

SWITZERLAND
and
INTERNATIONAL LABOUR ORGANISATION

Procès-verbal, Agreement, Arrangement for the execution of the Agreement, and Declaration concerning the legal status of the International Labour Organisation after the dissolution of the League of Nations, signed on 11 March 1946, and Exchange of notes of 28 May and 7 June 1946 concerning the entry into force of the Agreement and Arrangement

French official text communicated by the Director-General of the International Labour Office. The filing and recording took place on 27 May 1948.

SUISSE
et
ORGANISATION INTERNATIONALE DU TRAVAIL

Procès-verbal, Accord, Arrangement d'exécution de l'Accord, et Déclaration concernant le statut juridique en Suisse de l'Organisation internationale du Travail après la dissolution de la Société des Nations, signés le 11 mars 1946, et échange de notes des 28 mai et 7 juin 1946 confirmant l'entrée en vigueur de l'Accord et de l'Arrangement

Texte officiel français communiqué par le Directeur général du Bureau international du Travail. Le classement et l'inscription au répertoire ont eu lieu le 27 mai 1948.

TRANSLATION¹ — TRADUCTION¹

- No. 103. *PROCES-VERBAL*, AGREEMENT BETWEEN SWITZERLAND AND THE INTERNATIONAL LABOUR ORGANISATION, ARRANGEMENT FOR THE EXECUTION OF THE AGREEMENT, AND DECLARATION CONCERNING THE LEGAL STATUS OF THE INTERNATIONAL LABOUR ORGANISATION AFTER THE DISSOLUTION OF THE LEAGUE OF NATIONS SIGNED ON 11 MARCH 1946, AND EXCHANGE OF NOTES OF 28 MAY AND 7 JUNE 1946 CONCERNING THE ENTRY INTO FORCE OF THE AGREEMENT AND ARRANGEMENT
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I

PROCES-VERBAL

I. Mr. Paul GUGGENHEIM, Professor at the University Institute of Higher International Studies, Geneva,

Mr. Daniel SECRETAN, Counsellor of Legation, Chief of the International Unions Section in the Swiss Federal Political Department,

Mr. Max KAUFMANN, Deputy Director of the Federal Office of Industry, Arts, and Crafts and Labour, Swiss Federal Department of Public Economy, representing the Swiss Federal Political Department and the Swiss Federal Department of Public Economy,

Mr. C. Wilfred JENKS, Legal Adviser of the International Labour Office,

Mr. Jacques SECRETAN, Consulting Attorney of the International Labour Office in Switzerland,

representing the International Labour Organisation;

met in the Alabama Room of the Government Building of the Republic and Canton of Geneva on 1, 2, 3 and 11 March 1946 to negotiate an agreement concerning the legal status of the International Labour Organisation in Switzerland after the dissolution of the League of Nations.

¹ Translation by the International Labour Office.

¹ Traduction du Bureau international du Travail.

There were also present at the meetings:

Mr. Paul HUBER, Secretary-General of the Department of Finance and Taxes of the Republic and Canton of Geneva,

Mr. Henri THEVENAZ, Legation Attaché, Federal Political Department,

Mr. Francis WOLF, Member of the Legal Section of the International Labour Office.

II. In the course of these meetings the following texts, which will be annexes to this *procès-verbal*, have been drawn up to be submitted for approval to the Swiss Federal Council and the Governing Body of the International Labour Office:

1. Agreement between the Swiss Federal Council and the International Labour Organisation concerning the legal status of the International Labour Organisation in Switzerland.
2. Arrangement for the execution of the Agreement made between the Swiss Federal Council and the International Labour Organisation concerning the legal status of the International Labour Organisation in Switzerland.

III. Further, the representatives of the International Labour Organisation have taken note of a statement by the representatives of the Swiss Federal Political Department and of the Swiss Federal Department of Public Economy which will also be annexed to this *procès-verbal*.

