No. 14697

MULTILATERAL

Protocol on the privileges and immunities of the European Organization for Astronomical Research in the Southern Hemisphere. Concluded at Paris on 12 July 1974

Authentic texts: German, Danish, French, Dutch and Swedish.
Registered by France on 9 April 1976.

MULTILATÉRAL

Protocole relatif aux privilèges et immunités de l'Organisation européenne pour des recherches astronomiques dans l'hémisphère austral. Conclu à Paris le 12 juillet 1974

Textes authentiques : allemand, danois, français, néerlandais et suédois.
Enregistré par la France le 9 avril 1976.

[TRANSLATION — TRADUCTION]

PROTOCOL[1] ON THE PRIVILEGES AND IMMUNITIES OF THE EUROPEAN ORGANIZATION FOR ASTRONOMICAL RESEARCH IN THE SOUTHERN HEMISPHERE

PREAMBLE

The States Parties to the Convention for the establishment of a European Organization for Astronomical Research in the Southern Hemisphere, done at Paris on 5 October 1962[2] (hereinafter referred to as "the Convention"),

Considering that the said Organization (hereinafter referred to as "the Organization") should enjoy in the territory of its Member States a legal status defining the privileges and immunities necessary for the performance of its tasks,

Considering that the Organization has its seat in Chile, where its status is determined by the Agreement of 6 November 1963 between the Government of the Republic of Chile and the Organization,

Have agreed as follows:

Article 1. The Organization shall have legal personality. It shall, in particular, have the capacity to contract, to acquire and dispose of immovable and movable property and to institute legal proceedings.

Article 2. 1. Subject to the provisions of paragraph 2 of this article and articles 5 and 6, the buildings and premises of the Organization shall be inviolable.

2. The Organization shall not permit its buildings or premises to serve as a refuge for any person who is fleeing from the scene of a crime or offence or in respect of whom a warrant of arrest, a penal sentence or a deportation order has been issued or pronounced by the authorities possessing territorial jurisdiction.

Article 3. The archives of the Organization and, in general, all documents belonging to or held by it shall be inviolable wherever situated.

Article 4. 1. Within the scope of its official activities, the Organization shall have immunity from jurisdiction and execution except:

(*a*) To the extent that the Director-General of the Organization, or the person acting in his stead pursuant to article VI of the Convention, waives such immunity in a particular case;

---

[1] Came into force for the following States on 25 July 1975, the date of deposit of the third instrument of ratification or approval with the Government of France, in accordance with article 29:

State	*Date of deposit of the instrument of ratification or approval* (AA)
Federal Republic of Germany	2 July 1975
Sweden	9 July 1975
France	25 July 1975 *AA*

Subsequently, the Protocol came into force for the following States on the date of deposit of their instrument of ratification or approval with the Government of France in accordance with article 31:

State	*Date of deposit of the instrument of ratification or approval* (AA)
Denmark	1 March 1976
Netherlands	16 September 1975 *AA*

[2] United Nations, *Treaty Series*, vol. 502, p. 225.

(*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 this Protocol;

(*d*) In respect of an attachment for debt of the wages of a member of the Organization's staff, provided that such attachment is the result of a judicial decision which is final and enforceable in accordance with the rules in force in the territory of execution;

(*e*) In respect of a counter-claim directly corrected with the principal claim set up 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 connexion 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 the States Parties to this Protocol in order to facilitate the proper administration of justice, to ensure the observance of police, public health and labour regulations or other similar legislation and to prevent any abuse of the privileges, immunities and facilities provided for in this Protocol.

2. The procedure for the co-operation referred to in the preceding paragraph may be specified in the supplementary agreements provided for in article 27 of this Protocol.

Article 6. 1. Each State Party to this Protocol shall retain the right to take all necessary precautions in the interests of its security and the maintenance of law and order.

2. Should a State Party to this Protocol deem it necessary to exercise this right, the Government concerned shall, as promptly as the circumstances permit, contact the Organization with a view to determining by mutual agreement the measures necessary for the protection of the Organization's interests.

