



## **Diplomatic Privileges (Customs Co-operation Council) Order 2009**

Anand Satyanand, Governor-General

### **Order in Council**

At Wellington this 27th day of October 2009

Present:

His Excellency the Governor-General in Council

Pursuant to section 9 of the Diplomatic Privileges and Immunities Act 1968, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following order.

#### **Contents**

		Page
1	Title	2
2	Commencement	2
	<i>Council</i>	
3	Meaning of Council	2
4	Declaration as to Council	3
5	Body corporate	3
	<i>Council's privileges and immunities</i>	
6	Immunity from suit	3
7	Inviolability of official premises and archives	3

cl 1	<b>Diplomatic Privileges (Customs Co-operation Council) Order 2009</b>	2009/329
8	Immunity of property	3
9	Exemption from taxes and rates	3
10	Exemption from taxes on importation of goods for official use	4
11	Exemption from restrictions on importation or exportation of goods for official use	4
12	Facilities in respect of telegraphic communications	4
	<i>Privileges and immunities of representatives of members</i>	
13	Privileges and immunities of representatives of members	4
	<i>Privileges and immunities of high officers</i>	
14	Privileges and immunities of Secretary-General and Deputy Secretaries-General	5
	<i>Privileges and immunities of other officials</i>	
15	Other officials' privileges and immunities	6
	<i>Privileges and immunities of experts on missions on behalf of Council</i>	
16	Privileges and immunities of experts on missions on behalf of Council	6
	<i>Revocation</i>	
17	Revocation	7

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## Order

**1 Title**  
This order is the Diplomatic Privileges (Customs Co-operation Council) Order 2009.

**2 Commencement**  
This order comes into force on 26 November 2009.

### *Council*

**3 Meaning of Council**  
In this order **Council** means, as the context requires,—  
(a) the Customs Co-operation Council established by the Convention Establishing a Customs Co-operation Council signed in Brussels on 15 December 1950; or

- (b) the organ of that Council that is representatives of its members when those representatives are meeting, or exercising any of its functions, in accordance with that Convention.

**4 Declaration as to Council**

The Council is an organisation of which the Governments of 2 or more States are members.

**5 Body corporate**

The Council has the legal capacities of a body corporate.

*Council's privileges and immunities*

**6 Immunity from suit**

- (1) The Council has immunity from suit and legal process, except in so far as in any particular case it has expressly waived its immunity.
- (2) No waiver of immunity is to be treated as extending to any measure of execution.

**7 Inviolability of official premises and archives**

The Council has the like inviolability of official premises and archives as is accorded in respect of official premises and archives of a diplomatic mission.

**8 Immunity of property**

The Council has immunity in relation to its property and assets from search, requisition, confiscation, expropriation, or any other form of interference.

**9 Exemption from taxes and rates**

The Council is exempt from taxes and rates (other than taxes on the importation of goods), except for taxes and rates that are charges for public utility services.

**10 Exemption from taxes on importation of goods for official use**

- (1) The Council is exempt from taxes on the importation of goods directly imported by the Council for its official use in New Zealand or for exportation, or on the importation of any publications of the Council directly imported by it.
- (2) The exemption is subject to compliance with any conditions the Minister of Customs determines for the protection of the revenue.

**11 Exemption from restrictions on importation or exportation of goods for official use**

- (1) The Council is exempt from prohibitions and restrictions on importation or exportation in the case of goods directly imported or exported by the Council for its official use, and in the case of any publications of the Council directly imported or exported by it.
- (2) The exemption is subject to compliance with any conditions the Minister of Customs determines for the protection of public health, the prevention of diseases in plants and animals, and otherwise in the public interest.

**12 Facilities in respect of telegraphic communications**

The Council has the right to avail itself, for telegraphic communications sent by it and containing only matter intended for publication by the press or for broadcasting (including communications addressed to or dispatched from places outside New Zealand), of any reduced rates applicable for the corresponding service in the case of press telegrams.

