AN BILLE UM AN gCORPARAID AIRGEADAIS IDIRNAISIUNTA, 1958.

INTERNATIONAL FINANCE CORPORATION BILL, 1958.

EXPLANATORY MEMORANDUM.

General Description.

1. The purpose of the Bill is to enable Ireland to become a member of the International Finance Corporation.

2. The Corporation was formed in July, 1956, as an international financial institution affiliated to the International Bank for Reconstruction and Development and membership is open only to members of the Bank. The purpose of the Corporation is to further economic development by encouraging the growth of productive private enterprise in its member countries, particularly in the less developed areas. It does this by

(1) investing in productive private enterprises, in association with private investors and without government guarantee of repayment, in cases where sufficient private capital is not available on reasonable terms;

(2) serving as a clearing house to bring together investment opportunities, private capital (both foreign and domestic) and experienced management; and

(3) helping to stimulate the productive investment of private capital, both domestic and foreign.

It is understood that if Ireland became a member the Corporation would regard projects in Ireland as eligible for investment provided they would clearly and substantially contribute to Ireland's economy and were industrial in character.

3. The Corporation deals directly with private business people without government intervention and it finances private enterprise only. It does not invest in undertakings in the management of which the government participates to any significant extent. However, an enterprise in which some public funds have been invested may be assisted if it is essentially private in character. Among the projects in which the Corporation has invested are the manufacture of heavy electrical equipment in Brazil, aeroplane engine overhaul in Mexico, the manufacture of automotive and industrial equipment in Mexico, copper mining in Chile and the expansion of a lumber business and the introduction of timber impregnation in Australia.

4. Membership of the Corporation involves the purchase with gold or U.S. dollars of shares of the capital stock of the Corporation (which are in units of $1,000) to an amount determined by the Corporation. The voting power of members is 250 votes plus one additional vote for each share held. It is understood that if Ireland joins the Corporation she will be obliged to take up approximately 350 shares of the Corporation stock. Her subscription will, therefore, be of the order of $350,000 and her voting power 600 votes. At present the total voting power is 106,084 votes. As will be seen from Section 3 of Article IV of the Articles of Agree-

ment of the Corporation (which are set out in the Schedule to the Bill), all matters before the Corporation are decided by a majority of the votes cast except where the Articles of Agreement expressly provide otherwise.

5. The Articles of Agreement provide that dividends may be paid to members on the shares held by them. A member is entitled to withdraw from the Corporation at any time and in that event the Corporation is obliged to repurchase the shares held by the member. A member who withdraws would, however, continue to be liable for its share of any loss sustained by the Corporation on investments held by the Corporation on the date of its withdrawal.

6. All the 56 countries listed in Schedule A to the Articles of Agreement have already joined the Corporation except China, Syria, Uruguay and Yugoslavia. The following additional countries have joined or are in course of joining—Afghanistan, Ghana, Libya, Malaya.

SECTION 2.

Approval of terms of the Agreement.

Article 29. 5. 2° of the Constitution provides that the State shall not be bound by any international agreement involving a charge upon public funds unless the terms of the agreement shall have been approved by Dáil Éireann.

When an application for membership of the Corporation has been approved, the prospective member is required to sign the Articles of Agreement of the Corporation and to deposit with the International Bank for Reconstruction and Development an instrument setting forth that it has accepted the Agreement in accordance with its law and has taken all steps necessary to enable it to carry out all of its obligations. The country becomes a member of the Corporation on the date of deposit of these instruments. Section 2 of the Bill gives approval for the terms of the Agreement and the subsequent sections provide the powers necessary to enable the Government to implement them.

SECTION 3.

Financial Provisions.

Subsection (2) of Section 3 authorises certain payments to be made, as and when appropriate, out of the Central Fund. These payments are as follows:

(i) subscription to the Corporation; and

(ii) in the event that Ireland should withdraw from the Corporation, any payments under the liability for losses by the Corporation on investments made before the date of withdrawal.

Subsections (3) to (5) of Section 3 provide that the Minister for Finance shall have the necessary borrowing powers to raise sums required for payments under Section 3; that the principal and interest of any securities issued in exercise of these powers and the expenses incurred in connection with their issue, shall be charged on the Central Fund and that any moneys received by the Government from the Corporation (e.g. payments of dividends on Ireland's shares in the Corporation) or raised by the aforementioned securities shall be placed to the credit of the account of the Exchequer and form part of the Central Fund.

Designation of Depository.

Subsection (6) of Section 3 provides that the Central Bank shall act as a depository for the Corporation's holdings of Irish currency and other assets and that it may advance to the Minister for Finance any sum or sums required for payments under Section 3.

Status, Privileges and Immunities.

Subsection (7) of Section 3 provides that the Corporation shall enjoy a certain status and certain privileges and immunities to enable it to fulfil its functions. These are briefly:

(i) the possession of full juridical personality;

(ii) the limiting of judicial process to the bringing of actions only in a court of competent jurisdiction in the territories of a member in which the Corporation has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities;

(iii) immunity from search, requisition, confiscation, expropriation or any other form of seizure;

(iv) immunity of archives;

(v) freedom of property and assets from restrictions, regulations, controls and moratoria;

(vi) immunities and privileges of officers and employees;

(vii) privileges for communications;

(viii) immunities from taxation of assets, property, income, securities, etc., of the Corporation and of salaries and emoluments paid to officers or employees who are not local citizens, local subjects or other local nationals.

In regard to the immunities of the Corporation from taxation it is made clear in the Bill that the following are not included:

(i) the importation of goods free of customs duty without any restriction on their subsequent sale;

(ii) exemption from duties or taxes which form part of the price of goods sold;

(iii) exemption from duties or taxes which are in fact no more than charges for services rendered.

Department of Finance,
Meitheamh, 1958.

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Depository.

Subsection (6) of Section 2 provides that the Central Bank shall act as a depository for the Corporation's holdings of Irish currency and other assets and that it may advance to the Minister for Finance any sum or sums required for payments under Section 3.

Status, Privileges and Immunities.

Subsection (7) of Section 2 provides that the Corporation shall enjoy a certain status and certain privileges and immunities to enable it to fulfil its functions. These are broadly:—

(i) the possession of full juridical personality;

(ii) the limiting of judicial process to the bringing of actions only in a court of competent jurisdiction in the territories of a member in which the Corporation has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities;

(iii) immunity from search, requisition, confiscation, expropriation or any other form of seizure;

(iv) immunity of archives;

(v) freedom of property and assets from restrictions, regulations, controls and moratoria;

(vi) immunities and privileges of officers and employees;

(vii) privileges for communications;

(viii) immunities from taxation of assets, property, income, securities, etc., of the Corporation and of salaries and emoluments paid to officers or employees who are not local citizens, local subjects or other local nationals.

In regard to the immunities of the Corporation from taxation it is made clear in the text that the following are not included:—

(i) the importation of goods free of customs duty without any restriction on their subsequent sale;

(ii) exemption from duties or taxes which form part of the price of goods sold;

(iii) exemption from duties or taxes which are in fact no more than charges for services rendered.

Department of Finance,
Mí Lúnasa, 1958.