

No. 1335

**INTERNATIONAL CIVIL AVIATION ORGANIZATION
and
CANADA**

**Agreement regarding the Headquarters of the International
Civil Aviation Organization. Signed at Montreal, on
14 April 1951**

Official texts: English and French.

Registered by the International Civil Aviation Organization on 18 July 1951.

**ORGANISATION DE L'AVIATION CIVILE
INTERNATIONALE
et
CANADA**

**Accord relatif au siège de l'Organisation de l'aviation civile
internationale. Signé à Montréal, le 14 avril 1951**

Textes officiels anglais et français.

Enregistré par l'Organisation de l'aviation civile internationale le 18 juillet 1951.

No. 1335. AGREEMENT¹ BETWEEN THE INTERNATIONAL CIVIL AVIATION ORGANIZATION AND THE GOVERNMENT OF CANADA REGARDING THE HEADQUARTERS OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION. SIGNED AT MONTREAL, ON 14 APRIL 1951

The International Civil Aviation Organization and the Government of Canada

Desiring to conclude an Agreement on privileges, immunities and facilities by reason of the location in the territory of Canada of the Headquarters of the International Civil Aviation Organization,

Have appointed as their Representatives for this purpose :

The International Civil Aviation Organization :

Edward WARNER, President of the Council of the Organization
and

The Government of Canada :

Lester Bowles PEARSON, Secretary of State for External Affairs

Who have agreed as follows:

Article I

DEFINITIONS

Section 1

In this Agreement :

- (a) The expression " Organization " means the International Civil Aviation Organization, set up under Article 43 of the Convention on International Civil Aviation, signed at Chicago on December 7, 1944;²
- (b) The expression " headquarters premises " means any building or part of a building occupied permanently or temporarily by any unit of the Organization or by meetings convened in Canada by the Organization, including the offices occupied by resident Representatives of Member States;

¹ Came into force on 1 May 1951, by an exchange of notes in accordance with article IX, section 41.

² United Nations, *Treaty Series*, Vol. 15, p. 295; Vol. 26, p. 420; Vol. 32, p. 402; Vol. 33, p. 352; Vol. 44, p. 346, and Vol. 51, p. 336.

- (c) For the purpose of Article II of this Agreement, the word "assets" shall also include funds administered by the Organization in furtherance of its constitutional functions;
- (d) The expression "Convention" means the General Convention on Privileges and Immunities of the United Nations,¹ as acceded to by Canada;
- (e) The expression "Member States" means the States which are parties to the Convention on International Civil Aviation;
- (f) The expression "Representatives of Members" means representatives of States that are members of the International Civil Aviation Organization and shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations, which secretaries include the equivalent of third secretaries of diplomatic mission but not the clerical staff;

- (g) The expression "Senior Officials" shall be deemed to include the following officials of the Organization:
 - (i) The President of the Council;
 - (ii) The Secretary-General;
 - (iii) The Deputy Secretary-General;
 - (iv) The Assistant Secretaries-General.

Article II

THE ORGANIZATION

Section 2

The Organization shall possess juridical personality. It shall have the legal capacities of a body corporate, including the capacity:

- (a) to contract;
- (b) to acquire and dispose of immovable and movable property; and
- (c) to institute legal proceedings.

Section 3

The Organization, its property and its assets, wherever located and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by foreign governments, except to the extent that the Organization may expressly waive this immunity for the purpose of any proceedings or by the terms of any contract. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

¹ United Nations, *Treaty Series*, Vol. 1, pp. 15 and 263; Vol. 4, p. 461; Vol. 5, p. 413; Vol. 6, p. 433; Vol. 7, p. 353; Vol. 9, p. 398; Vol. 11, p. 406; Vol. 12, p. 416; Vol. 14, p. 490; Vol. 15, p. 442; Vol. 18, p. 382; Vol. 26, p. 396; Vol. 42, p. 354; Vol. 43, p. 335; Vol. 45, p. 318; Vol. 66, p. 346, and Vol. 70, p. 266.

Section 4

(1) The headquarters premises of the Organization shall be inviolable.

(2) The property and assets of the Organization, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action, except with the consent of and under the conditions agreed to by the Secretary-General of the Organization. This section shall not prevent the reasonable application of fire protection regulations.

(3) The Organization shall, however, prevent the headquarters premises from becoming a refuge either for persons who are avoiding arrest or for persons who are endeavouring to avoid service or execution of legal process.

Section 5

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

Section 6

The Organization, its assets, income and property, owned or occupied in Canada, shall be :

- (a) exempt from all direct taxes; it is understood, however, that the Organization will not claim exemption from taxes which are, in fact, no more than charges for public utility services;
- (b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Organization for its official use; it is understood, however, that articles imported under such exemption will not be sold in Canada except under conditions agreed with the Government of Canada;
- (c) exempt from any prohibition or restriction on import, export or sale of its publications and exempt from customs duties and excise taxes in respect thereof.

