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THE ISLAMIC DEVELOPMENT BANK ORDINANCE, 1978.

ORDINANCE NO. VI OF 1978

[22nd February, 1978]

An Ordinance to implement the international agreement for the establishment and operation of the Islamic Development Bank and for matters connected therewith.

WHEREAS Pakistan is a signatory to the Agreement establishing the Islamic Development Bank and thereby became a member of the said Bank;

AND WHEREAS it is expedient to make provision for the implementation of the international agreement for the establishment and operation of the aforesaid Bank and for carrying out the obligations of Pakistan as a member of the said Bank and for matters connected therewith;

And WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

Now, therefore, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977, (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

1. Short title, extent and commencement.—(1) This Ordinance may be called the Islamic Development Bank Ordinance, 1978.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once and shall be deemed to have taken effect on the twenty-third day of April, 1975.

2. Definitions. In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "Agreement" means the Agreement for the establishment and operation of the international body known as the Islamic Development Bank;

(b) "Article" means Article of the Agreement; and .

(c) "Bank" means the Islamic Development Bank established under the Agreement.

3. Financial provisions—(1) There shall be paid out of the Federal Consolidated Fund all such sums as may, from time to time, be required for the purpose of paying—

(a) the subscription payable by the Federal Government to the Bank under paragraphs 1, 2, 3, 4 and 5 of Article 5; and

(b) any other sums payable by the Federal Government to the Bank under the Agreement.

(2) Any sums received, by or on behalf of the Federal Government from the Bank shall be paid into the Federal Consolidated Fund.

4. State Bank to be depository of the Bank. The State Bank of Pakistan shall be the depository of the Pakistan currency holdings and other assets of the Bank located in Pakistan.

5. Certain provisions of the Agreement to have force of law.—(1) Notwithstanding anything to the contrary contained in any other law, the provisions of the Agreement set out in the Schedule shall have the force of law in Pakistan:

Provided that nothing in Article 59 of the Agreement shall be construed as—

(a) entitling the Bank to import into Pakistan goods free of any duty of customs without any restriction on their sub-sequent sale therein, or

(b) conferring on the Bank an exemption from duties or taxes which form part of the prices of goods sold or which are in fact no more than charges for services rendered.

(2) The Federal Government may, by notification in the official Gazette, amend the Schedule in conformity with any amendments, which may hereafter be duly made and adopted, of the provisions of the Agreement set out therein.

6. Power to make rules. The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

THE SCHEDULE

(See section 5)

Provisions of the Agreement which shall have the force of law

CHAPTER VII

STATUS, IMMUNITIES, EXEMPTIONS AND PRIVILEGES

ARTICLE 50

Purpose of Chapter

To enable the Bank effectively to fulfil its purpose and carry out the functions entrusted to it, 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

Legal Status

The Bank shall be an independent international institution possessing full juridical personality and, in particular, full capacity—

(i) to contract;

(ii) to acquire and dispose of immovable and movable property; and

(iii) _ to institute legal proceedings.

ARTICLE 52

Immunity from Judicial Proceedings

1. The Bank shall enjoy immunity from every legal process except in cases arising out of or in connection with the exercise of its powers to raise money, or to buy and sell or under write the sale of securities, in which cases actions may be brought against the Bank in a court of competent jurisdiction

in the territory of a country in which the Bank has its principal or a branch office, or has appointed, an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.

2. Notwithstanding the provisions of paragraph 1 of this Article, no action shall be brought against the Bank by any member, or by any agency or instrumentality of a member, or by an entity or person directly or indirectly acting for or deriving claims from a member. Members shall have recourse to such special procedures for the settlement of controversies between the Bank and its members as may be prescribed in this Agreement, in the Bye-laws and Regulations of the Bank, or in contracts entered into with the Bank.

3. Property and assets of the Bank shall, whosesoever 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

Property and assets of the Bank, whosesoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by administrative or legislative action.

ARTICLE 54

Immunity of Archives

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

ARTICLE 56

Freedom of Assets from Restrictions

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

ARTICLE 57

Privilege for Communications

The official communications of the Bank shall be accorded by each member treatment which is not less favourable than that accorded by it to any other international organisation.

ARTICLE 58

Immunities and Privileges of Bank Personnel

All Governors, Alternates, Executive Directors, the President, 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 citizens or 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 accorded by members to representatives, officials and employees of comparable rank of other members.

ARTICLE 59

Exemption from Taxation

1. The Bank, its assets, property, income and its operations and transactions shall be exempt from all taxation and from all customs duties. The Bank shall be also exempt from any obligation for 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 the President, the Executive Directors, officers or employees of the Bank.
3. No tax shall be levied on any security issued by the Bank, including any dividend thereon, by whomsoever held—
 - (i) which discriminates against such 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 security guaranteed by the Bank, including any dividend thereon, by whomsoever held—
 - (i) which discriminates against such security solely because it is guaranteed by the Bank; or

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

ARTICLE 61

Waiver of Immunities, Exemptions and Privileges

The Bank, at its discretion, may waive any of the privileges, immunities and exemptions conferred under this Chapter in any case or instance, in such manner and upon such conditions as it may determine to be appropriate in its best interest.

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