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**Third Session Eighth Parliament Republic of
Trinidad and Tobago**

HOUSE OF REPRESENTATIVES

BILL

**AN ACT to provide for the implementation by the
Government of Trinidad and Tobago of certain of
the provisions of the Agreement between the
Government of the Republic of Trinidad and Tobago
and the Association of Caribbean States on the
Headquarters of the Association of Caribbean
States and its privileges and immunities.**

THE ASSOCIATION OF CARIBBEAN STATES
(HEADQUARTERS) BILL, 2004

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

The Bill seeks to provide for the implementation of certain of the provisions contained in the Agreement between the Government of Trinidad and Tobago and the Association of Caribbean States in respect of the Headquarters of the Association of Caribbean States ("the Agreement").

Clause 3 would provide for the cost of Trinidad and Tobago's obligations under the Agreement to be a charge on the Consolidated Fund.

Clause 4 would give certain Articles of the Agreement, the force of law in Trinidad and Tobago. The Association for instance, is given legal personality and capacity allowing it to contract, acquire and dispose of real and personal property and be party to legal proceedings.

Clause 5 would facilitate the entry into, residence in and departure from Trinidad and Tobago of the diplomatic staff and other personnel mentioned in Article 17 of the Agreement.

Clause 6 would permit the Minister with responsibility for foreign affairs to amend the Schedule to the enactment for which this is the Bill, to incorporate any amendments to the Headquarters Agreement which is set out in the Schedule.

BILL

AN ACT to provide for the implementation by the Government of Trinidad and Tobago of certain of the provisions of the Agreement between the Government of the Republic of Trinidad and Tobago and the Association of Caribbean States on the Headquarters of the Association of Caribbean States and its privileges and immunities.

[, 2004]

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:—
Short title	1. This Act may be cited as the Association of Caribbean States (Headquarters) Act, 2004.
Interpretation	<p>2. In this Act—</p> <p>“Association” means the Association of Caribbean States established by the Convention establishing the Association of Caribbean States signed at Cartagena de Indias, Republic of Colombia on July 24, 1994;</p> <p>“Government” means the Government of the Republic of Trinidad and Tobago;</p> <p>“Headquarters” has the meaning assigned to it in Article 1 of the Headquarters Agreement;</p> <p>“Headquarters Agreement” means the Agreement, the text of which is set out in the Schedule, between the Government and the Association of Caribbean States regarding the Headquarters of the Association of Caribbean States;</p> <p>“Minister” means the Minister to whom responsibility for foreign affairs is assigned.</p>
Schedule	
Financial provisions for giving effect to the Headquarters Agreement	3. (1) All sums required to be paid by the Government of Trinidad and Tobago for the purpose of meeting the obligations of Trinidad and Tobago under the Headquarters Agreement shall be a charge on the Consolidated Fund.

(2) Any sums received by the Government from the Association shall be paid into the Consolidated Fund.

4. Without prejudice to any other written law, the following Articles of the Headquarters Agreement shall have the force of law in Trinidad and Tobago:

Certain provisions of Headquarters Agreement given force of law in Trinidad and Tobago

- (a) Article 3;
- (b) in Article 5, paragraphs 1 and 2;
- (c) in Article 10, paragraphs 2, 3, 5, 6 and 7;
- (d) Article 11;
- (e) Article 14;
- (f) in Article 15, paragraph 1;
- (g) in Article 23, paragraphs 1 to 3;
- (h) Article 24;
- (i) Article 25;
- (j) Article 26;
- (k) Article 33;
- (l) in Article 34, paragraph 2;
- (m) in Article 38, paragraph 1.

5. Without prejudice to the requirements of the Immigration Act, the Government shall facilitate the entry into, residence in and departure from Trinidad and Tobago of the persons referred to in Article 17 of the Headquarters Agreement.

Entry into, residence in and departure from Trinidad and Tobago
Chap. 18:01

6. The Minister may, from time to time, by Order, amend the Schedule for the purpose of bringing the Headquarters Agreement into accord with any amendments made to the Headquarters Agreement under Article 44 thereof.

Amendment of Schedule

SCHEDULE

(Sections 2 and 6)

AGREEMENT BETWEEN THE ASSOCIATION OF
CARIBBEAN STATES AND THE GOVERNMENT OF
THE REPUBLIC OF TRINIDAD AND TOBAGO ON
THE HEADQUARTERS OF THE ASSOCIATION OF
CARIBBEAN STATES AND ITS PRIVILEGES AND
IMMUNITIESTHE ASSOCIATION OF CARIBBEAN STATES AND THE GOVERNMENT
OF THE REPUBLIC OF TRINIDAD AND TOBAGO

Having regard to the Convention establishing the Association of Caribbean States of 24th July, 1994;

Taking into account the provisions of article XVII, paragraph 2, of the Convention that provides that the Association shall conclude a Headquarters Agreement with the Government of the Member State where it is located, including provisions on the privileges and immunities recognized and granted;

Cognisant of the decision to locate the Headquarters of the Association of Caribbean States in the Republic of Trinidad and Tobago;

Recognizing the need to ensure the availability of all necessary facilities to enable the Association of Caribbean States to perform its functions as required by the Convention;

Desiring to conclude an agreement for the purpose of regulating, in accordance with the Convention, questions relating to the establishment and functioning of the Association of Caribbean States in Trinidad and Tobago;