IN WITNESS WHEREOF this *procès-verbal* has been adopted and signed on 11 March 1946 under the chairmanship of Mr. Albert Picot, State Counsellor of Geneva, in the Alabama Room, in duplicate, one copy of which has been placed in the custody of the representatives of the Swiss Federal Political Department and of the Swiss Federal Department of Public Economy and one copy in the custody of the representatives of the International Labour Organisation.

(Signed) Paul GUGGENHEIM
D. SECRETAN
M. KAUFMANN
C. Wilfred JENKS
Jacques SECRETAN

II

AGREEMENT¹ BETWEEN THE SWISS FEDERAL COUNCIL AND THE INTERNATIONAL LABOUR ORGANISATION CONCERNING THE LEGAL STATUS OF THE INTERNATIONAL LABOUR ORGANISATION IN SWITZERLAND

The Swiss Federal Council,
of the one part,

and the International Labour Organisation,
of the other part,

wishing to conclude an agreement to regulate the legal status of the International Labour Organisation in Switzerland after the dissolution of the League of Nations have agreed on the following provisions:

*Article 1**Freedom of action of the I.L.O.*

The Swiss Federal Council guarantees to the International Labour Organisation the independence and freedom of action belonging to it as an international institution.

*Article 2**Personality of the I.L.O.*

The Swiss Federal Council recognises the international personality and legal capacity in Switzerland of the International Labour Organisation.

*Article 3**Immunities of the I.L.O.*

The International Labour Organisation enjoys the immunities known in international law as diplomatic immunities.

*Article 4**Extraterritoriality of the grounds and buildings*

The Swiss Federal Council recognises the extraterritoriality of the grounds and buildings of the International Labour Organisation and of all buildings occupied

¹ Came into force on 27 May 1946, in accordance with article 28. (See Exchange of Notes, page 409.)

by it in connection with meetings of the International Labour Conference or any other meeting convened in Switzerland by the International Labour Organisation.

Article 5

Freedom of meeting

The Swiss Federal Council recognises that the International Labour Organisation and its Members in their relations with the Organisation enjoy absolute freedom of meeting including freedom of discussion and decision.

Article 6

Immunity from legal process and immunity from other measures

1. The International Labour Organisation, its properties and assets wherever they may be or by whomsoever they may be held shall enjoy immunity from every form of legal process except in so far as this immunity is formally waived by the Director of the International Labour Office or his duly authorised representatives.

2. The property and assets of the International Labour Organisation wherever they may be and by whomsoever they may be held shall enjoy immunity from any measure of perquisition, requisition, confiscation, expropriation or any other form of seizure or interference by any public authority whatsoever its nature.

Article 7

Inviolability of grounds and buildings

The grounds and buildings of the International Labour Organisation are inviolable. No agent of the Swiss public authority may enter them without the express consent of the International Labour Organisation.

Article 8

Inviolability of the archives

The archives of the International Labour Organisation and all documents belonging to it or in its possession are inviolable.

Article 9

Publications

The export and import of the publications of the International Labour Organisation shall not be subject to any restrictive measures.

*Article 10**Fiscal position of the I.L.O.*

The International Labour Organisation is exonerated from direct and indirect taxes, federal, cantonal and communal on buildings of which it is the owner and which are occupied by its services as well as on its movable property, it being understood that the International Labour Organisation does not claim exemption from charges corresponding to a service rendered by a public authority.

*Article 11**Free disposal of funds*

1. The International Labour Organisation may receive and hold funds, notes, coins and securities of any kind and may dispose of them freely both within Switzerland and in its relations with other countries.

2. The present Article also applies to States Members of the International Labour Organisation in their relations with the Organisation.

*Article 12**Official communications*

The International Labour Organisation shall enjoy for its official communications treatment not less favourable than that accorded to diplomatic missions in Switzerland in respect of:

- (a) all priorities for communications and transport;
- (b) postal, telegraphic, radio-telegraphic, telephonic, radio-telephonic and telephotographic tariffs, etc.