3. The Organization shall co-operate with the authorities of the States Parties to this Protocol in order to avoid any impairment of their security and law and order as a result of the Organization's activities.

Article 7. 1. Within the scope of its official activities, the Organization and its property and income shall be exempt from direct taxes.

2. If the Organization makes substantial purchases of goods or services, including the issue of publications, which are strictly necessary for the performance of its official activities, and the price thereof includes taxes of duties, the State Party to this Protocol which levied the taxes and duties shall take appropriate measures to waive or refund the amount of such taxes and duties if they are identifiable.

3. No exemption shall be granted in respect of taxes, duties and fees which represent mere payment for services rendered.

Article 8. Each State Party to this Protocol shall grant exemption from or a refund of import or export duties and fees, other than those representing mere pay-

ment for services rendered, in respect of goods and materials imported or exported by the Organization for the purpose of its official activities and in respect of publications related to its functions.

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

Article 9. The provisions of articles 7 and 8 shall not apply to the purchase of goods and services or the import of goods for the personal use of the Director-General and members of the Organization's staff.

Article 10. 1. Goods belonging to the Organization which have been acquired under article 7 or imported under article 8 shall not be sold, assigned, lent or hired out in the territory of the State which granted the aforementioned exemptions except in accordance with conditions laid down by that State.

2. The transfer of goods or the rendering of services between establishments of the Organization shall not be subject to any tax or fee or to any restriction; the Governments of the States Parties to this Protocol shall, if necessary, take all appropriate measures to waive or refund the amount of such taxes or fees or to remove such restrictions.

Article 11. For the purposes of this Protocol, the expression "official activities of the Organization" means all activities of the Organization directed to the achievement of its objectives, as defined in the Convention, including its administrative operations.

Article 12. 1. The circulation of publications and other information material sent by or to the Organization which are related to its purposes shall not be restricted in any way.

2. As regards its official communications and the transmission of any of its documents, the Organization shall enjoy treatment no less favourable than that accorded by the Government of each State Party to this Protocol to other similar international organizations.

Article 13. 1. The Organization may receive, hold and transfer any kind of funds, currencies and cash; it may freely dispose of them for the purpose of its official activities and may maintain accounts in any currency to the extent necessary in order to meet its commitments.

2. In exercising its rights under this article, the Organization shall take into account any representation made to it by the Government of a State Party to this Protocol which is not prejudicial to its own interests.

Article 14. 1. Representatives of States Parties to this Protocol participating in meetings of the Organization shall, while exercising their functions and during the journey to and from the place of meeting, enjoy immunity from personal arrest or detention and from seizure of their personal baggage, unless they are apprehended in the act of committing an offence. In such a case, 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 this article shall also enjoy immunity from jurisdiction, even after the termination of their mission, in respect of acts performed by them, including words spoken or written, in the exercise of their functions and within the limits of their authority. This immunity shall not apply in the case of

motor traffic offences committed by the persons concerned or of damage caused by motor vehicles belonging to or driven by them.

Article 15. In addition to the privileges and immunities provided for in articles 16 and 17, the Director-General of the Organization or the person acting in his stead shall enjoy during his term of office the privileges and immunities to which diplomatic agents of comparable rank are entitled under the Vienna Convention on Diplomatic Relations of 18 April 1961.[1]

Article 16. 1. Persons in the service of the Organization shall enjoy immunity from any legal action, even after the termination of their functions, in respect of acts performed by them, including words spoken or written, in the exercise of their functions and within the limits of their authority.

2. This immunity shall not apply in the case of motor traffic offences committed by the persons referred to in paragraph 1 or of damage caused by motor vehicles belonging to or driven by them.