Have agreed as follows:

ARTICLE 1

DEFINITION

For the purpose of this Agreement:

- (a) "Convention" means the Convention establishing the Association of Caribbean States signed at Cartagena de Indias, Republic of Colombia on July 24, 1994;
- (b) "Association" means the Association of Caribbean States as defined by article II of the Convention;
- (c) "Member States" has the same meaning as defined in article IV(1) of the Convention;

- (d) "Government" means the Government of the Republic of Trinidad and Tobago;
- (e) "Competent authorities" means such government, municipal or other authorities in Trinidad and Tobago as may be appropriate in the context and in accordance with the laws applicable in Trinidad and Tobago;
- (f) "Headquarters" means:
 - (i) the area, defined in the annex to this Agreement, with the building or buildings upon it; and
 - (ii) any other land, buildings or part of buildings which may be included therein by supplementary agreement between the Association and the Government;
- (g) "Secretary-General" means the Secretary-General of the Association of Caribbean States or his authorized representative;
- (h) "Secretariat" has the same meaning as defined in article XIV of the Convention;
- (i) "Laws of Trinidad and Tobago" means the Constitution of Trinidad and Tobago, statute law and regulations made pursuant to statutes and includes common law;
- (j) "Representatives of Member States and Associate Members" means delegates, deputy delegates, advisers and any other accredited members of delegations;
- (k) "Officials of the Association" means the Secretary-General and any member of the staff of the Association;
- (l) "Associate Member" has the same meaning as defined in article IV(2) of the Convention;
- (m) "Observers to the Association" means a State, Country, Territory or Organization which enjoys observer status with the Association as referred to in article V of the Convention and are admitted as such to the Association;
- (n) "Representatives of observers" means delegates, deputy delegates, advisers and any other accredited members of delegations;
- (o) "High level Officials" means the officials designated by the Ministerial Council of the Association;

- (p) "Domestic staff" means the persons employed exclusively in the domestic service of the representatives of Member States and Associate Members, of the representatives of observers of the Association and of the officials of the Association;
- (q) "Experts" means experts performing missions for the Association;
- (r) "Permanent Mission" means a mission of permanent character, representing a Member State or Associate Member;
- (s) "Permanent Observer Mission" means a mission of permanent character, representing an Observer to the Association;
- (t) "Members of the Permanent Mission" or "Members of the Permanent Observer Mission" means the head of the mission and the members of the staff;
- (u) "Protocol" means the Protocol on the Privileges and Immunities of the Association of Caribbean States;
- (v) "Archives" means records and correspondence, documents, manuscripts, maps, still and moving pictures, films and sound recordings belonging to or held by the Association in Trinidad and Tobago. This list being subject to amplification based on new technological developments;
- (w) "Ministerial Council" has the same meaning as defined in article VIII of the Convention.

ARTICLE 2

THE SEAT OF THE ASSOCIATION

1. The seat of the Association is located in Trinidad and Tobago.
2. Trinidad and Tobago grants to the Association, and the Association accepts from Trinidad and Tobago, for the permanent use and occupation by the Association, the area as defined in the annex to this Agreement and such other facilities on such terms and conditions as specified in supplementary agreements.
3. The Headquarters shall not be removed, either temporarily or permanently, from the area defined in the annex to this Agreement to any other place in Trinidad and Tobago unless the Association, with the agreement of the Government, so decides.
4. Any building or buildings outside the Headquarters which may be temporarily used with the concurrence of the Government for meetings convened by the Association shall be considered as included in the Headquarters.

5. Arrangements between the Government and the Association relating to the provision by the Government of the Headquarters premises for the Secretariat and the Services connected therewith shall be agreed in an exchange of letters between the Secretary-General and the Government.

ARTICLE 3

LEGAL PERSONALITY AND CAPACITY OF THE ASSOCIATION

The Association shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes in accordance with the Convention; consequently it has, in particular, the capacity:

- (a) To contract;
- (b) To acquire and dispose of immovable and movable property; and
- (c) To be a party to legal proceedings.

ARTICLE 4

LAW AND AUTHORITY IN THE HEADQUARTERS

1. The Headquarters shall be under the authority and control of the Association in accordance with this Agreement.
2. The Association shall have the power to adopt regulations, operative within the Headquarters, for the purpose of establishing therein the conditions in all respects necessary for the full and independent exercise of its functions.
3. The Association shall promptly inform the Government of regulations adopted by it in accordance with paragraph 2.
4. Except as otherwise provided in this Agreement and subject to the provisions of paragraphs 2 and 5, the laws of Trinidad and Tobago shall apply at the Headquarters.
5. No law of Trinidad and Tobago which is inconsistent with a regulation of the Association authorized by paragraph 2 shall, to the extent of such inconsistency, be applicable in the Headquarters.
6. Any dispute between the Association and the Government as to whether a regulation of the Association is authorized by paragraph 2, or as to whether a law of Trinidad and Tobago is inconsistent with any regulation of the Association authorized by paragraph 2, shall be promptly settled by the procedure set out in article 38. Pending such settlement, the regulation of the Association shall apply, except that where

a Trinidad and Tobago law is in effect at the commencement of the regulation, the local law shall apply. The Host State should adopt all the means necessary and pertinent to comply with the provisions emanating from the Convention and according to what is established in article XVIII of the same.