*Article 13**Exemption from censorship*

No censorship shall be applied to the duly authenticated official communications of the International Labour Organisation whatever the means of communication employed.

*Article 14**Freedom of access and sojourn*

1. The Swiss authorities shall take the necessary measures to facilitate the entry into, sojourn in, and departure from Swiss territory of all persons having official business with the International Labour Organisation, that is to say:

- (a) representatives of Member States whatever may be the relations between Switzerland and the said States;
- (b) members of the Governing Body of the International Labour Office, irrespective of nationality;
- (c) agents and officials of the International Labour Organisation;
- (d) other persons irrespective of nationality summoned by the International Labour Organisation.

2. Any police regulations tending to restrict the entry of foreigners into Switzerland or to regulate the conditions of their sojourn shall not apply to the persons covered by the present Article.

Article 15

Immunities of the representatives of Members and of the Governing Body

The representatives of the Members of the International Labour Organisation and members of the Governing Body who are in Switzerland on official business shall enjoy the following privileges and immunities:

- (a) inviolability of the person, place of residence and all objects belonging to the person concerned;
- (b) immunity from jurisdiction;
- (c) fiscal immunity corresponding to that accorded to diplomatic agents in accordance with international usage as accepted in Switzerland;
- (d) customs facilities corresponding to those accorded to diplomatic agents in accordance with international usage as accepted in Switzerland;
- (e) the right to use cyphers in their official communications and to reserve and send documents and correspondence by courier or duly sealed diplomatic bags;
- (f) exemption from exchange restrictions under conditions identical to those accorded to diplomatic agents of foreign Governments on temporary mission.

Article 16

Diplomatic immunities of the Director and certain officials

The Director of the International Labour Office and officials of the categories designated by him and agreed to by the Swiss Federal Council shall enjoy

the privileges, immunities, exemptions and facilities granted to diplomatic agents in accordance with international law and custom.

Article 17

Immunities and facilities accorded to all officials

All officials of the International Labour Office, irrespective of nationality, shall enjoy the following immunities and facilities:

- (a) exemption from jurisdiction for all acts performed in the discharge of their duties;
- (b) exoneration from all federal, cantonal and communal taxes on salaries, emoluments and indemnities paid to them by the International Labour Organisation.

Article 18

Exemptions and facilities accorded to officials not of Swiss nationality

Officials of the International Labour Office who are not of Swiss nationality shall enjoy the immunities, exemptions and facilities enumerated in the Arrangement for the execution of the present Agreement.

Article 19

Pensions Fund, etc.

Any pensions fund or provident fund conducted under the authority of the International Labour Organisation shall enjoy legal capacity in Switzerland, if it so requests, and shall enjoy the same exemptions, immunities and privileges as the Organisation itself.

Article 20

Former arrangements

In so far as they are not modified by the present Agreement the *modus vivendi* of 1921 and 1926 and the supplementary arrangements concluded between the Federal Political Department, the League of Nations and the International Labour Office shall continue to apply to the International Labour Organisation.

Article 21

Object of the immunities

1. The immunities provided for in the present Agreement in respect of officials of the International Labour Organisation are not designed for the

personal benefit of those officials but are designed solely to ensure the free functioning of the International Labour Organisation and the complete independence of its agents in all circumstances.

Waiver of immunity

2. The Director of the International Labour Office has the right and duty to waive the immunity of any official in any case in which he considers that immunity would impede the course of justice and can be waived without prejudice to the interests of the International Labour Organisation.

Article 22

Prevention of abuses

The International Labour Organisation shall co-operate at all times with the Swiss authorities to facilitate the proper administration of justice, secure the observance of police regulations and prevent any abuse in connection with the privileges, immunities and facilities provided for in this Agreement.

Article 23

Disputes of a private nature

The International Labour Organisation shall make provision for appropriate methods of settlement of:

- (a) disputes arising out of contracts and other disputes of a private law character to which the International Labour Organisation is a party;
- (b) disputes involving an official of the International Labour Office who by reason of his official position enjoys immunity, if such immunity has not been waived by the Director.

