



Miscellaneous No.5 (2009)

Multilateral Protocol
on the
Privileges and Immunities
of the European Organisation for Astronomical
Research in the Southern Hemisphere

Paris, 12 July 1974

[The United Kingdom has not acceded to the Protocol]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
May 2009*

© Crown Copyright 2009

The text in this document (excluding the Royal Arms and other departmental or agency logos) may be reproduced free of charge in any format or medium providing it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

For any other use of this material please write to Office of Public Sector Information, Information Policy Team, Kew, Richmond, Surrey TW9 4DU or e-mail: licensing@opsi.gov.uk

**MULTILATERAL PROTOCOL ON THE PRIVILEGES AND
IMMUNITIES OF THE EUROPEAN ORGANIZATION
FOR ASTRONOMICAL RESEARCH IN THE SOUTHERN
HEMISPHERE**

Preamble

The States parties to the Convention establishing the European Organization for Astronomical Research in the Southern Hemisphere signed at Paris on 5 October 1962¹, hereinafter referred to as 'the Convention',

CONSIDERING that the said Organization, hereinafter referred to as 'the Organization', should enjoy on the territory of its Member States a legal status defining the privileges and immunities necessary for the achievement of its purpose,

CONSIDERING that the Organization is established in Chile where its status is defined by the Agreement between the Government of Chile and the Organization, dated 6 November 1963,

HAVE AGREED as follows:

ARTICLE 1

The Organization shall have legal personality. It shall, in particular, have the capacity to contract, acquire and dispose of movable and immovable property and institute legal proceedings.

ARTICLE 2

1. The buildings and premises of the Organization shall be inviolable, subject to the provisions of paragraph 2 of the present Article and of Articles 5 and 6 below.

2. The Organization shall not allow its buildings or premises to serve as a refuge to a person wanted for committing, attempting to commit or just having committed a crime or offence or for whom a warrant of arrest or deportation order has been issued or who has been convicted of a crime or offence by the competent authorities for the territory.

¹ Treaty Series No 11 (2003) Cm 5767

ARTICLE 3

The archives of the Organization and, in general, all documents belonging to it or in its possession shall be inviolable wheresoever they may be.

ARTICLE 4

1. Within the scope of its official activities, the Organization shall enjoy immunity from legal process and execution, except:

- a) in so far as such immunity is waived in a particular case by the Director-General of the Organization, or the person acting in his stead as provided for by Article VI of the Convention;
- b) in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to, or operated on behalf of, the Organization, or in respect of a motor traffic offence involving such a vehicle;
- c) in respect of the enforcement of an arbitration award made under either Article 23 or Article 24 of the present Protocol;
- d) in the event of attachment of salary, enforced for a debt of a staff member of the Organization, provided that such attachment results from a final and enforceable legal decision in accordance with the rules in force on the territory of enforcement;
- e) in respect of a counter-claim relating directly to the main claim brought by the Organization.

2. The Organization's property and assets wherever situated shall be immune from any form of requisition, confiscation, expropriation and sequestration. They shall also be immune from any form of administrative or provisional judicial constraint, except in so far as may be temporarily necessary in connection with the prevention of, and investigation into, accidents involving motor vehicles belonging to, or operated on behalf of, the Organization.

ARTICLE 5

1. The Organization shall co-operate at all times with the competent

authorities of States parties to the present Protocol, in order to facilitate the proper administration of justice, to ensure the observance of police regulations and regulations concerning public health and work, or other similar legislation, and to prevent any abuse of the privileges, immunities and facilities provided for in the present Protocol.

2. The procedure of co-operation mentioned in the foregoing paragraph may be specified in the complementary agreements referred to in Article 27 of the present Protocol.

ARTICLE 6

1. Each State party to the present Protocol retains the right to take all precautionary measures necessary in the interests of its security and the maintenance of public order.

2. If the Government of the State party to the present Protocol concerned considers it necessary to avail itself of this right, it shall approach the Organization as soon as circumstances allow, in order to determine by mutual agreement the steps necessary to protect the interests of the Organization.

3. The Organization shall collaborate with the authorities of the States parties to the present Protocol to avoid any prejudice to the safety and public order of the latter resulting from its activities.

ARTICLE 7

1. Within the scope of its official activities, the Organization and its property and income shall be exempt from all direct taxation.

2. When the Organization makes purchases or uses services of substantial value, including the issue of publications, which are strictly necessary for the exercise of its official activities, in the price of which duties or charges are included, appropriate measures shall be taken by the Member State party to the present Protocol which has levied the duties or charges to remit or reimburse the amount of such duties or charges where they are identifiable.

