

**PROTOCOL ON PRIVILEGES AND IMMUNITIES OF THE EUROPEAN  
SPACE RESEARCH ORGANISATION**

Opened for signature at Paris

31 October 1963

Entered into force

23 February 1968

Superseded by the Convention for the Establishment of a European Space Agency  
30 October 1980

THE STATES parties to the Convention for the establishment of a European Space Research Organisation, signed in Paris on the fourteenth of June 1962 (hereinafter referred to as "the Convention"),

DESIROUS of defining the privileges and immunities of the Organisation, of the persons employed by it (Director General, staff members and experts) and of the representatives of Member States, in accordance with paragraph 2 of Article XIV of the Convention,

HAVE AGREED as follows

**ARTICLE 1**

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

**ARTICLE 2**

The buildings and premises of the Organisation shall be inviolable, subject to the provisions of Articles 22 and 23.

### ARTICLE 3

The archives of the Organisation shall be inviolable.

### ARTICLE 4

1. The Organisation shall have immunity from jurisdiction and execution, except

a) to the extent that the Organisation shall have expressly waived such immunity in a particular case,

or

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 Organisation, or in respect of a motor traffic offence involving such a vehicle;

c) in respect of an enforcement of an arbitration award made either under Article 25 or Article 26.

2. The Organisation'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 insofar 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 Organisation.

### ARTICLE 5

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

2. When the Organisation makes substantial purchases, strictly necessary for the exercise of its official activities, in the price of which taxes or duties are included, appropriate measures shall, whenever possible, be taken by the Governments of Member States to remit or reimburse the amount of such taxes or duties.

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

#### ARTICLE 6

Goods imported or exported by the Organization and strictly necessary for the exercise of its official activities shall be exempt from all customs dues and other charges and from all prohibitions and restrictions on import or export.

#### ARTICLE 7

The official activities of the Organisation shall, for the purposes of Articles 5 and 6, include its administrative activities and those undertaken in the field of space research and space technology in pursuance of the purposes of the Organisation as defined in the Convention.

#### ARTICLE 8

No exemption shall be granted in respect of goods purchased and imported for the personal benefit of the staff members of the Organisation.

#### ARTICLE 9

1. Goods belonging to the Organisation, which have been acquired under Article 5 or imported under Article 6, shall not be sold or given away except in accordance with conditions laid down by the Governments of the States which have granted exemptions.
2. The transfer of goods and services between the Headquarters and the Establishments and between the various Establishments themselves shall be exempt from charges or restrictions of any kind; alternatively the Governments of Member States shall take all appropriate measures to remit or reimburse the amount of such charges or to lift such restrictions.

#### ARTICLE 10

The circulation of publications and other information material sent by or to the Organisation shall not be restricted in any way.

#### ARTICLE 11

The Organisation may receive and hold any kind of funds, currency or securities; it may dispose of them freely for any purpose provided for in the Convention and hold accounts in any currency to the extent required to meet its obligations.

#### ARTICLE 12

1. With regard to its official communications and the transfer of all its documents, the Organisation shall enjoy treatment not less favourable than that accorded by the Government of each Member State to other international organisations.

No censorship shall be applied to official communications of the Organisation by whatever means of communication.

#### ARTICLE 13

Member States shall take all appropriate measures to facilitate the entry, stay and departure of all staff members of the Organisation.

#### ARTICLE 14

Representatives of Member States shall enjoy while exercising their function and in the course of their journeys to and from the place of meeting the following privileges and immunities:

- a) immunity from arrest and detention, and from seizure of their personal luggage;
- b) immunity from jurisdiction, 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;
- c) inviolability for all their official papers and documents;
- d) the right to use codes and to receive documents or correspondence by special courier or sealed bag;
- e) exemption for themselves and their spouses from all measures restricting entry and from alien's registration formalities;

f) the same facilities in the matter of currency and exchange control as are accorded to the representatives of foreign Governments on temporary official missions;

g) the same customs facilities as regards their personal luggage as are accorded to diplomatic agents.

2. Privileges and immunities are accorded to representatives of Member States, not for their personal advantage, but in order to ensure complete independence in the exercise of their functions in connection with the Organisation. Consequently, a Member State has not only the right but also the duty to waive the immunity of a representative in all cases where, in the opinion of that State, the immunity would impede the course of justice and where it can be waived without prejudicing the purposes for which it was accorded.