7. Except as otherwise provided in this Agreement, the courts of Trinidad and Tobago or other competent authorities shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place in the Headquarters.

8. The courts of Trinidad and Tobago or other competent authorities, when dealing with cases arising out of or relating to acts done or transactions taking place in the Headquarters, shall take into account the regulations adopted by the Association under paragraph 2.

9. The Association may expel or exclude persons from the Headquarters for violation of its regulations adopted under this article, or for any other proper cause.

10. The Secretary-General shall be competent to make regulations applicable within the Headquarters of the Association for the purpose of establishing therein conditions for the efficient functioning of the Secretariat.

11. Without prejudice to the provisions of this article, the regulations of the competent authorities relating to fire protection and sanitation shall be respected.

ARTICLE 5

INVIOABILITY OF THE HEADQUARTERS

1. Save as otherwise expressly provided in this Agreement, the Headquarters shall be inviolable. No officer or official of Trinidad and Tobago, or other person exercising any public authority within Trinidad and Tobago, whether administrative, police, judicial or otherwise shall enter the Headquarters to perform any duties therein except with the express consent of, or at the request of, the Secretary-General, and under conditions approved by him.

2. The service of legal process, including the seizure of private property, shall not take place within the Headquarters except with the express consent of, and under conditions approved by, the Secretary-General.

3. Without prejudice to the provisions of this Agreement, the Association shall prevent the Headquarters from being used as a refuge from justice by persons who are avoiding arrest under any law of Trinidad and Tobago, or who are required by the Government for extradition, expulsion or deportation to another country, or who are endeavouring to avoid service of legal process or judicial proceedings.

4. In case of fire or other emergency requiring prompt action to protect lives and property or in the event that the competent authorities have reasonable cause to believe that such an emergency has occurred, the consent of the Secretary-General or his designate to entry of the Headquarters by the competent authorities shall be presumed if the Secretary-General or his designate cannot be reached in time. Every effort shall be made to seek such consent. In every such case however the Government shall ensure that the measures taken are proportionate to the risks and do not unduly compromise the control and authority of the Association mentioned in paragraph 1 of article 4.

ARTICLE 6

PROTECTION OF THE HEADQUARTERS

1. The competent authorities shall exercise due diligence to ensure that the tranquillity of the Headquarters and free access thereto are not disturbed by the unauthorized entry of any person or group of persons from outside or by disturbances in its immediate vicinity, and shall provide the Headquarters with such appropriate protection as may be required.

2. If so requested by the Secretary-General, the competent authorities shall provide a sufficient number of police or military personnel for the preservation of law and order in the Headquarters, and for the removal therefrom of persons as requested.

3. The competent authorities shall take all necessary measures to ensure that the Association shall not be dispossessed of all or any part of the Headquarters without the express consent of the Association.

ARTICLE 7

VICINITY OF THE HEADQUARTERS

1. The competent authorities shall take all necessary steps to ensure that the amenities of the Headquarters are not prejudiced and that the purposes for which the Headquarters are intended are not obstructed by the use made of the land and buildings in the vicinity of the Headquarters.

2. The Association shall take all necessary steps to ensure that the Headquarters is not used for other purposes than those for which it is intended and ensure that the land and buildings in its vicinity are not unreasonably obstructed.

ARTICLE 8

FLAG AND EMBLEM

The Association shall be entitled to display its flag and emblem in the Headquarters and on vehicles used for official purposes.

ARTICLE 9

PUBLIC SERVICES IN THE HEADQUARTERS

1. The competent authorities shall do their utmost to ensure that the Association shall be provided, on fair and equitable terms but in any case not less favourable than those accorded to the agencies of the Government, with necessary utilities and public services, including but not limited to postal, telecommunication, electricity, water, gas, sewerage, collection of waste, fire protection and local transportation.

2. In case of any interruption or threatened interruption of any such services, the competent authorities shall consider the needs of the Association as being of equal importance with those of essential agencies of the Government, and shall take steps accordingly to ensure that the work of the Association is not prejudiced.

3. Upon the request of the competent authorities, the Secretary-General shall make suitable arrangements to enable duly authorized representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the Headquarters under conditions which shall not unreasonably disturb the carrying out of the functions of the Association.

ARTICLE 10

COMMUNICATIONS FACILITIES

1. For the purposes of its official communications, the Association shall enjoy as far as is compatible with international agreements, regulations and arrangements to which Trinidad and Tobago is a party, treatment at least as favourable as that which is accorded to diplomatic missions in Trinidad and Tobago and to international organizations in the matter, *inter alia*, of priorities, rates and taxes applicable to mail and different forms of telecommunications—cables, telegrams, radiograms, telephone and other types of communications.

2. The competent authorities shall secure the inviolability of all communications and correspondence directed to the Association, or to any of the officials of the Association in the Headquarters, as well as all outgoing communications and correspondence of the Association, by whatever means or in whatever form transmitted, and they shall be

immune from censorship and from any other form of interception or interference with their privacy. Such inviolability shall extend, without limitation by reason of this enumeration, to publications, still and moving pictures, films and sound or videotape recordings dispatched to or by the Association. This list being subject to amplification based on any new technological development.

3. The Association shall have the right to use codes and to dispatch and receive its correspondence and other materials by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

4. Nothing in paragraphs 2 and 3 of this article shall be construed, as precluding the adoption of appropriate security measures in the interest of the Republic of Trinidad and Tobago after consultation with the Secretary-General.