Article 24

Non-responsibility of Switzerland

Switzerland shall not incur by reason of the activity of the International Labour Organisation on its territory any international responsibility for acts or omissions of the Organisation or of its agents acting or abstaining from acting within the limits of their functions.

Article 25

Security of Switzerland

1. Nothing in the present Agreement shall affect the right of the Swiss Federal Council to take the precautions necessary for the security of Switzerland.

2. If it considers it necessary to apply the first paragraph of this Article the Swiss Federal Council shall approach the International Labour Organisation as rapidly as circumstances allow in order to determine by mutual agreement the measures necessary to protect the interests of the International Labour Organisation.

3. The International Labour Organisation shall collaborate with the Swiss authorities to avoid any prejudice to the security of Switzerland resulting from its activity.

Article 26

Execution of the Agreement by Switzerland

The Federal Political Department is entrusted with the execution by the Swiss Confederation of this Agreement and the Arrangement for its execution.

Article 27

Jurisdiction

1. Any divergence of opinion concerning the application or interpretation of this Agreement or the Arrangement for its execution which has not been settled by direct conversations between the parties may be submitted by either party to a tribunal of three members which shall be established on the coming into force of this Agreement.

2. The Swiss Federal Council and the International Labour Organisation shall each choose one member of the tribunal.

3. The judges so appointed shall choose their president.

4. In the event of disagreement between the judges on the choice of a president, the president shall be chosen by the President of the Supreme Court of the Netherlands at the request of the Members of the tribunal.

5. The tribunal may be seised of an application by either party.

6. The tribunal shall determine its own procedure.

Article 28

Coming into force

1. This Agreement shall come into force as soon as it has been approved by the Swiss Federal Council and the Governing Body of the International Labour Office.

2. It shall become operative on the dissolution of the League of Nations.

*Article 29**Transitory régime*

Until the date of the dissolution of the League of Nations the *modus vivendi* of 1921 and 1926 and the supplementary arrangements concluded between the Political Department, the League of Nations and the International Labour Office shall remain applicable to the International Labour Organisation.

*Article 30**Modification of the Agreement*

1. This Agreement may be revised at the request of either party.
2. In this event the two parties shall consult each other concerning the modifications to be made in its provisions.
3. If the negotiations do not result in an understanding within one year the Agreement may be denounced by either party giving two years' notice.

*Article 31**Agreement for execution*

The provisions of this Agreement are completed by the Arrangement for its Execution.

III

ARRANGEMENT¹ FOR THE EXECUTION OF THE AGREEMENT
MADE BETWEEN THE SWISS FEDERAL COUNCIL AND THE
INTERNATIONAL LABOUR ORGANISATION CONCERNING
THE LEGAL STATUS OF THE INTERNATIONAL LABOUR
ORGANISATION IN SWITZERLAND

*Article 1**Customs exemption*

The International Labour Organisation enjoys complete exemption from customs, statistical and similar duties on all goods for its official use imported or exported by it, it being understood that objects imported in franchise may

¹ Came into force on 27 May 1946, in accordance with article 14. (See Exchange of Notes, page 409.)

only be sold in Switzerland under conditions fixed by agreement between the International Labour Organisation and the Swiss Federal Council.

Article 2

Import and export of goods

The Swiss Federal Council recognises so far as it is concerned that the provisions and restrictions on the import and export of goods are not applicable to objects for the official use of the International Labour Organisation and necessary for its work, subject to the provisions of general international conventions and measures of a sanitary character, it being understood that it is for the International Labour Organisation to obtain any consent from other States which may be necessary to make this exemption effective.

Article 3

Social insurance

The International Labour Organisation is exempt from all compulsory contributions to general social insurance funds such as equalisation, unemployment insurance and workmen's compensation funds, etc., it being understood that the International Labour Organisation will, so far as possible and under conditions to be agreed upon, insure with Swiss social insurance funds those of its agents who are not assured of equivalent social protection by the International Labour Organisation itself.