Section 7

When goods are purchased under appropriate certificates from manufacturers or wholesalers who are licenced under the Excise Tax Act, the Organization should be eligible to claim for the remission or refund of the Excise tax and/or Consumption or Sales tax for goods imported or purchased in Canada for the official use of the Organization as a body, provided, however, that any article which is exempted from these taxes, other than publications of the Organization, shall be subject thereto at existing rates if sold or otherwise disposed of within a period of one year from the date of purchase, and the vendor shall be liable for such tax.

Section 8

The Organization may hold funds, gold or currency, of any kind and operate accounts in any currency and it shall be free to transfer its funds, gold or currency, from one country to another or within Canada and to convert any currency held by it into any other currency. However, the Organization shall acquire Canadian dollars in exchange for foreign currencies only through an authorized dealer of the Foreign Exchange Control Board. The Organization, in exercising the rights provided in this Section, shall pay due regard to any representations made by the Government of Canada in so far as it is considered that effect can be given to such representations without detriment to the interests of the Organization.

Section 9

The Organization shall enjoy in the territory of Canada for its official communications treatment not less favourable than that accorded by the Government of Canada to any foreign government including its diplomatic mission in the matter of priorities and rates on mails, cables, telegrams, radiograms, telephotos, telephone and other communications; and press rates for information to the press and radio.

Section 10

No censorship shall be applied to the official correspondence and other official communications of the Organization. The Organization shall have the right to use codes and to despatch and receive its correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic courriers and bags. Nothing in this section shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between the Organization and the Government of Canada.

Section 11

(1) Any aircraft owned, operated or chartered by the Organization, by Representatives of Members or by officials of the Organization, when used on official business or for or in connection with official meetings of the Organization, does not need prior permission for entry into or departure from Canadian territory, provided that notice be given to appropriate Canadian aeronautical authorities, and provided that any aircraft used will be subject to the standard Air Traffic Rules and Procedures and Air Regulations of Canada when operating within the territorial limits of Canada.

(2) In the event that the Organization should find it necessary and desirable to establish or operate an aerodrome, or maintain on a Canadian aerodrome

aircraft for its use or for the use of the Representatives of Members or of officials of the Organization, the conditions for the location, use and operation of such an aerodrome, the conditions for the maintenance of aircraft on a Canadian aerodrome and the conditions under which there shall be entry into and exit therefrom, shall be the subject of a supplementary agreement.

Article III

REPRESENTATIVES OF MEMBERS

Section 12

Except in so far as in any particular case any privilege or immunity is waived by the Member States whom they represent, Representatives of Members, while exercising their functions and during their journey to and from the place of meeting, shall enjoy the following privileges and immunities :

- (a) Immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as Representatives, immunity from legal process of every kind; this immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer the Representatives of Members;
- (b) Inviolability for all papers and documents;
- (c) The right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (d) Exemption in respect of themselves and their spouses and relatives dependent on them from immigration restrictions, aliens registration or national service obligations;
- (e) The same facilities in respect of currency or exchange restrictions as are accorded to diplomatic envoys;
- (f) The privilege of exemption (in respect of themselves and their families) from examination of baggage and other effects and admission thereof free of duty and taxes;
- (g) The privilege of admission of articles for their personal or family use free of duty and taxes at all times, provided that any article which was exempted from duty and taxes shall be subject thereto at the existing rates if sold or otherwise disposed of in Canada within a period of one year in the case of articles other than motor vehicles, and two years in the case of motor vehicles, from the date of acquisition and the vendor shall be liable for such duties and taxes;

- (h) The privilege of exemption from excise duty imposed under the Excise Act on domestic spirits and tobacco purchased from licensed manufacturers in Canada;
- (i) The privilege of exemption from excise and/or sales tax on domestic spirits, wine and tobacco products when purchased direct from licensed manufacturers for the personal use of the applicant, and on automobiles, ale, beer and stout when purchased under appropriate certificate from licensed manufacturers, provided that any article which was exempted from these taxes shall be subject thereto at the existing rates if sold or otherwise disposed of within a period of one year from the date of purchase and the vendor shall be liable for such tax;
- (j) Exemption from federal income tax as the Government of Canada accords to diplomatic envoys.

Section 13

Where the incidence of any form of taxation depends upon residence, periods during which the Representatives of Members are present in Canada for the discharge of their duties shall not be considered as periods of residence.