5. (a) The Association may establish and operate at the Headquarters:

- (i) Its own short-wave sending and receiving radio broadcasting facilities, including emergency link equipment which may be used on the same frequencies, within the tolerances prescribed for the broadcasting service by applicable Trinidad and Tobago regulations, for radiotelegraph, radiotelephone and similar services;
- (ii) Such other radio facilities as may be specified by supplementary agreement between the Association and the competent authorities;

(b) The Association shall make arrangements for the operation of the services referred to in this paragraph with the International Telecommunication Union, the appropriate agencies of the Government and the appropriate agencies of other affected Governments with regard to all frequencies and similar matters.

6. The facilities provided for in paragraph 5 may, to the extent necessary for efficient operation, be established and operated outside the Headquarters only with the consent of the Government.

7. If so requested by the Secretary-General, the competent authorities shall provide for the official purposes of the Association, appropriate radio and other telecommunication facilities in conformity with the regulations of the International Telecommunication Union. These facilities may be specified by supplementary agreement between the Association and the competent authorities.

ARTICLE 11

FREEDOM OF PUBLICATION AND BROADCASTING

The Government recognizes the right of the Association freely to publish and broadcast within Trinidad and Tobago in the fulfillment of its purposes set out in the Convention. It is, however, understood that the Association shall respect any laws of Trinidad and Tobago or any international agreements to which Trinidad and Tobago is a party, relating to publications and broadcasting.

ARTICLE 12

FREEDOM OF ASSEMBLY

1. The Government recognizes the right of the Association to convene meetings within the Headquarters or, with the concurrence of the Government, elsewhere in Trinidad and Tobago.

2. To ensure full freedom of assembly and discussion, Trinidad and Tobago shall take all proper steps to guarantee that no impediment is placed in the way of conducting the proceedings of any meeting convened by the Association.

ARTICLE 13

INVIOABILITY OF ARCHIVES

1. The archives of the Association, wherever located, shall be inviolable.

2. The location of the archives of the Association shall be made known to the competent authorities if it is at a place other than the Headquarters.

ARTICLE 14

IMMUNITY AND EXEMPTIONS OF THE ASSOCIATION, ITS PROPERTY
AND ASSETS

1. The Association, its property and assets shall enjoy immunity from legal process except to the extent that the Association expressly waives this immunity in a particular case. No waiver of immunity shall subject the property of the Association to any measure of execution.

2. The 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 executive or legislative action.

3. The property and assets of the Association shall be exempt from restrictions, regulations, controls and moratoria of any nature.

ARTICLE 15

EXEMPTION FROM TAXES AND CUSTOMS DUTIES

1. Within the scope of its official activities, the Association, its assets and property, its income, and its operations and transactions, authorized by the Convention, shall be exempt from all direct taxation, and goods imported or exported for its official use shall be exempt from all customs duties. The Association shall not claim exemption from taxes, which are no more than charges for services rendered.

2. When purchases of goods or services of substantial value necessary for the official activities of the Association are made by or on behalf of the Association, and when the price of such goods or services includes taxes or duties, appropriate measures shall, to the extent practicable, be taken by the Government to grant exemption from such taxes or duties or provide for their reimbursement. With respect to such taxes or duties, the Association shall at all times enjoy at least the same exemptions as are granted to the heads of diplomatic missions in Trinidad and Tobago.

3. Goods imported or purchased under an exemption provided for in this article shall not be sold or otherwise disposed of in the territory of Trinidad and Tobago, except under conditions agreed with the Government.

ARTICLE 16

FINANCIAL FACILITIES

1. Without being subject to any financial controls, regulations or moratoria of any kind, the Association may freely:

- (a) Purchase any currencies through authorized channels and hold and dispose of them;
- (b) Operate accounts in any currencies;
- (c) Purchase through authorized channels, hold and dispose of funds, securities and gold;
- (d) Transfer its funds, securities, gold and foreign currencies to or from any other country, or within Trinidad and Tobago; and
- (e) Raise funds through the exercise of its borrowing power or in any other manner which it deems desirable, except that with respect to the raising of funds within Trinidad and Tobago, the Association shall obtain the concurrence of the Government.

2. The Association shall, in exercising its rights under this article, pay due regard to any representations made by the Government in so far as effect can be given to such representations without detriment to the interests of the Association.

ARTICLE 17

FREEDOM OF ACCESS AND RESIDENCE

1. The Government shall take all necessary measures to facilitate the entry into and residence in Trinidad and Tobago territory and shall place no impediment in the way of the departure from Trinidad and Tobago territory of the persons listed below; it shall ensure that no impediment is placed in the way of their transit to or from the Headquarters and shall afford them any necessary protection in transit:

- (a) Representatives of Member States, Associate Members and of Observers to the Association, including alternate representatives, advisers, experts and staff, as well as their spouses, dependent members of their families and domestic staff;
- (b) Officials of the Association, as well as their spouses, dependent members of their families and domestic staff;
- (c) Representatives of other organizations with which the Association has as their established official relations and who have official business with the Association as well as spouses and dependent members of their families;
- (d) Persons on mission for the Association but who are not officials of the Association, as well as their spouses and dependent members of their families;
- (e) Representatives of the press, radio, film, television or other information media, who have been accredited to the Association at its discretion after consultation with the Government;
- (f) All persons invited by the Association to the Headquarters on official business. The Secretary-General shall as occasion demands communicate the names of such persons to the Government before their intended entry.

