

6. AGREEMENT ESTABLISHING THE CARIBBEAN DEVELOPMENT BANK

Kingston, 18 October 1969

ENTRY INTO FORCE:	26 January 1970, in accordance with article 64.
REGISTRATION:	26 January 1970, No. 10232.
STATUS:	Signatories: 18. Parties: 28.
TEXT:	United Nations, <i>Treaty Series</i> , vol. 712, p. 217; vol. 1021, p. 437 (Addendum [amendment to article 29 (1) (a)] and vol. 1401, p. 265 (amendments to articles 25, 33, 34, 35 and 57).

Note: The Agreement and Protocol were adopted by the Conference of Plenipotentiaries on the Caribbean Development Bank which met at Kingston, Jamaica, on 18 October 1969. The Conference was convened for that purpose by the Acting Secretary-General of the Commonwealth Caribbean Regional Secretariat in accordance with the decision of the Commonwealth Caribbean Conference of Finance Ministers taken at its meeting held at Port of Spain, Trinidad and Tobago, on 22 July 1969. Both instruments were opened for signature by the Plenipotentiary Conference at Kingston on 18 October 1969. The Conference also adopted the Final Act, approved the memorandum of understanding relating to the allocation of the Bank's resources to multinational projects, which had been adopted by the Conference of Finance Ministers at Port of Spain, and adopted the resolution on the duties of the Trustee designated under article 7, paragraph (8), of the Agreement. The texts of the said memorandum and resolution are appended to the Final Act as annexes A and B.

The Protocol, to provide for procedure for amendment of article 36 of the Agreement, became void, when the amendment proposed under the said procedure at the Inaugural Meeting of the Board of Governors of the Caribbean Development Bank, held at Nassau, Bahamas, on 31 January 1970, had failed to obtain the required majority.

By Resolution No. 9/76 adopted on 20 August 1976, the Board of Governors of the Bank has amended article 29 (1) (a) of the Agreement (number of Directors) with effect from 2 September 1976.

Subsequently, by Resolution No. 3/85 of 15 May 1985, the Board of Governors of the Bank adopted amendments to articles 25, 33, 34, 35 and 57 of the Agreement with effect from 24 June 1985.

<i>Participant</i> ^{1,2}	<i>Signature</i>	<i>Ratification, Accession(a)</i>	<i>Participant</i> ^{1,2}	<i>Signature</i>	<i>Ratification, Accession(a)</i>
Antigua and Barbuda	18 Oct 1969	30 Jan 1970	Italy ⁴		26 Oct 1988 a
Bahamas (The)	18 Oct 1969	28 Jan 1970	Jamaica	18 Oct 1969	9 Jan 1970
Barbados	18 Oct 1969	16 Jan 1970	Mexico		7 May 1982 a
Belize	18 Oct 1969	26 Jan 1970	Montserrat	18 Oct 1969	28 Jan 1970
Brazil		12 Dec 2012 a	St. Kitts and Nevis ⁶	18 Oct 1969	26 Jan 1970
British Virgin Islands	18 Oct 1969	30 Jan 1970	St. Lucia	18 Oct 1969	26 Jan 1970
Canada	18 Oct 1969	22 Jan 1970	St. Vincent and the Grenadines	18 Oct 1969	26 Jan 1970
Cayman Islands	18 Oct 1969	27 Jan 1970	Suriname		29 Mar 2011 a
China		3 Oct 1997 a	Trinidad and Tobago	18 Oct 1969	20 Jan 1970
Colombia		22 Nov 1974 a	Turks and Caicos Islands	18 Oct 1969	5 Jan 1970
Dominica	18 Oct 1969	26 Jan 1970	United Kingdom of Great Britain and Northern Ireland	18 Oct 1969	23 Jan 1970
France		11 May 1984 a	Venezuela (Bolivarian Republic of)		25 Apr 1973 a
Germany ^{3,4,5}		25 May 1989 a			
Grenada	18 Oct 1969	26 Jan 1970			
Guyana	18 Oct 1969	22 Jan 1970			
Haiti		1 Apr 2005 a			

Declarations and Reservations⁷
(Unless otherwise indicated, the declarations and reservations were made upon ratification or accession.)

FRANCE⁸

In acceding to the Agreement, the French Republic recalls that the Departments of Guyana, Martinique and Guadeloupe are integral parts of the French territory and that, as a result, it is a state of the Caribbean region.