Section 14

Privileges and immunities are accorded to the Representatives of Members, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Organization. Consequently a Member State not only has the right but is under a duty to waive the immunity of its Representative in any case where in the opinion of the Member State the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

Section 15

No person shall be entitled to the provisions of Section 12 unless and until the name and status of this person shall have been duly notified to the Secretary of State for External Affairs as a Representative of a Member State.

Section 16

At the end of their missions no impediment, including taxation or restriction of exchange, shall be imposed to repatriation to foreign countries of assets held in the territory of Canada by Representatives of Members and their families.

Section 17

The provisions of Sections 12, 13 and 16 shall not apply to a Representative of Canada or to any Canadian citizen residing or ordinarily resident in Canada.

Section 18

The Government of Canada shall not levy death taxes or succession duties on or in respect of property acquired for or incidental to residence in Canada by deceased Representatives of Members who were not Canadian citizens at the date of death. The Government of Canada shall make no impediment to repatriation of such tax and duty-free property.

Article IV

OFFICIALS OF THE ORGANIZATION

Section 19

The President of the Council and the Secretary-General of the Organization shall be accorded, in respect of themselves, their spouses and minor children, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic envoys in Canada.

Section 20

Except in so far as in any particular case any privilege or immunity is waived by the Organization, the Senior Officials, other than those specified in Section 19 shall :

- (a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
- (b) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and aliens registration or national service obligations;
- (c) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;
- (d) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions in Canada;
- (e) be exempt from taxation on the salaries and emoluments paid to them by the Organization;
- (f) enjoy the privilege of exemption in respect of themselves and families from examination of baggage and other effects and admission thereof free of duty and taxes;
- (g) enjoy the privilege of admission of articles for their personal or family use free of duty and taxes at all times, provided that any article which was exempted from duty and taxes shall be subject thereto at the existing rates if sold or otherwise disposed of in Canada within a period of one year in the case of articles other than motor vehicles, and two

years in the case of motor vehicles, from the date of acquisition and the vendor shall be liable for such duties and taxes;

- (h) be eligible to claim for the exemption from excise duty imposed under the Excise Act on domestic spirits and tobacco purchased from licensed manufacturers in Canada;
- (i) be eligible to claim exemption from excise and/or sales tax on domestic spirits, wine and tobacco products when purchased direct from licensed manufacturers for the personal use of the applicant, and on automobiles, ale, beer and stout when purchased under appropriate certificate from licensed manufacturers, provided that any article which was exempted from these existing rates if sold or otherwise disposed of within a period of one year from the date of purchase and the vendor shall be liable for such tax.

Section 21

The Government of Canada shall not levy death taxes or succession duties on or in respect of property acquired for or incidental to residence in Canada by deceased Senior Officials who were not Canadian citizens at date of death. The Government of Canada shall make no impediment to the repatriation of such tax and duty-free property.

Section 22

Except in so far as in any particular case any privilege or immunity is waived by the Secretary-General of the Organization, other officials shall :

- (a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
- (b) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and aliens registration;
- (c) be immune from national service obligations;
- (d) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;
- (e) be accorded the same privileges in respect of exchange facilities as are accorded to officials of comparable ranks forming part of diplomatic missions in Canada;
- (f) have the right to import free of duty their furniture and effects, including motor vehicles but not including spirituous liquors, at the time of first taking up their post in Canada;

(g) be exempt from taxation on the salaries and emoluments paid to them by the Organization.

Section 23

At the termination of their employment no impediment, including taxation or restriction of exchange, shall be imposed to repatriation to foreign countries of assets held in the territory of Canada by officials and their families.

Section 24

The provisions of Sections 19, 20 (d) - (i) inclusive, 22 (e) - (g) inclusive and 23 shall not apply to any Canadian citizen residing or ordinarily resident in Canada. Moreover, an official of the Organization who is or becomes a resident of Canada upon retirement will not enjoy exemption from taxation on the pension which may be paid to him by the Organization.

Section 25

Privileges and immunities have been granted to officials in the interests of the Organization and not for the personal benefit of the individuals themselves. The Secretary-General of the Organization shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organization. In the case of the President of the Council and the Secretary-General of the Organization, the Council of the Organization shall have the right to waive the immunity.

Section 26

The Secretary-General of the Organization shall specify the categories of officials to whom the provisions of Section 22 shall apply. He shall submit these categories to the Secretary of State for External Affairs for his concurrence. The names of the officials included in these categories shall be notified to the Secretary of State for External Affairs.

Article V

OTHER ENTRY FACILITIES

Section 27

The Government of Canada shall permit and facilitate the entry into Canada of :

- (a) representatives of the press, or of radio, film or other information agencies who have been accredited to the Organization after consultation with the Government of Canada;
- (b) representatives of the United Nations or of Specialized Agencies required to attend the headquarters premises on official business.