2. This article shall not apply in the case of general interruptions of transportation, which shall be dealt with as provided in article 9, paragraph 2, and shall not impair the effectiveness of generally applicable laws relating to the operations of means of transportation.

3. Visas, where required for persons referred to in paragraph 1, shall be granted without charge and as promptly as possible.

4. No activity performed by any person referred to in paragraph 1 in his official capacity with respect to the Association shall constitute a reason for preventing his entry into or his departure from the territory of Trinidad and Tobago or for requiring him to leave such territory.

5. No person referred to in paragraph 1 shall be required by the Government to leave Trinidad and Tobago save in the event of an abuse of the right of residence, in which case the following procedures shall apply:

- (a) No proceeding shall be instituted to require any such person to leave Trinidad and Tobago except with the prior approval of the Minister for Foreign Affairs of Trinidad and Tobago;
- (b) In the case of the representative of a Member State, Associate Member or Observer, such approval shall be given only after consultation with the Government of the Member State, Associate Member or Observer concerned;
- (c) In the case of any other person mentioned in paragraph 1, such approval shall be given only after consultation with the Secretary-General, and if expulsion proceedings are taken against any such person, the Secretary-General shall have the right to appear or to be represented in such proceedings on behalf of the person against whom such proceedings are instituted; and
- (d) Officials of the Association who are entitled to diplomatic privileges and immunities under article 25 shall not be required to leave Trinidad and Tobago otherwise than in accordance with the customary procedure applicable to members, having comparable rank, of diplomatic missions in Trinidad and Tobago.

6. It is understood that persons referred to in paragraph 1 shall not be exempt from the reasonable application of quarantine and other health regulations.

7. This article shall not prevent the requirement of reasonable evidence to establish that persons claiming the rights granted by this article come within the classes described in paragraph 1.

8. The Secretary-General and the competent authorities shall, at the request of either of them, consult as to methods of facilitating entry into Trinidad and Tobago by persons coming from abroad who wish to visit the Headquarters and do not enjoy the privileges and immunities provided by articles 24, 25 and 26.

9. The provisions of paragraph 1 of this article shall be applicable irrespective of the relations existing between the Government and the State of nationality of the persons concerned.

ARTICLE 18

ESTABLISHMENT OF MISSIONS

1. A Member State, or Associate Member may establish a Permanent Mission and an Observer may establish a Permanent Observer Mission in Trinidad and Tobago for the purposes of representation of that State to the Association. Such mission shall be accredited to the Association.

2. A Member State, Associate Member and an Observer shall notify the Secretary-General of their intention to establish a Permanent Mission or Observer Mission.

3. The Secretary-General shall notify the Government of the intention of a Member State or Associate Member or an Observer to establish a Permanent Mission or a Permanent Observer Mission upon receipt of such notification.

4. The Permanent Mission or the Permanent Observer Mission shall notify the Secretary-General of the names and designations of the members of their missions, as well as the names of spouses and dependent members of their families.

5. The Secretary-General shall communicate to the Government a list of persons referred to in paragraph 4 and shall revise such list from time to time as may be necessary.

6. The Government shall provide the members of the Permanent Mission or the Permanent Observer Mission and their spouses and dependent members of their families with an identity card certifying that they are enjoying the privileges, immunities and facilities specified in this Agreement. This card shall serve to identify the holder in relation to the competent authorities.

ARTICLE 19

PRIVILEGES AND IMMUNITIES OF MISSIONS

The Permanent Mission or the Permanent Observer Mission shall enjoy the same privileges and immunities as are accorded to a diplomatic mission in Trinidad and Tobago.

ARTICLE 20

PRIVILEGES AND IMMUNITIES OF MEMBERS OF MISSIONS

Members of the Permanent Mission or of the Permanent Observer Mission shall be entitled to the same privileges and immunities as the Government accords to the members, having comparable rank, of a diplomatic mission in Trinidad and Tobago.

ARTICLE 21

NOTIFICATION

1. The Member States, Associate Members or the Observers shall notify the Association of the appointment, position and title of the members of the Permanent Mission or of the Observer Mission, their arrival, final departure or the termination of their functions with the mission and any other changes affecting their status that occur in the course of their service with the mission.

2. The Association shall provide the Government with the information referred to in paragraph 1.

ARTICLE 22

ASSISTANCE BY THE ASSOCIATION IN RESPECT OF PRIVILEGES
AND IMMUNITIES

1. The Association shall, where necessary, assist the Member States, Associate Members or the Observers, their Permanent Missions and the members of such missions in securing the enjoyment of the privileges and immunities provided for under this Agreement.

2. The Association shall, where necessary, assist the Government in securing the discharge of the obligations of the Member States, Associate Members and of the Observers, their missions and members of such missions in respect of the privileges and immunities provided for under this Agreement.