3. No exemption shall be accorded in respect of taxes and duties which are no more than charges for services rendered.

ARTICLE 8

Each State party to the present Protocol shall grant exemption from or reimbursement of import and export duties and taxes, with the exception of those which only constitute remuneration for services rendered, on goods and materials intended for use in connection with the official activities of the Organization and on the publications relating to its work whether imported or exported by the Organization.

Such goods and materials shall be exempt from all prohibitions and restrictions on import or export.

ARTICLE 9

The provisions of Articles 7 and 8 of the present Protocol shall not apply to goods purchased, services used and goods imported exclusively for the personal benefit of the Director-General and the staff members of the Organization.

ARTICLE 10

1. Goods belonging to the Organization, which have been acquired in accordance with Article 7 or imported in accordance with Article 8, shall not be sold, given away, lent or hired on the territory of the State which has granted the aforementioned exemptions, except in accordance with the conditions laid down by the State.

2. The transfer of goods and services between the establishments of the Organization shall be exempt from charges or restrictions of any kind; if necessary, the Governments of the States parties to the present Protocol shall take all appropriate measures to remit or reimburse the amount of such charges or to lift such restrictions.

ARTICLE 11

For the purposes of the present Protocol, 'official activities of the Organization' shall mean all the activities of the Organization carried out in pursuance of its purposes as defined in the Convention, including its administrative activities.

ARTICLE 12

1. The circulation of publications and other information material sent by or to the Organization, and in accordance with its purposes, shall not be restricted in any way.
2. For its official communications and the transfer of all its documents, the Organization shall enjoy treatment which is at least as favourable as that granted to other similar international organizations by the Government of each State party to the present Protocol.

ARTICLE 13

1. The Organization may receive, hold and transfer any kind of funds, currency and cash; it may dispose of them freely for its official activities and hold accounts in any currency to the extent required to meet its obligations.
2. In the exercise of the rights granted to it under the present Article, the Organization shall take into account any representation made by the Government of a State party to the present Protocol and which is not prejudicial to its own interests.

ARTICLE 14

1. Representatives of States parties to the present Protocol attending meetings of the Organization shall enjoy, while exercising their functions and in the course of their journeys to and from the place of meeting, immunity from arrest and detention, and from seizure of their personal luggage, except when they are wanted for committing, attempting to commit or just having committed a crime or offence. In such an event, the competent authorities shall immediately inform the Director-General of the Organization or his representative of the arrest or seizure.
2. The persons referred to in the present Article shall also enjoy immunity from legal process, even after the termination of their mission, in respect of acts, including words spoken and written, done by them in the exercise of their functions and within the limits of their duties. This immunity shall not apply in the case of a motor traffic offence committed by the aforementioned persons nor in the case of damage caused by a motor vehicle belonging to or driven by them.

ARTICLE 15

In addition to the privileges and immunities provided for in Articles 16 and 17 below, the Director-General of the Organization, or the person acting in his stead, shall enjoy throughout the duration of his functions the privileges and immunities to which diplomatic agents of comparable rank are entitled by virtue of the Vienna Convention of 18 April 1961 on diplomatic relations.

ARTICLE 16

1. Persons in the service of the Organization shall enjoy immunity from any legal proceedings for acts, including words written or spoken, performed by them in the exercise of their functions and within the limits of their duties, even after termination of their functions.

2. This immunity shall not apply, however, in the case of a road traffic offence committed by the persons mentioned in paragraph 1 above, nor in the case of damage caused by a motor vehicle belonging to or driven by them.

ARTICLE 17

The staff members of the Organization who devote their full professional activity to the Organization:

- a) shall enjoy in respect of the transfer of funds the privileges generally accorded to staff members of international organizations in accordance with the respective national regulations;
- b) shall, provided that they hold a contract with the Organization for a period of at least one year, have the right to import free of duty their furniture and personal effects at the time of first taking up their post in the State concerned and the right, on the termination of their functions in that State, to export free of duty their furniture and personal effects, subject, in both cases, to the conditions and restrictions imposed by the laws and regulations of the State where the right is exercised;
- c) shall enjoy the same facilities as regards exemption from all measures restricting immigration and governing aliens'

registration as are normally accorded to staff members of international organizations, and members of their families forming part of their households shall enjoy the same facilities;

- d) shall enjoy inviolability for all their official papers and documents;
- e) shall be exempt from all obligations in respect of military service or any other compulsory service;
- f) shall enjoy the same facilities with regard to repatriation as members of diplomatic missions in time of international crisis, and the members of their families forming part of their households shall enjoy the same facilities.