Article 17. Members of the Organization's staff who are employed on a full-time basis shall:

(*a*) Enjoy, in respect of transfers of funds, the privileges generally accorded to members of the staff of international organizations under the applicable national regulations;

(*b*) Enjoy, if they have a contract of employment with the Organization for a term of not less than one year, the right to import their furniture and personal effects free of duty on the occasion of their initial installation in the State concerned and the right, upon termination of their functions in that State, to export their furniture and personal effects free of duty, subject in either case to the conditions and restrictions laid down by the laws and regulations of the State in which the right is exercised;

(*c*) Enjoy, together with members of their families forming part of their households, the same exemptions from measures restricting immigration and governing the registration of aliens as are generally accorded to members of the staff of international organizations;

(*d*) Enjoy inviolability for all their official papers and documents;

(*e*) Be exempt from any obligation in respect of military service or other compulsory service;

(*f*) Enjoy in time of international crisis, together with members of their families forming part of their households, the same repatriation facilities as members of diplomatic missions.

Article 18. Subject to such agreements as may be concluded with the States Parties to this Protocol concerned, in accordance with the provisions of article 27, or to corresponding measures adopted by the said States, the Organization, its Director-General and the members of its staff shall be exempt from all compulsory contributions to national social insurance authorities if the Organization itself establishes a social insurance scheme providing adequate benefits.

Article 19. 1. On the conditions and in accordance with the procedure to be established by the Council not later than one year after the entry into force of the

[1] United Nations, *Treaty Series*, vol. 500, p. 95.

Protocol, the Director-General and the members of the Organization's staff referred to in article 17 may be subjected for the benefit of the Organization, to a tax on salaries and emoluments paid by the Organization. As from the date on which that tax is imposed, such salaries and emoluments shall be exempt from national taxes on income; however, the States Parties to this Protocol reserve the right to take such salaries and emoluments into account in calculating the amount of tax to be levied on income from other sources.

2. The provisions of paragraph 1 shall not apply to annuities and pensions paid by the Organization to its former Director-General and to former staff members in consideration of their service in the Organization.

Article 20. The names, official titles and addresses of the members of the Organization's staff referred to in article 17 shall be communicated at regular intervals to the Governments of the States Parties to this Protocol.

Article 21. 1. The privileges and immunities provided for in this Protocol are not intended for the personal benefit of the individuals concerned. They are designed solely to ensure in all circumstances the unimpeded functioning of the Organization and the complete independence of staff 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 this Protocol, the Government of the State concerned, or, in the case of the Director-General himself, the Council, shall have the right and the duty to waive immunity when they consider that it is impeding the normal course of justice and can be waived without prejudice to the purposes for which it was accorded.

Article 22. No State Party to this Protocol shall be required to accord the privileges and immunities referred to in article 14, article 15 and article 17 (*a*), (*b*), (*c*), (*e*) and (*f*) to its own nationals or to persons permanently resident in its territory.

Article 23. 1. The Organization shall be required to include in all written contracts to which it is a party, other than contracts concluded in accordance with staff regulations, an arbitration clause whereby any dispute concerning the interpretation or execution of the contract may, at the request of either party, be submitted to private arbitration. The arbitration clause shall specify the manner of appointment of the arbitrators, the applicable law and the State in which the arbitrators are to sit. The arbitration procedure shall be that of the said State.

2. Execution of the award made following such arbitration shall be governed by the rules in force in the State in whose territory it is to be executed.

Article 24. 1. Any State Party to this 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 obligation of the Organization;

(*c*) Involving any person who could claim immunity from jurisdiction in accordance with articles 15 and 16, if immunity has not been waived in accordance with article 21. In the case of disputes where immunity from jurisdiction is claimed in accordance with articles 15 and 16, liability shall devolve from the persons referred to in those articles to the Organization.

2. If a State Party to this Protocol intends to submit a dispute to arbitration, it shall so notify the Director-General, who shall immediately inform all States Parties to this Protocol of the notification.

3. The procedure provided for in paragraph 1 shall not apply to disputes between the Organization and the Director-General, members of its staff or experts concerning their conditions of service.

4. The award of the arbitration tribunal shall be final and binding on the parties and shall not be subject to appeal. In case of dispute as to the meaning and scope of the award, the arbitration tribunal shall be required to interpret it at the request of one of the parties.

Article 25. 1. The arbitration tribunal provided for in article 24 shall be composed of three members, namely, an arbitrator appointed by the State party or States parties to the arbitration, an arbitrator appointed by the Organization and a third arbitrator, who shall preside, appointed by the first two.