Article 4

Free disposal of funds

1. The International Labour Organisation may hold accounts in all currencies.
2. The International Labour Organisation may transfer abroad freely funds, notes, specie and securities.
3. The International Labour Organisation may convert into other currencies all moneys held by it.
4. The Swiss Federal Council will have regard to the provisions of the preceding paragraphs of this article in its negotiations with foreign Governments concerning the transfer of funds and goods.

*Article 5**Cyphers, couriers, diplomatic bags*

1. The International Labour Organisation may use cyphers in its communications.
2. The International Labour Organisation is entitled to use couriers and diplomatic bags under the same conditions as foreign Governments.

*Article 6**Press communications*

The International Labour Organisation shall enjoy the preferential tariffs applicable to press communications in accordance with the International Telecommunications Convention for its communications addressed directly or through an intermediary to the press and radio.

*Article 7**Freedom of access and sojourn*

1. For the purpose of facilitating the entry into Switzerland of the persons enumerated in Article 14 of the Agreement, Swiss legations and consulates abroad shall be given general instructions in advance to grant visas on production of a passport or any equivalent identity and travel document and of a document sufficient to establish the official relationship of the applicant to the International Labour Organisation.
2. Swiss legations and consulates will be given instructions to grant visas without any delay or waiting period and without requiring the personal attendance of the applicant or the payment of charges.
3. The provisions of Article 14 of the Agreement and of this article shall apply in the same conditions to the wife and children of the person concerned if they live with him and do not exercise a profession.

*Article 8**Identity card*

The Federal Political Department shall furnish the International Labour Office for each official with an identity card bearing the photograph of the holder. This card, authenticated by the Federal Political Department and the International Labour Office, shall serve to identify the official relation to all federal, cantonal and communal authorities.

*Article 9**Facilities accorded to officials not of Swiss nationality*

Officials of the International Labour Office who are not of Swiss nationality shall enjoy the following exemptions and facilities:

- (a) exemption from all customs, statistical and import duties on all objects whether used or new brought by the official on his first installation in Switzerland or on his return to Switzerland after a minimum absence of three years;
- (b) exemption from exchange restrictions under conditions identical with those accorded to diplomatic agents accredited to the Federal Council;
- (c) in the event of international crisis, repatriation facilities for the officials and members of their family identical with those accorded to the members of diplomatic missions accredited to the Federal Council;
- (d) exoneration from federal, cantonal and communal taxes in accordance with the usages established for the non-Swiss personnel of the international institutions at Geneva;
- (e) exemption on application by the Director of the International Labour Office from customs duties on imported motor-cars, it being understood that this facility may not be used more often than once in three years as a maximum and that the customs duties will be due in the event of the sale or disposal of the motor-car to a person not entitled to this exemption before the expiry of an interval to be determined by common agreement between the Swiss Federal Council and the International Labour Office;
- (f) the customs examination of luggage will, as in the case of the diplomatic corps, be limited to the strict minimum.

*Article 10**Military service*

1. The Director of the International Labour Office will communicate to the Swiss Federal Council a list of the officials of Swiss nationality who are subject to military obligations.

2. The Director of the International Labour Office and the Swiss Federal Council will draw up by common agreement a restricted list of officials of Swiss nationality who, on account of their functions, will be accorded dispensations from military service.

3. In the event of the mobilisation of other Swiss officials, the International Labour Office may request, through the Federal Political Department, a postponement of call up or any other appropriate measures.

Article 11

Diplomatic passport

Officials of Swiss nationality of the categories fixed by common agreement between the Director of the International Labour Office and the Swiss Federal Council who travel on official mission or reside abroad on account of their functions shall be entitled to a diplomatic passport issued by the Federal Political Department.

Article 12

Pensions Fund, etc.

1. Capital sums due by the Pensions Fund or any other provident fund to the agents, officials or employees of the International Labour Organisation in any circumstances, including the termination, interruption or suspension of their services, shall be exempt at the time of payment from all Swiss taxes on capital and income.