#### ARTICLE 15

In addition to the privileges and immunities provided for in Article 16 below, the Director General of the Organisation, and the official referred to in paragraph 1, c of Article XI of the Convention, shall enjoy the privileges and immunities to which diplomatic persons of comparable rank are entitled.

#### ARTICLE 16

The staff members of the Organisation:

a) shall have, even after they have left the service of the Organisation, immunity from jurisdiction in respect of acts, including words written and spoken, done by them in the exercise of their functions; this immunity shall not apply, however, in the case of a motor traffic offence committed by a staff member of the Organisation, nor in the case of damage caused by a motor vehicle belonging to or driven by a staff member;

b) shall be exempt from all obligations in respect of military service;

c) shall enjoy inviolability for all their official papers and documents;

d) shall enjoy the same facilities as regards exemption from all measures restricting immigration and governing a alien's registration as are normally accorded to staff members of international organisations, and members of their families forming part of their households shall enjoy the same facilities;

- e) shall enjoy the same privileges in respect of exchange regulations as are normally accorded to the staff members of international organisations;
- f) shall enjoy the same facilities as to repatriation as diplomatic agents in time of international crisis, and the members of their families forming part of their households shall enjoy the same facilities;
- g) shall have the right to import duty-free 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 considered necessary by the Government of the State where the right is exercised.

#### ARTICLE 17

Experts other than the staff members referred to in Article 16, in the exercise of their functions in connection with institutions of the Organisation or in carrying out missions for the Organisation, shall enjoy the following privileges and immunities, to the extent that they are necessary for the carrying out of their functions, including during journeys made in carrying out their functions in connection with such institutions and in the course of such missions:

- a) immunity from jurisdiction in respect of acts done by them in the exercise of their functions, including words written or spoken, except in the case of a motor traffic offence committed by an expert or in the case of damage caused by a motor vehicle belonging to or driven by him; experts' shall continue to enjoy this immunity after they have ceased to be employed by the Organisation;
- b) inviolability for all their official papers and documents;
- c) the same facilities as regards monetary and exchange regulations and as regards their personal luggage as are accorded to the officials of foreign Governments on temporary official missions.

#### ARTICLE 18

1. Subject to the conditions and following the procedure laid down by the Council, within a period of one year from the date of the entry into force of the Convention, the Director

General and the staff members of the Organisation shall be subject to a tax, for the benefit of the Organisation, on salaries and emoluments paid by the Organisation. From the date on which this tax is applied such salaries and emoluments shall be exempt from national income tax? but the Member States shall retain the right to take these salaries and emoluments into account for the pur pose 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 Organisation to its former Directors General and staff members.

#### ARTICLE 19

The Council shall decide the categories of staff members to whom the provisions of Article 16, in whole or in part, and Article 18 shall apply, and the categories of experts to whom the provisions of Article 17 shall apply. The names, titles and addresses of the staff members and experts included in such cate gories shall be communicated from.time to time ho the Governments of States parties to the Convention.

#### ARTICLE 20

The Organisation, 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, subject to the agreements made with the Member States in accordance with the provisions of Article 30.

#### ARTICLE 21

1. The privileges and immunities provided for in the present Protocol are not designed to give to the Director General, staff members and experts of the Organisation personal advantage. They are provided solely to ensure, in all circumstances, the unimpe ed functioning of the Organisation and the complete independence of the persons to whom they are accorded.

2. The Director General has the right and the duty to waive such immunity when he considers that such immunity is preventing the carrying out of justice and when it is possible to dispense with the immunity without prejudicing the interests of the Organisation. In respect of the Director General, the Council may waive such immunity.

## ARTICLE 22

1. The Organisation shall cooperate at all times with the competent authorities of Member States in order to facilitate the proper administration of justice, to ensure the observance of police regulations and regulations concerning handling of explosives and inflammable material, public health, labour inspection or other similar national 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 laid down in the complementary agreements referred to in Article 30.

## ARTICLE 23

Each Member State retains the right to take all precautionary measures necessary in the interests of its security.