ARTICLE 23

PRIVILEGES AND IMMUNITIES OF THE REPRESENTATIVES OF MEMBER
STATES, ASSOCIATE MEMBERS AND OF OBSERVERS

1. Representatives of Member States, Associate Members and Observers attending meetings convened by the Association shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

- (a) Immunity from personal arrest or detention and from seizure of their personal and official baggage;
- (b) Immunity in respect of words spoken or written and all acts done by them in their official capacity as representatives and immunity from legal process of every kind. Such immunity shall continue although the persons entitled have ceased to be representatives;
- (c) Inviolability for all papers and documents;

- (d)* The right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (e)* Exemption from immigration restrictions, alien registration and national service obligations;
- (f)* The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;
- (g)* The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents;
- (h)* Such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic agents enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from other duties or taxes; and also
- (i)* Enjoyment of the same protection and repatriation facilities as are accorded to members of diplomatic missions in Trinidad and Tobago, in times of national or international crisis.

2. The facilities, privileges and immunities granted to the representatives of Member States and Associate Members and Observers in paragraph 1 *(a)*, *(e)* and *(i)* shall extend to their spouses and dependent members of their families.

3. In order to secure, for the representatives of Member States, Associate Members and Observers attending meetings convened by the Association, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of Member States, Associate Members or Observers.

4. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Member States, Associate Members or Observers attending meetings convened by the Association are present in a State for the discharge of their duties shall not be considered as periods of residence.

5. Privileges and immunities are accorded to the representatives of Member States, Associate Members and Observers, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Association.

Consequently a Member State, Associate Member or an Observer not only has the right but is under a duty to waive the immunity of its representative in any case where in the opinion of that entity the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

6. The provisions of paragraphs 1, 2, 3 and 4 are not applicable as between a representative and the authorities of the Member State, Associate Member or Observer of which he is a national or of which he is or has been the representative.

7. The Association shall communicate to the Government in due time the names of the representatives referred to in this article.

ARTICLE 24

PRIVILEGES AND IMMUNITIES OF THE OFFICIALS OF THE ASSOCIATION

1. Without prejudice to article 25, the officials of the Association shall enjoy within the territory of the Republic of Trinidad and Tobago, the following privileges and immunities:

- (a) Immunity from legal process in respect of words spoken and written, and of notwithstanding that the persons concerned may have ceased to be officials of the acts performed by them in their official capacity; such immunity to continue Association;
- (b) Immunity from personal arrest or detention in relation to acts performed by them in their official capacity;
- (c) Immunity from inspection and seizure of personal and official baggage, except in case of *flagrante delicto*. In such cases the competent authorities shall immediately inform the Secretary-General. Inspections shall in the case of personal baggage be conducted only in the presence of the official concerned or his authorized representative, and in the case of official baggage, in the presence of the Secretary-General;
- (d) Exemption from taxation in respect of salaries and emoluments paid or any other form of payment made by the Association;
- (e) Exemption for officials, other than citizens of Trinidad and Tobago, from any form of taxation on income derived by them from sources outside Trinidad and Tobago;
- (f) Granting without charge, of drivers permits for automobiles and other vehicles to the officials of the Association, their spouses, children and their dependents;
- (g) Exemption from immigration restrictions and alien registration procedures;

- (h) Exemption for officials, other than citizens of Trinidad and Tobago, extended to their spouses, children and dependents, from all obligatory national service;
- (i) Exemption for themselves for the purpose of official business from any restrictions, movements and travel inside Trinidad and Tobago;
- (j) In regard to foreign exchange, including holding accounts in foreign currencies, enjoyment of the same facilities as are accorded to members of diplomatic missions in Trinidad and Tobago;
- (k) Enjoyment of the same protection and repatriation facilities as are accorded members of diplomatic missions in Trinidad and Tobago, in times of national or international crisis. This provision shall not apply to citizens of Trinidad and Tobago.
- (l) The right to import for personal use, free of duty, taxes or any other charges now in force or which may be created in the future:
 - (i) Their furniture, household and personal effects, in one or more separate shipments and there after to import necessary additions to the same;
 - (ii) In accordance with the relevant laws of Trinidad and Tobago, one automobile, every three (3) years, and in cases where the official is accompanied by dependents, a second automobile on the basis of representations to the Government by the Secretary-General; however, where the Secretary-General and the Government agree in particular cases, replacement may take place at an earlier date in the event of loss, extensive damage or otherwise. Automobiles may be sold in Trinidad and Tobago after their importation, subject to the laws concerning the payment of customs duties and established diplomatic practice in Trinidad and Tobago during his or her assignment. After three (3) years such automobiles can be sold without payment of customs duties and other taxes;
 - (iii) Reasonable quantities of certain articles including liquor, tobacco, cigarettes and foodstuffs, for personal use or consumption and not for gift or sale.

2. Facilities, privileges and immunities of the spouses, children and dependents:

- (i) The facilities, privileges and immunities granted to officials of the Association in paragraphs 1 (g), 1 (h), 1 (i) and 1 (k) shall extend to their spouses, children and dependents as long they remain part of the official's household and do not engage in employment or in the exercise of a profession or an activity. The Secretary-General will communicate the names of those persons related to the official of the Association in order that the Ministry of Foreign Affairs may issue identification cards indicating their status.
- (ii) Where the spouse, child or dependent indicates an intention to engage in employment or in the exercise of a profession or an activity, work permits will only be denied them in those instances where Trinidad and Tobago nationals must be employed for reasons of security in accordance with Trinidad and Tobago law.
- (iii) The spouse, children or dependent who engages in employment in Trinidad and Tobago will comply with the laws, regulations and procedures which govern the exercise of the profession or activity in which they are engaged.