ARTICLE 18

The Organization, its Director-General and staff members shall be exempt from all compulsory contributions to national social security organs in the event that it establishes its own social security system providing adequate benefits, subject to agreements to be concluded with the States concerned, parties to the present Protocol, in accordance with the provisions of Article 27 or to suitable measures taken by these States.

ARTICLE 19

1. Subject to the conditions and following the procedure laid down by the Council, by the end of a period of one year at the latest from the date of the entry into force of the Protocol, the Director-General and the staff members of the Organization referred to in article 17 may be subject to a tax, for the benefit of the Organization, on salaries and emoluments paid by the Organization. From the date on which this tax is applied, such salaries and emoluments shall be exempt from national income tax; but the States parties to the present Protocol shall retain the right to take these salaries and emoluments into account for the purpose of assessing the amount of taxation to be applied to income from other sources.

2. The provisions of paragraph 1 of this Article shall not apply to pensions and annuities paid by the Organization to its former Directors-General and former staff members in respect of their service with the Organization.

ARTICLE 20

The names, titles and addresses of the staff members of the Organization who are referred to in Article 17 of the present Protocol shall be communicated periodically to the Governments of the States parties to this Protocol.

ARTICLE 21

1. The privileges and immunities provided for in the present Protocol are not designed to give personal advantage to those persons entitled to them. They are provided solely to ensure, in all circumstances, the unimpeded functioning of the Organization and the complete independence of the personnel to whom they are accorded.

2. The Director-General or the person acting in his stead or, in the case of the representative of a State party to the present Protocol, the Government of the State concerned, or, in the case of the Director-General himself, the Council, have the right and the duty to waive such immunity in cases where they consider that such immunity would impede the course of justice and where it can be waived without prejudice to the purposes for which it was granted.

ARTICLE 22

1. No State party to the present Protocol is obliged to accord the privileges and immunities referred to in Articles 14, 15 and 17 *a, b, c, e* and *f* to its own nationals or to permanent residents on its own territory.

ARTICLE 23

1. The Organization shall be obliged, in all written contracts into which it enters, other than those concluded in accordance with staff regulations, to include an arbitration clause whereby any disputes arising out of the interpretation or execution of the contract may, at the request of either party, be submitted to private arbitration. This arbitration clause shall specify the manner in which the arbitrators are to be appointed, the law applicable and the State where the arbitrators shall sit. The arbitration procedure shall be that of the aforementioned State.

2 The enforcement of the award of such arbitration shall be governed by the rules in force in the State in which it is to be executed.

ARTICLE 24

1. Any State party to the present Protocol may submit to an international Arbitration Tribunal any dispute:
 - a) arising out of damage caused by the Organization;
 - b) involving any other non-contractual responsibility of the Organization;
 - c) involving any person who can claim immunity from legal process under Articles 15 and 16, if this immunity is not waived in accordance with the provisions of Article 21 of the present Protocol. In disputes where the claim for immunity from legal process arises under Articles 15 and 16, the liability of the Organization shall be substituted for that of the individuals concerned.
2. If a State party to the present Protocol intends to submit a dispute to arbitration, it shall notify the Director-General, who shall forthwith inform each State party to the present Protocol of such notification.
3. The procedure laid down in paragraph 1 of this Article shall not apply to disputes between the Organization and the Director-General, its staff members or experts in respect of their conditions of service.
4. There shall be no right of appeal against the award of the Arbitration Tribunal which shall be final and binding on the parties. In the event of dispute concerning the import or scope of the award, it shall be incumbent upon the Arbitration Tribunal to interpret it on request by either party.

ARTICLE 25

1. The Arbitration Tribunal referred to in Article 24 above shall consist of three members, one arbitrator chosen by the State or States parties to the arbitration, one arbitrator chosen by the Organization and a third arbitrator, who shall be the Chairman, chosen by the said two arbitrators.

2. The arbitrators shall be chosen from a panel comprising no more than six arbitrators appointed by each State party to the present Protocol and six arbitrators appointed by the Organization.

3. If, within three months from the date of the notification referred to in paragraph 2 of Article 24, either party fails to make the appointment referred to in paragraph 1 of the present Article, the choice of the arbitrator shall, on request of the other party, be made by the President of the International Court of Justice from the persons comprised in the said panel. This shall also apply, when so requested by either party, if, within one month from the date of appointment of the second arbitrator, the first two arbitrators are unable to agree on the choice of the third arbitrator. However, a national of the State applying for arbitration may not be chosen to fill the post of the arbitrator whose appointment devolves on the Organization, nor may a person comprised in the panel and appointed by the Organization be chosen to fill the post of an arbitrator whose appointment devolves on the State which is the claimant, nor may a person of either of these categories be chosen as Chairman of the Tribunal.

