) all sums required for the redemption of any notes or obligations created and issued to that Bank under this Order.

Power to raise loans.

8. For the purpose of providing any sums required for making any payments under the Fund Agreement, Bank Agreement, or the membership resolutions, the Minister may, on behalf of the Government, raise loans by the creation and issue of securities bearing such rates of interest and subject to such conditions as to repayment, redemption or otherwise as he may think fit and the principal and interest of such securities and the charges and expenses incurred in connection with their issue shall be charged on and paid out of the Consolidated Fund.

Moneys received by Government to be paid into Consolidated Fund.

9. Any moneys received by the Government from the Bank in connection with the membership of Brunei Darussalam shall be paid into and form part of the Consolidated Fund.

10. (1) His Majesty The Sultan and Yang Di-Pertuan may, be order, make such provision as he may consider reasonably necessary for carrying into effect any of the provisions of the Fund Agreement and the Bank Agreement including but not limited to those relating to the status, immunities and privileges of the International Monetary Fund and of the International Bank for Reconstruction and Development and their respective governors, executive directors, alternates officers and employees, and the provisions of the Fund Agreement with regard to the unenforceability of exchange contracts.

Orders for carrying Agreements into effect.

(2) Without prejudice to the generality of subsection (1), the provisions of the Fund Agreement and the Bank Agreement specified in the Schedule shall have the force of law in Brunei Darussalam.

11. The International Bank for Reconstruction and Development shall be deemed not to be a corporation within the meaning of the Companies Act ; and the provisions of the Act shall not, accordingly, apply to the Bank or to the issue by the Bank of any shares, debentures, bonds, notes or other securities.

Companies Act not to apply to Bank and to issue by Bank of shares, debentures, etc. Cap. 39.

SCHEDULE
(Section 10(2))

PART A

ARTICLES OF AGREEMENT OF THE INTERNATIONAL MONETARY FUND

Article VIII

General Obligations of Members

Section 2. Avoidance of restriction on current payments

- (a) 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 this Agreement shall be unenforceable in the territories of any member.

Article IX

Status, Immunities and Privileges

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 activities provided for in this Agreement, all property and assets of the Fund shall be free from restrictions, regulations, controls 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 the 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 authorised by this Agreement shall be immune from all taxation and from all custom 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, 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.

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 the operations or transactions in special drawing rights.

PART B

ARTICLES OF AGREEMENT OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Article VII

Status, Immunities and Privileges

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 actions 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 judgement 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. Privilege 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, 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 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 Bank, 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 Bank shall also be immune from liability for the collection or repayment 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 :
 - (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.

Made this 5th. day of Jamadilawal Hijrah 1416 corresponding to the 30th. day of September, 1995.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM

Istana Nurul Iman, Brunei Darussalam.