ARTICLE 25

ADDITIONAL PRIVILEGES AND IMMUNITIES OF THE SECRETARY-GENERAL AND HIGH LEVEL OFFICIALS DESIGNATED BY THE MINISTERIAL COUNCIL OF THE ASSOCIATION

1. The Secretary-General shall be accorded the same privileges and immunities as are accorded to heads of diplomatic missions in Trinidad and Tobago.

2. Such high level officials designated by the Ministerial Council, shall enjoy the privileges and immunities which the Government confers on those members of similar rank at a diplomatic mission in Trinidad and Tobago.

ARTICLE 26

PRIVILEGES AND IMMUNITIES OF EXPERTS

1. Experts, other than the officials of the Association, while performing the functions assigned to them by the Association or in the

course of their travel to take up these functions or perform these duties, shall enjoy the following privileges, immunities and facilities that are necessary for the effective exercise of their duties:

- (a) Immunity from legal process in respect of words spoken and written and all acts performed by them in their official capacity, such immunity to continue notwithstanding that the persons concerned may have ceased to exercise their functions with the Association;
- (b) Immunity from personal arrest or detention in relation to acts performed by them in their official capacity;
- (c) Immunity from inspection and seizure of personal and official baggage, except in cases of *flagrante delicto*. In such cases the competent authorities shall immediately inform the Secretary-General. Inspections shall in the case of personal baggage be conducted only in the presence of the official concerned or his authorized representative, and in the case of official baggage, in the presence of the Secretary-General;
- (d) Exemption from taxation in respect of the salaries and emoluments paid or any other form of payment made by the Association, provided that nationals of Trinidad and Tobago may enjoy such exemptions as may be accorded by the Government;
- (e) Inviolability of all papers, documents and other official material;
- (f) The right, for the purpose of all communications with the Association, to use codes and to dispatch or receive papers, correspondence or other official material by courier or in sealed bags;
- (g) Exemption from immigration restrictions, alien registration and national service obligations;
- (h) Enjoyment of the same protection and repatriation facilities as are accorded to the members of diplomatic missions in Trinidad and Tobago in times of national or international crisis;
- (i) The same privileges with respect to currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions.

2. The facilities, privileges and immunities granted to experts in paragraphs 1(g) and (h) shall extend to their spouses and dependent family members.

ARTICLE 27

WAIVER OF IMMUNITY OF THE OFFICIALS OF THE ASSOCIATION
AND EXPERTS

Privileges and immunities are granted to the officials of the Association and experts in the interests of the Association and not for their own personal benefit. The Secretary-General shall have the right and duty to waive the immunity of any official of the Association or expert in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Association.

ARTICLE 28

LIST OF OFFICIALS OF THE ASSOCIATION AND EXPERTS

The Secretary-General shall communicate to the Government a list of persons referred to in articles 24, 25 and 26 and shall revise such list from time to time as may be necessary.

ARTICLE 29

ABUSE OF PRIVILEGE OR IMMUNITY

1. The Secretary-General shall take every precaution to ensure that no abuse of a privilege or immunity conferred by this Agreement shall occur, and for this purpose the Ministerial Council shall adopt rules and regulations as may be deemed necessary and expedient, for officials of the Association.

2. Should the Government consider that an abuse of a privilege or immunity conferred by this Agreement has occurred, the Secretary-General shall, upon request, consult with the Government to determine whether any such abuse has occurred. If such consultations fail to achieve a result satisfactory to the Secretary-General and to the Government, the matter shall be determined in accordance with the procedure set out in article 38.

ARTICLE 30

IDENTITY CARD

The Government shall provide the officials of the Association and the experts with an identity card certifying that they are enjoying the privileges, immunities and facilities specified in this Agreement. This card shall also serve to identify the holder in relation to the competent authorities.

ARTICLE 31

COOPERATION WITH THE COMPETENT AUTHORITIES

The Association shall cooperate at all times with the competent authorities to facilitate the proper administration of justice, secure the observance of police regulations and avoid the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Agreement.

ARTICLE 32

RESPECT FOR THE LAWS OF TRINIDAD AND TOBAGO

Without prejudice to the privileges, immunities and facilities accorded by this Agreement, it is the duty of all persons enjoying such privileges, immunities and facilities to respect the laws of Trinidad and Tobago. They also have the duty not to interfere in the internal affairs of Trinidad and Tobago.

ARTICLE 33

SOCIAL SECURITY AND PENSION FUNDS

1. The Association shall be exempt from all compulsory contributions to, and officials of the Association shall not be required by the Government to participate in the National Insurance scheme of Trinidad and Tobago.

2. The Government shall make such provision as may be necessary to enable any official of the Association who is not afforded social security coverage by the Association to participate, if the Association so requests, in the National Insurance scheme of Trinidad and Tobago. The Association shall, in so far as possible, arrange, under conditions to be agreed upon, for the participation in the Trinidad and Tobago National Insurance scheme, of those locally recruited members of its staff to whom the Association does not grant social security protection at least equivalent to that offered under the laws of Trinidad and Tobago.