GERMANY³

1. The Federal Republic of Germany proceeds on the understanding that the Caribbean Development Bank will, in accordance with article 57 of the Agreement, waive immunity from jurisdiction and execution in the event of a civil action for damage arising out of an accident caused by a motor vehicle belonging to the Bank or operated on its behalf or driven by a governor, director, alternate, official or employee of, or expert performing a mission for, the Bank;

2. Privileges in accordance with article 54 (b) as regards travel facilities will be granted to the degree that they are extended to World Bank officials in the Federal Republic of Germany;

3. The Federal Republic of Germany reserves the right for itself and its territorial entities to tax the salaries and other emoluments paid by the Caribbean Development Bank to Germans within the meaning of article 116 of the Basic Law of the Federal Republic of Germany domiciled or resident in the area of application of the Basic Law;

4. The provision of article 55 (2) regarding exemption from taxes which merely represent charges for public utility services will be extended to include all charges for services levied by public authorities of the Federal Republic of Germany;

5. The Federal Republic of Germany proceeds on the understanding that the Bank will not claim exemption from taxation in accordance with article 55 (3).

GRENADA

The instrument of ratification contains a declaration made in accordance with the first provision of the second part of paragraph 3 of article 63 of the Agreement to the effect that the privilege conferred by article 53 shall be restricted in its territory to treatment not less favourable than the Government concerned accords to international financial institutions of which it is a member.

ITALY

In accordance with article 55, paragraph 5, of the Agreement, the Italian Government reserves for itself and its political subdivisions the right to exclude from the tax exemption for remuneration employees who are Italian nationals and aliens who are permanently resident in Italy.

The Italian Government hereby declares that the immunities provided for by the Agreement shall be conditional on the requirements of maintaining public order and national security.

(With regard to the above-mentioned declaration, the Secretary-General received from the Government of Italy the following clarification which has been duly acknowledged by the Bank:

"This declaration does not exclude the immunities provided for in the Agreement establishing the Caribbean Development Bank. It is only intended as a safeguard instrument in respect of Bank representatives, recognizing the Italian Government's authority and power to take

exceptional measures in case of extraordinary circumstances regarding public order and national security. In those circumstances, the Government of Italy would give treatment to the Bank's representatives no less favourable than what is accorded by Italy to representatives of any other Member of the Bank as contemplated by article 54 (B) and (C) of the agreement establishing the Bank. Therefore, this declaration is not a reservation. The possibility that this declaration will ever have practical relevance is indeed very remote. In fact, it will be applicable only when extraordinary events occur during the stay in Italy of representatives of the Bank who are not citizens or nationals of Italy."

MONTserrat

The instrument of ratification contains a declaration made in accordance with the first provision of the second part of paragraph 3 of article 63 of the Agreement to the effect that the privilege conferred by article 53 shall be restricted in its territory to treatment not less favourable than the Government concerned accords to international financial institutions of which it is a member.

ST. LUCIA

The instrument of ratification contains a declaration made in accordance with the first provision of the second part of paragraph 3 of article 63 of the Agreement to the effect that the privilege conferred by article 53 shall be restricted in its territory to treatment not less favourable than the Government concerned accords to international financial institutions of which it is a member.

ST. VINCENT AND THE GRENADINES

The instrument of ratification contains a declaration made in accordance with the first provision of the second part of paragraph 3 of article 63 of the Agreement to the effect that the privilege conferred by article 53 shall be restricted in its territory to treatment not less favourable than the Government concerned accords to international financial institutions of which it is a member.

TURKS AND CAICOS ISLANDS

The instrument of ratification contains a declaration made in accordance with the first provision of the second part of paragraph 3 of article 63 of the Agreement to the effect that the privilege conferred by article 53 shall be restricted in its territory to treatment not less favourable than the Government concerned accords to international financial institutions of which it is a member.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND^{9,10}

"(a) In the United Kingdom the immunity conferred by paragraph 1 of article 49 and subparagraph (a) of article 54 of the Agreement shall not apply in relation to a civil action arising out of an accident caused by a motor vehicle belonging to the Bank or operated on its behalf or to a traffic offence committed by the driver of such a vehicle.

"(b) As Bank telegrams and telephone calls are not defined as Government telegrams and telephone calls in Annex 2 to the International Telecommunication Convention (Montreux, 1965) and are therefore not entitled by the Convention to the privileges thereby

conferred on Government telegrams and telephone calls, the Government of the United Kingdom, having regard to their obligations under the International Telecommunication Convention, declare that the privileges conferred by article 53 of the Agreement shall be correspondingly restricted in the United Kingdom, but, subject thereto, shall be not less favourable than the

United Kingdom affords to international financial institutions of which it is a member.

"(c) The exemption referred to in paragraph 6(b) of article 55 of the Agreement shall not extend to any bearer instrument issued by the Bank in the United Kingdom or issued elsewhere by the Bank and transferred in the United Kingdom."

Notes:

¹ In its instrument of ratification, the Government of British Honduras further declared that the Agreement was ratified subject "... to the condition that the Government of British Honduras undertakes that legislation to give effect to the immunities and privileges to be conferred on the Bank in British Honduras by virtue of the Agreement will be passed on or before February 21st, 1970."