4. The Arbitration Tribunal shall establish its own rules of procedure.

ARTICLE 26

Any dispute which may arise between the Organization and the Government of a State party to the present Protocol concerning the interpretation or application of the present Protocol and which cannot be settled by direct negotiation shall, unless the parties agree to another method of settlement, be submitted at the request of any one of them to an Arbitration Tribunal composed of three members, namely an arbitrator chosen by the Director-General of the Organization or the person acting in his stead, an arbitrator chosen by the Government of the State or States parties to the present Protocol concerned and a third arbitrator chosen jointly by the two others, who should be neither an official of the Organization nor a national of the State or States concerned and who shall be Chairman of the Tribunal.

The application shall include the name of the arbitrator chosen by the applicant; the respondent shall appoint his arbitrator and inform the other party of that person's name within two months of receiving the application. If the respondent fails to notify the name of his arbitrator within the said period of two months or if the two arbitrators fail to agree on the choice of a third arbitrator within two months of the last arbitrator

having been appointed, the arbitrator or the third arbitrator, as the case may be, shall be chosen by the President of the International Court of Justice, at the request of whichever party is first to apply to the Court.

The Tribunal shall establish its own rules of procedure. Its decisions shall be binding on the parties and the parties shall have no right of appeal.

ARTICLE 27

The Organization may, if the Council so decides, conclude additional agreements with one or several States parties to the present Protocol in order to implement the provisions of the present Protocol.

ARTICLE 28

1. This Protocol shall be open for signature by States parties to the Convention Establishing the Organization, dated 5 October 1962.

2. This Protocol shall be subject to ratification or approval. The instruments of ratification or approval shall be deposited with the Government of the French Republic.

ARTICLE 29

The present Protocol shall enter into force on the date of the deposit of the third instrument of ratification or approval.

ARTICLE 30

1. The present Protocol shall, on coming into force, remain open for accession by any State party to the Convention Establishing the Organization, dated 5 October 1962.

2. Instruments of accession shall be deposited with the Government of the French Republic.

ARTICLE 31

For any State which ratifies or approves the present Protocol after its

entry into force, or for any State which accedes thereto, the present Protocol shall enter into force on the date of the deposit of the instrument of ratification, approval or accession.

ARTICLE 32

The Government of the French Republic shall notify all signatory and acceding States of this Protocol and the Director-General of the Organization of the deposit of each instrument of ratification, approval or accession and of the entry into force of this Protocol.

ARTICLE 33

1. The present Protocol shall remain in force until the expiry of the Convention Establishing the Organization, dated 5 October 1962.
2. Any State which withdraws from the Organization or ceases to be a member thereof as provided for in Article XI of the Convention referred to in the preceding paragraph shall cease to be a party to the present Protocol.

ARTICLE 34

This Protocol shall be interpreted in the light of its primary objective of enabling the Organization fully and efficiently to fulfil its purposes and exercise the functions assigned to it by the Convention.

ARTICLE 35

The Government of the French Republic shall, upon the entry into force of this Protocol, register it with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations.

Done at Paris, this 12th day of July 1974 in a single original in the Danish, Dutch, French, German and Swedish languages, the French text being authoritative in the event of dispute. This copy shall be deposited in the Archives of the Ministry of Foreign Affairs of the French Republic, which shall transmit a certified copy thereof to all signatory and acceding States.



information & publishing solutions

Published by TSO (The Stationery Office) and available from:

Online

www.tsoshop.co.uk

Mail, Telephone, Fax & E-mail

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Fax orders: 0870 600 5533

E-mail: customer.services@tso.co.uk

Textphone: 0870 240 3701

The Parliamentary Bookshop

12 Bridge Street, Parliament Square

London SW1A 2JX

Telephone orders/General enquiries: 020 7219 3890

Fax orders: 020 7219 3866

Email: bookshop@parliament.uk

Internet: <http://www.bookshop.parliament.uk>

TSO@Blackwell and other Accredited Agents

Customers can also order publications from:

TSO Ireland

16 Arthur Street, Belfast BT1 4GD

Tel 028 9023 8451 Fax 028 9023 5401

ISBN 978-0-10-176262-5



9 780101 762625