2. The same principle shall apply to all indemnities for sickness, accidents, etc., paid to agents, officials or employees of the International Labour Organisation.

Article 13

Postage stamps

1. The Swiss Federal authorities shall issue special stamps for the use of the International Labour Organisation within the limits allowed by the Universal Postal Convention.

2. The existing arrangements on this subject shall remain in force unless they are modified by mutual agreement.

Article 14

Coming into force

1. The present Arrangement shall come into force as soon as it has been approved by the Swiss Federal Council and the Governing Body of the International Labour Office.

2. It will become operative on the dissolution of the League of Nations.

*Article 15**Modification of the Arrangement*

1. This Arrangement may be revised at the request of either party.
2. In this event the two parties shall consult each other concerning the modifications to be made in the provisions of the Arrangement.
3. If the negotiations do not result in an understanding within one year, the Arrangement may be denounced by either party giving two years' notice.

IV

DECLARATION BY THE REPRESENTATIVES OF THE FEDERAL
POLITICAL DEPARTMENT AND OF THE FEDERAL DEPART-
MENT OF PUBLIC ECONOMY

At the time of signing the *procès-verbal*, the representatives of the Federal Political Department and of the Federal Department of Public Economy declare:

(1) that they are proposing to the Federal Council that it should request the Swiss National Bank to give the International Labour Organisation every assistance in the event of it finding it difficult to obtain the Swiss francs necessary for it to carry on its activities in Switzerland.

(2) that the Federal Council accepts as soon as circumstances permit to substitute in paragraph 4 of Article 27 of the Agreement for the words "the President of the Supreme Court of the Netherlands" the words "the President of the International Court of Justice".

(Signed) Paul GUGGENHEIM
D. SECRETAN
M. KAUFMANN

EXCHANGE OF NOTES
CONCERNING THE ENTRY INTO FORCE OF THE AGREEMENT
AND ARRANGEMENT

I

*Letter from the Acting Director of the International Labour Office to the Head
of the Federal Political Department, Berne*

Montreal, 28 May 1946

Sir,

I have the honour and pleasure to inform you that the Agreement between the Swiss Federal Council and the International Labour Organisation concerning the legal status of the Organisation in Switzerland and the Arrangement for the execution of that Agreement which are appended to the *Procès-Verbal* adopted and signed on 11 March 1946 in the Alabama Room in Geneva, under the chairmanship of Mr. Albert Picot, Counsellor of State of Geneva, were approved by the Governing Body of the International Labour Office at its 98th Session on 27 May 1946 in Montreal.

I should be much obliged if you would consider this communication as constituting formal acceptance by the International Labour Organisation of the Agreement and Arrangement for the purposes of Article 28 of the Agreement and Article 14 of the Arrangement.

I have the honour to be, etc.,

(Signed) E. J. PHELAN
Acting Director

II

*Letter from Mr. Max Petitpierre, Head of the Federal Political Department,
Berne, to the Acting Director of the International Labour Office*

Berne, 7 June 1946

Sir,

I have the honour to acknowledge with thanks the receipt of your letter of 28 May 1946 by which you were good enough to inform me that the Governing Body of the International Labour Office at its session in Montreal

on 27 May approved the Agreement between the Swiss Federal Council and the International Labour Organisation and the Arrangement for the execution of that Agreement concluded for the purpose of determining the legal status of the Organisation in Switzerland.

The Federal Council for its part approved the Agreement and the Arrangement at its sitting of 17 April 1946; in consequence, in accordance with Article 28 of the Agreement and Article 14 of the Arrangement, these two instruments came into force on 27 May 1946.

Furthermore, having regard to the fact that the dissolution of the League of Nations to which reference is made in these two Articles was effected on 19 April 1946, I consider that the Agreement and Arrangement became operative on the day on which they came into force.

I have the honour to be, etc.,

(Signed) Max PETITPIERRE