Paragraph (d) of the United Kingdom declaration and the declaration by the Government of British Honduras, not being provided for in paragraph 3 of article 63 of the Agreement, the Government of the United Kingdom informed the Secretary-General that all signatories to the Agreement had been consulted in connection therewith and, in particular, that "the signatories to the Agreement were requested to notify any objection on their part to these declarations and no objection has been notified by any signatory." With reference to these declarations, the Secretary-General, in his report of 27 January 1970 to the Board of Governors of the Caribbean Development Bank on the status of the Agreement, stated that, inasmuch as the said declarations were not provided in the Agreement, but having taken note of the information given in their respect by the Government of the United Kingdom, he had received the instruments of ratification of the Government of the United Kingdom and the Government of British Honduras provisionally in deposit, without prejudice to and pending the decision of the competent organ of the Caribbean Development Bank as to the acceptability of the declarations concerned.

In a communication received by the Secretary-General on 30 January 1970, the Government of British Honduras notified him of the withdrawal of the pertinent part of its declaration. In so far as concerns paragraph (d) of the declaration of the United Kingdom, the Acting Secretary of the Caribbean Development Bank informed the Secretary-General that the Board of Governors of the Bank, at the inaugural meeting held on 31 January 1970, had decided to accept the conditions accompanying the United Kingdom ratification and had requested him to notify the Secretary-General of its decision. As a result of these actions, the Secretary-General considered the instruments of ratification by the Government of British Honduras and the Government of the United Kingdom as definitively desited and informed all Governments concerned and the Bank accordingly.

² See articles 3 and 62 of the Agreement in the annex to this publication: *Final Clauses* (ST/LEG/SER.D/1.Annex), page X-15.

³ See note 2 under "Germany" in the "Historical Information" section in the front matter of this volume.

⁴ These participants deposited their instruments of accession prior to the date appointed by the Board of Governors for their

admittance to membership in the Bank, which took place, on that appointed date, in accordance with article 63 (2), as indicated hereinafter:

<i>Participant:</i>	<i>Date of admission:</i>	
Italy	2	November 1988
Germany	27	October 1989

⁵ See note 1 under "Germany" regarding Berlin (West) in the "Historical Information" section in the front matter of this volume.

⁶ Anguilla ceased to apply the Agreement as part of St. Christopher-Nevis-Anguilla on 19 December 1980 and became a member in its own right on 4 May 1982.

⁷ **Antigua, Bahamas, British Honduras, British Virgin Islands, Cayman Islands, Dominica, Grenada, Montserrat, St. Christopher-Nevis-Anguilla, St. Lucia, St. Vincent, Turks and Caicos Islands**

The instruments of ratification by the Governments of the above-mentioned Associated States or territories, all contain a declaration made in accordance with the first provision of the second part of paragraph 3 of article 63 of the Agreement to the effect that the privilege conferred by article 53 shall be restricted in its territory to treatment not less favourable than the Government concerned accords to international financial institutions of which it is a member.

⁸ On 16 May 1984, the Secretary-General received from the Government of France the following interpretative note:

The declaration accompanying the instrument of accession cannot be interpreted as a reservation to the conditions set forth in Resolutions 5/82 and 5/83 of the Board of Governors for the admission of France to membership in the Bank.

⁹ In a communication received by the Secretary-General on 8 February 1972, the Government of the United Kingdom notified him of its decision to withdraw paragraph d of its declaration, the necessary legislation having been enacted by the Parliament of the United Kingdom and having come into operation on 5 February 1972. For the text of the declaration see United Nations, *Treaty Series*, vol. 712, p. 326.

¹⁰ Paragraph (d) of the United Kingdom declaration and the declaration by the Government of British Honduras, not being provided for in paragraph 3 of article 63 of the Agreement, the Government of the United Kingdom informed the Secretary-General that all signatories to the Agreement had been consulted in connection therewith and, in particular, that "the signatories to

the Agreement were requested to notify any objection on their part to these declarations and no objection has been notified by any signatory." With reference to these declarations, the Secretary-General, in his report of 27 January 1970 to the Board of Governors of the Caribbean Development Bank on the status of the Agreement, stated that, inasmuch as the said declarations were not provided in the Agreement, but having taken note of the information given in their respect by the Government of the United Kingdom, he had received the instruments of ratification of the Government of the United Kingdom and the Government of British Honduras provisionally in deposit, without prejudice to and pending the decision of the competent organ of the Caribbean Development Bank as to the acceptability of the declarations concerned.

In a communication received by the Secretary-General on 30 January 1970, the Government of British Honduras notified him of the withdrawal of the pertinent part of its declaration. In so far as concerns paragraph (d) of the declaration of the United Kingdom, the Acting Secretary of the Caribbean Development Bank informed the Secretary-General that the Board of Governors of the Bank, at the inaugural meeting held on 31 January 1970, had decided to accept the conditions accompanying the United Kingdom ratification and had requested him to notify the Secretary-General of its decision. As a result of these actions, the Secretary-General considered the instruments of ratification by the Government of British Honduras and the Government of the United Kingdom as definitively desited and informed all Governments concerned and the Bank accordingly.