ARTICLE 34

RESPONSIBILITY, LIABILITY AND INSURANCE

1. Trinidad and Tobago shall not incur by reason of the location of the Headquarters within its territory any international responsibility for acts or omissions of the Association or of its officials acting or abstaining from acting within the scope of their functions, other than the international responsibility which Trinidad and Tobago would incur as a member of the Association.

2. Without prejudice to its immunities under this Agreement, the Association shall carry insurance to cover liability for any injury or damage arising from activities of the Association in Trinidad and Tobago or from its use of the Headquarters that may be suffered by persons other than the officials of the Association, or by the Government. To this end, the competent authorities shall make every reasonable effort to secure for the Association, at reasonable rates, insurance coverage permitting claims to be submitted directly to the insurer by parties suffering injury or damage. Such claims and liability shall, without prejudice to the privileges and immunities of the Association, be governed by the laws of Trinidad and Tobago.

ARTICLE 35

SECURITY

Without prejudice to the performance by the Association of its functions in a normal and unrestricted manner, the Government may take every preventive measure to preserve the national security of Trinidad and Tobago after consultation with the Secretary-General.

ARTICLE 36

RESPONSIBILITY OF THE GOVERNMENT

Whenever this Agreement imposes obligations on the competent authorities, the ultimate responsibility for the fulfillment of such obligations shall rest with the Government.

ARTICLE 37

CHANNELS OF COMMUNICATION

The Government and the Association shall settle by agreement the channels through which the parties will communicate regarding the application of the provisions of this Agreement or any question connected with the headquarters premises. If the Secretary-General so requests, the competent authority shall appoint a special representative for the purpose of liaison with the Secretariat.

ARTICLE 38

SETTLEMENT OF DISPUTES

1. The Association shall make suitable provisions for the proper settlement of:

- (a) Disputes arising out of contracts, or disputes of a private law character to which the Association is a party;

- (b) Disputes involving an official of the Association or any person who by reason of his official position enjoys immunity, if such immunity has not been waived.

2. Any dispute between the Association and the competent authorities concerning the interpretation or application of this Agreement or of any supplementary agreement, or any question affecting the Headquarters or the relationship between the Association and the Government which is not settled by consultation, negotiation or other agreed mode of settlement within three months following such a request by one of the parties to the dispute, shall be referred, at the request of either party to the dispute, for a final and binding decision to a panel of three arbitrators: one to be nominated by the Secretary-General, one to be nominated by the Government. If either or both of the nominations are not made within six weeks following the request for arbitration, the Secretary-General of the Organisation of American States (OAS) shall proceed to make the appointment. The third arbitrator, who shall be the chairman of the panel, shall be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the appointment of the third arbitrator within three weeks following the nomination or appointment of the first two arbitrators, such third arbitrator shall be chosen by the Secretary-General of the OAS at the request of the Association or the Government. The tribunal so established shall make a determination within three months from the date of its establishment. A majority vote of the arbitration tribunal shall be sufficient to make a final and binding decision. The Chairman of the tribunal shall be competent to settle all questions of procedure in any case where there is disagreement with respect thereto.

ARTICLE 39

APPLICATION OF THE AGREEMENT

This Agreement shall apply irrespective of whether the Government maintains diplomatic relations with a Member State, Associate Member or an observer. It shall be applied to all persons entitled to privileges and immunities under this Agreement, regardless of their nationality and irrespective of whether a similar privilege or immunity is granted to diplomatic agents or nationals of Trinidad and Tobago.

ARTICLE 40

INTERPRETATION

This Agreement shall be interpreted in the light of its primary purpose which is to enable the Secretariat to discharge its responsibilities fully and efficiently so as to enable the Association to attain its objectives.

ARTICLE 41

APPLICATION OF THE PROTOCOL

The Association shall enjoy such other privileges and immunities as provided for in the Protocol.

ARTICLE 42

RELATIONSHIP BETWEEN THIS AGREEMENT AND THE PROTOCOL

The provisions of this Agreement shall be complementary to the provisions of the Protocol. In so far as any provision of this Agreement and any provisions of the Protocol relate to the same subject-matter, the two provisions shall, wherever possible, be treated as complementary, so that both provisions shall be applicable and neither shall narrow the effect of the other; but in any case of conflict, the provisions of this Agreement shall prevail.

ARTICLE 43

SUPPLEMENTARY AGREEMENTS

The Association and the Government may enter into such supplementary agreements as may be necessary.

ARTICLE 44

AMENDMENTS

Consultations with respect to amendments to this Agreement shall be entered into at the request of either party, and such amendments shall be made by mutual consent. Amendments to this Agreement shall enter into force immediately upon signature by the parties.

ARTICLE 45

TERMINATION OF THE AGREEMENT

This Agreement and any agreement supplementary thereto shall cease to have effect one year after either party has given notice in writing to the other party of its decision to terminate the Agreement, except for such provisions as may be applicable in connection with the orderly termination of the operations of the Association at its Headquarters in Trinidad and Tobago and the disposal of its property therein.

No. 33 of 2004

THIRD SESSION

EIGHTH PARLIAMENT

REPUBLIC OF

TRINIDAD AND TOBAGO

BILL

AN ACT to provide for the implementation by the Government of Trinidad and Tobago of certain of the provisions of the Agreement between the Government of the Republic of Trinidad and Tobago and the Association of Caribbean States on the Headquarters of the Association of Caribbean States and its privileges and immunities.

Received and read the

First time.....

Second time.....

Third time.....