*Privileges and immunities of representatives of  
members*

**13 Privileges and immunities of representatives of members**

- (1) All representatives of members, being representatives on the Council (as defined in clause 3(b)), or at any conference convened by the Council, and all members of any committee of the Council enjoy, in the exercise of their functions and during their journey to and from the places of meeting,—

- (a) the like immunity from suit and legal process as is accorded to a diplomatic agent:
  - (b) the like inviolability of official archives as is accorded to a diplomatic agent:
  - (c) the like exemption from taxes and rates as is accorded to a diplomatic agent.
- (2) In this clause, **representatives of members**—
- (a) includes all delegates, alternates, advisers, technical experts, and secretaries, of delegations; but
  - (b) does not include any representatives of the Government of New Zealand, any member of staff of any such representatives, or any New Zealand citizens.
- (3) The privileges and immunities conferred by this clause do not apply in so far as in any particular case any privilege or immunity is waived by the member Government, or the member customs or economic union, concerned.

*Privileges and immunities of high officers*

**14 Privileges and immunities of Secretary-General and Deputy Secretaries-General**

- (1) The Secretary-General, and each Deputy Secretary-General, of the Council enjoys—
- (a) the like immunity from suit and legal process as is accorded to a diplomatic agent:
  - (b) the like inviolability of residence, official premises, and official archives as is accorded to a diplomatic agent:
  - (c) the like exemption from taxes and rates as is accorded to a diplomatic agent.
- (2) The privileges and immunities conferred by this clause do not apply in so far as in any particular case any privilege or immunity is waived—
- (a) by the Council and in respect of the Secretary-General; or
  - (b) by the Secretary-General and in respect of a Deputy Secretary-General.

*Privileges and immunities of other officials***15 Other officials' privileges and immunities**

- (1) Officials of the Council (other than the Secretary-General and Deputy Secretaries-General) enjoy—
  - (a) immunity from suit and legal process in respect of things done or omitted to be done by them in the course of the performance of their official duties:
  - (b) exemption from taxes in respect of salaries and emoluments received by them as officials of the Council:
  - (c) exemption from taxes on the importation of furniture and effects imported at the time of first taking up post in New Zealand.
- (2) The exemption conferred by subclause (1)(c)—
  - (a) does not apply in relation to the importation of furniture and effects by members of staff of the Council who are New Zealand citizens:
  - (b) is subject to compliance with any conditions the Minister of Customs determines for the protection of the revenue.
- (3) The privileges and immunities conferred by subclause (1) do not apply in so far as in any particular case any privilege or immunity is waived by the Secretary-General of the Council.

*Privileges and immunities of experts on missions  
on behalf of Council***16 Privileges and immunities of experts on missions on behalf of Council**

- (1) Experts employed on missions on behalf of the Council enjoy in the exercise of their functions (including, without limitation, during time spent on journeys in connection with their missions)—
  - (a) the like immunity from suit and legal process as is accorded to a diplomatic agent:
  - (b) the like inviolability of residence, official premises, and official archives as is accorded to a diplomatic agent.
- (2) The privileges and immunities conferred by subclause (1) do not apply in so far as in any particular case any privilege or immunity is waived by the Secretary-General of the Council.

*Revocation***17 Revocation**

The Diplomatic Privileges (Customs Co-operation Council) Order 1963 (SR 1963/69) is revoked.

Rebecca Kitteridge,  
Clerk of the Executive Council.

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**Explanatory note**

*This note is not part of the order, but is intended to indicate its general effect.*

This order, which comes into force on 26 November 2009 and is in force in Tokelau, is made under the Diplomatic Privileges and Immunities Act 1968. It relates to the Customs Co-operation Council (the **Council**) which, to reflect more clearly its transition to a truly global intergovernmental institution, in 1994 adopted the working name the World Customs Organization. The order—

- declares the Council to be an organisation of which the Governments of 2 or more States are members:
- provides that the Council has the legal capacities of a body corporate:
- confers certain privileges and immunities on the Council, on representatives of its members, on its high officers and other officials, and on experts employed on missions on its behalf.

The order updates and replaces a 1963 order relating to the Council. That order was made under the Diplomatic Immunities and Privileges Act 1957, but continued in force by virtue of section 20(d) of the Acts Interpretation Act 1924 and section 20(1) of the Interpretation Act 1999. The main substantive changes in this order arise from amendments adopted in 2007 to the 1950 Convention establishing the Council. Those amendments enable the Council's members to include customs or economic unions, for example, the European Communities (sometimes called the EC).

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Co-operation Council) Order 2009**

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2009/329

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This order is administered by the Ministry of Foreign Affairs and Trade.

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