## ARTICLE 24

No Member State is obliged to accord the privileges and immunities referred to in Articles 14, 15, 16,b, e. g, and 17,c to its own nationals.

## ARTICLE 25

1. The Organisation shall be obliged in all written contracts, other than those concluded in accordance with staff regulations, into which it enters 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 law applicable and the country where the arbitrators shall sit. The procedure of the arbitration shall be that of that country.

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.26

Any Member State may submit to an international Arbitration Tribunal any dispute:

- a) arising out of damage caused by the Organisation;
  - b) involving any other non-contractual responsibility of the Organisation;
  - c) involving the Director General, a staff member or expert of the Organisation, and in which the person concerned can claim immunity from jurisdiction under Articles 15, 16,a or 17,a, if this immunity is not waived in accordance with the provisions of Article 21. In such disputes where the claim for immunity from jurisdiction arises under Article 16a or 17,a, the responsibility of the Organisation shall, in such arbitration, be substituted for that of the individuals concerned.
2. If a Member State intends to submit a dispute to arbitration, it shall notify the Director General who shall forthwith inform each Member State 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. No appeal shall lie against the award of the Arbitration Tribunal, which shall be final; it shall be binding on the parties. In case 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 27

1. The Arbitration Tribunal referred to in Article 26 shall consist of three members, one arbitrator nominated by the State or States, party to the arbitration, one arbitrator nominated by the Organisation and a third arbitrator who shall be the Chairman, nominated by the said two arbitrators.
2. The arbitrators shall be nominated from a panel comprising no more than six arbitrators appointed by each Member State and six arbitrators appointed by the Organisation.
3. If, within three months from the date of the notification referred to in paragraph 2 of Article 26, either party fails to make the nomination referred to in paragraph 1 of this 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 nomination 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 Organisation, nor, may a person comprised in the panel and appointed by the Organisation 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 Council shall establish the procedure to be followed in the Arbitration Tribunal.

#### ARTICLE 28

Within one year from the date of entry into force of the Convention, the Organisation shall make suitable provision for the satisfactory settlement of disputes arising between the Organisation and the Director General, staff members or experts in respect of their conditions of service.

#### ARTICLE 29

Any dispute concerning the interpretation or application of this Protocol, which is not settled by the good offices of the Council, shall be submitted to the International Court of Justice, unless: the Member States concerned agree on some other mode of settlement.

#### ARTICLE 30

The Organisation may, on a decision of the Council, conclude with one or more Member States complementary agreements to give effect to the provisions of the present Protocol as regards such State or States and other arrangements to ensure the efficient functioning of the Organisation and the safeguarding of its interests.

#### ARTICLE 31

1. This Protocol shall be open for signature until the thirty-first of January 1964, by the States which have signed the Convention or acceded to it.
2. This Protocol shall be subject to ratification or approval. The instrument of ratification or approval shall be deposited with the Government of the French Republic.

#### ARTICLE 32

1. As from the first of February 1964, any Member State not signatory to this Protocol may accede to it.
2. Instruments of accession shall be deposited with the Government of the French Republic.

#### ARTICLE 33

1. This Protocol shall enter into force on the date of the deposit of the sixth instrument of ratification, approval or accession, provided that the Member States referred to in paragraph 1,b of Article XXI of the Convention shall be among these six States.
2. In case the aforesaid date precedes the date of entry into force of the Convention, this Protocol shall not enter into force before the latter date.
3. The date of the entry into force of the Protocol for any state which ratifies, approves or accedes to this Protocol after its entry into force shall be the date when this State deposits its instrument of ratification, approval or accession.

#### ARTICLE 34

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

#### ARTICLE 35

1. This Protocol shall remain in force until the expiry of the Convention.
2. Denunciation of the Convention by any Member State, in accordance with the provisions of Article XVII of the Convention, shall imply denunciation by that State of this Protocol.
3. This Protocol shall likewise cease to be valid for a Member State to which are applied the provisions of Article XVIII of the Convention.

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IN WITNESS WHEREOF the undersigned plenipotentiaries have appended their signatures to this-Protocol.

Done in Paris, this thirty-first day of October, 1963

in the English and French languages, both texts being equally authoritative, in a single copy which shall be deposited in the archives of the Government of the French Republic, which shall transmit certified copies to all signatory and acceding States.