2. The arbitrators shall be selected from a panel comprising not more than six arbitrators designated by each State Party to this Protocol and six designated by the Organization.

3. If one of the parties fails to make the appointment provided for in paragraph 1 of this article within three months after the notification referred to in article 24, paragraph 2, the arbitrator shall, on the application of the other party, be selected by the President of the International Court of Justice from among the members of the panel. The same procedure shall be followed, on the application of whichever party takes the initiative if the first two arbitrators fail to agree on the appointment of the third within one month after the appointment of the second. However, a national of the applicant State shall not be selected to occupy the seat of the arbitrator who should have been appointed by the Organization, and a member of the panel designated by the Organization shall not be selected to occupy the seat of the arbitrator who should have been appointed by the applicant State. Persons in those two categories shall likewise not be selected to preside over 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 this Protocol concerning the interpretation or application of this Protocol and which cannot be settled by means of direct negotiations shall, unless the parties agree on some other manner of settlement, be submitted on the application of one of the parties, to an arbitration tribunal composed of three members, namely, an arbitrator appointed by the Director-General of the Organization or the person acting in his stead, an arbitrator appointed by the interested State Party or States Parties to this Protocol and a third arbitrator, selected by mutual agreement between the other two, who shall be neither a staff member of the Organization nor a national of the State or States involved and who shall preside.

The application for the institution of proceedings shall indicate the name of the arbitrator designated by the applicant; the respondent shall designate its arbitrator and communicate his name to the other party within two months after receipt of the application. If the respondent fails to notify the name of its arbitrator within the aforementioned time, or if the two arbitrators fail to agree on the selection of a third arbitrator within two months after the last appointment of an arbitrator, then the arbitrator or the third arbitrator, as the case may be, shall be designated by the President of the International Court of Justice on the application of whichever party takes the initiative.

The tribunal shall establish its own rules of procedure. Its decisions shall be binding on the parties and shall not be subject to appeal.

Article 27. The Organization may, by decision of the Council, conclude supplementary agreements with one or more States Parties to this Protocol with a view to the implementation of the provisions of this Protocol.

Article 28. 1. The Protocol shall be open for signature by the States Parties to the Convention of 5 October 1962 for the establishment of the Organization.

2. This Protocol shall be subject to ratification or approval. Instruments of ratification or approval shall be deposited in the archives of the Government of the French Republic.

Article 29. This Protocol shall enter into force on the date of the deposit of the third instrument of ratification or approval.

Article 30. 1. After its entry into force, this Protocol shall remain open for accession by any State Party to the Convention for the establishment of the Organization of 5 October 1962.

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

Article 31. As regards any State which ratifies, approves or accedes to this Protocol after its entry into force, this 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 States which have signed or acceded to 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. This Protocol shall remain in force until the expiry of the Convention of 5 October 1962 for the establishment of the Organization.

2. Any State which withdraws from the Organization or ceases to be a member in virtue of article XI of the Convention referred to in the preceding paragraph shall cease to be a Party to this Protocol.

Article 34. This Protocol shall be interpreted in the light of its essential objective, which is to enable the Organization to perform its task fully and effectively and to 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, on 12 July 1974, in a single original in the German, Danish, French, Dutch and Swedish languages; in the event of a discrepancy, the French text shall be considered authoritative. This original shall be deposited in the archives of the Ministry of Foreign Affairs of the French Republic, which shall transmit a certified true copy to signatory or acceding States.

For the Government of the Federal Republic of Germany:

SIGISMUND Fr. VON BRAUN

For the Government of the Kingdom of Belgium:

C. DE KERCHOVE

For the Government of the Kingdom of Denmark:

(Subject to ratification)

PAUL FISCHER

For the Government of the French Republic:

G. DE COURCEL

For the Government of the Kingdom of the Netherlands:

VEGELIN VAN CLAERBERGEN

For the Government of the Kingdom of Sweden:

INGEMAR HÄGGLÖF