Article VI

ABUSE OF PRIVILEGES

Section 28

If the Government of Canada considers that there has been an abuse of privilege or immunity conferred by this Agreement, consultations will be held between the Government of Canada and the Organization to determine whether any such abuse has occurred and, if so, to attempt to ensure that no repetition occurs. If such consultations fail to achieve a result satisfactory to the Government of Canada and to the Organization, the question as to whether an abuse of privilege or immunity has occurred shall be submitted to the International Court of Justice. If the International Court of Justice finds that such an abuse has occurred, the Government of Canada shall have the right, after notification to the Organization, to withhold the benefits of the privilege or immunity so abused.

Section 29

The Government of Canada may not require Representatives of Members or officials to leave the country on account of any activities performed by them in their official capacity. In the case, however, of the abuse of privileges of residence by these persons resulting from activities outside their official functions, the Government of Canada may require any such person to leave provided that :

- (a) Representatives of Members and Senior Officials shall not be required to leave the country otherwise than in accordance with the diplomatic procedure applicable to diplomatic envoys accredited to Canada;
- (b) other officials shall not be required to leave the country other than with the approval of the Secretary of State for External Affairs after consultation with the Secretary-General of the Organization; and, if expulsion proceedings are taken, the Secretary-General of the Organization shall have the right to appear in any such proceedings on behalf of the person against whom they are instituted.

Article VII

SETTLEMENT OF DISPUTES

Section 30

The Organization shall make adequate provision for appropriate modes of settlement of :

- (a) disputes arising out of contracts or other disputes of private character to which the Organization is a party;
- (b) disputes involving any official of the Organization if his immunity has not been waived in accordance with Section 25.

Section 31

(1) Any dispute between the Organization and the Government of Canada concerning the interpretation or application of this Agreement or of any supplementary agreement, which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators, one to be named by the President of the Council of the Organization, one to be named by the Secretary of State for External Affairs, and the third to be chosen by the two, or, if they should fail to agree upon a third, then by the President of the International Court of Justice.

(2) The President of the Council of the Organization or the Government of Canada may ask the Assembly of the Organization to request of the International Court of Justice an advisory opinion on any legal question arising in the course of the arbitral proceedings. Pending the receipt of the opinion of the Court, an interim decision of the arbitral tribunal shall be observed by both parties. Thereafter, the arbitral tribunal shall render a final decision having regard to the opinion of the Court.

Article VIII

FINAL CLAUSES

Section 32

The Government of Canada shall recognize and accept United Nations laissez-passers held by officials of the Organization as valid travel documents.

Section 33

The Government of Canada shall issue, on request, diplomatic visas to Representatives of Members and, as may be appropriate, diplomatic or courtesy visas to Officials of the Organization.

Section 34

This Agreement shall cease to be in force if the seat of the Organization is removed from the territory of Canada, except for such provisions as may be applicable in connection with the orderly termination of the operations of the Organization at its seat in Canada and the disposition of its property therein.

Section 35

This Agreement shall be construed in the light of its primary purpose, that is to enable the Organization at its headquarters in Canada fully and efficiently to discharge its responsibility and fulfil its purposes.

Section 36

This Agreement is subject to revision at the request of either of the Parties, who shall consult each other and mutually agree on any alterations to be made.

The Secretary-General of the Organization may conclude with the Govern-

ment of Canada supplementary agreements adjusting the provisions of this Agreement so far as this is deemed desirable.

Section 37

In case of interruption or threatened interruption of public services, e.g., telephone, telegraph, transportation, etc., the Government of Canada will consider the needs of the Organization as being of equal importance with the similar needs of its essential agencies and attempt to ensure that the work of the Organization is not prejudiced.

Section 38

The Organization shall facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Agreement.

Article IX

MISCELLANEOUS PROVISIONS

Section 39

It is agreed that no form of racial or religious discrimination shall be permitted in the operation of this Agreement.

Section 40

Nothing in this Agreement shall be construed as in any way diminishing, abridging, or weakening the right of the Canadian authorities to safeguard the security of Canada, provided the Organization shall be immediately informed in the event that the Canadian Government shall find it necessary to take any action against any person enumerated in the Agreement.

Section 41

This Agreement shall enter into force in accordance with an Exchange of Notes between the President of the Council and the Representative of the Government of Canada.

IN WITNESS WHEREOF the respective Representatives, being duly authorized thereto, have signed this Agreement.

DONE in duplicate, in the English and French languages, both texts being equally authentic, at Montreal on the 14th day of April one thousand nine hundred and fifty-one.

For the International Civil Aviation Organization :
(Signed) Edward WARNER [L. S.]

For the Government of Canada :
(Signed) Lester B. PEARSON [L. S.]
