

No. 5334

INTERNATIONAL ATOMIC ENERGY AGENCY

Agreement on the privileges and immunities of the International Atomic Energy Agency. Approved by the Board of Governors of the Agency on 1 July 1959

Official texts : English, French, Russian and Spanish.

Registered by the International Atomic Energy Agency on 13 September 1960.

AGENCE INTERNATIONALE DE L'ÉNERGIE ATOMIQUE

Accord sur les privilèges et immunités de l'Agence internationale de l'énergie atomique. Approuvé par le Conseil des Gouverneurs de l'Agence le 1^{er} juillet 1959

Textes officiels anglais, français, russe et espagnol.

Enregistré par l'Agence internationale de l'énergie atomique le 13 septembre 1960.

No. 5334. AGREEMENT¹ ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL ATOMIC ENERGY AGENCY. APPROVED BY THE BOARD OF GOVERNORS OF THE AGENCY ON 1 JULY 1959

Whereas Article XV.C of the Statute of the International Atomic Energy Agency² provides that the legal capacity, privileges and immunities referred to in that Article shall be defined in a separate agreement or agreements between the Agency, represented for this purpose by the Director General acting under the instructions of the Board of Governors, and the Members ;

Whereas an Agreement Governing the Relationship between the Agency and the United Nations has been adopted in accordance with Article XVI of the Statute ; and

Whereas the General Assembly of the United Nations, contemplating the unification as far as possible of the privileges and immunities enjoyed by the United Nations and by the various agencies brought into relationship with the United Nations has adopted the Convention on the Privileges and Immunities of the Specialized Agencies,³ and a number of Members of the United Nations have acceded thereto ;

The Board of Governors

1. *Has approved*, without committing the Governments represented on the Board, the text below, which in general follows the Convention on the Privileges and Immunities of the Specialized Agencies ; and
2. *Invites* the Members of the Agency to consider and, if they see fit, to accept this Agreement.

¹ The Agreement came into force as regards the Republic of Finland on 29 July 1960 and as regards the Federal Republic of Germany on 4 August 1960, on deposit of their respective instruments of acceptance with the Director-General of the International Atomic Energy Agency, in accordance with section 38. The instrument of acceptance of the Federal Republic of Germany was accompanied by the following reservation :

"The Government of the Federal Republic of Germany, while accepting the agreement of the Agency's privileges and immunities by depositing the necessary document, emphasizes the fact that it reserves, with reference to art. VI, Section 18 a (ii) of said agreement, the right to tax citizens of the Federal Republic of Germany inasmuch as this right has not been renounced by double taxation treaties."

² United Nations, *Treaty Series*, Vol. 276, p. 3 ; Vol. 293, p. 359 ; Vol. 312, p. 427 ; Vol. 316, p. 387, and Vol. 356, p. 378.

³ See footnote 1, p. 374 of this volume.

Article I

DEFINITIONS

SECTION 1

In this Agreement :

- (i) The expression "the Agency" means the International Atomic Energy Agency ;
- (ii) For the purposes of Article III, the words "property and assets" shall also include property and funds in the custody of the Agency or administered by the Agency in furtherance of its statutory functions ;
- (iii) For the purposes of Articles V and VIII, the expression "representatives of Members" shall be deemed to include all Governors, representatives, alternates, advisers, technical experts and secretaries of delegations ;
- (iv) In sections 12, 13, 14 and 27, the expression "meetings convened by the Agency" means meetings :
 - (1) of its General Conference and of its Board of Governors ;
 - (2) of any international conference, symposium, seminar or panel convened by it ; and
 - (3) of any committee of any of these bodies ;
- (v) For the purposes of Articles VI and IX, the expression "officials of the Agency" means the Director General and all members of the staff of the Agency except those who are locally recruited and assigned to hourly rates.

Article II

JURIDICAL PERSONALITY

SECTION 2

The Agency shall possess juridical personality. It shall have the capacity (a) to contract, (b) to acquire and dispose of immovable and movable property and (c) to institute legal proceedings.

Article III

PROPERTY, FUNDS AND ASSETS

SECTION 3

The Agency, its property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

SECTION 4

The premises of the Agency shall be inviolable. The property and assets of the Agency, 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.

SECTION 5

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

SECTION 6

Without being restricted by financial controls, regulations or moratoria of any kind :

- (a) The Agency may hold funds, gold or currency of any kind and operate accounts in any currency ;
- (b) The Agency may freely transfer its funds, gold or currency from one country to another or within any country and convert any currency held by it into any other currency.

SECTION 7

The Agency shall, in exercising its rights under section 6, pay due regard to any representations made by the Government of any State party to this Agreement in so far as it is considered that effect can be given to such representations without detriment to the interests of the Agency.

SECTION 8

The Agency, its assets, income and other property shall be :

- (a) Exempt from all direct taxes ; it is understood, however, that the Agency 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 Agency for its official use ; it is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed to with the Government of that country ;
- (c) Exempt from duties and prohibitions and restrictions on imports and exports in respect of its publications.

SECTION 9

While the Agency will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the Agency is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, States parties to this Agreement will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

Article IV

FACILITIES IN RESPECT OF COMMUNICATIONS

SECTION 10

The Agency shall enjoy, in the territory of each State party to this Agreement and as far as may be compatible with any international conventions, regulations and arrangements to which that State is a party, for its official communications, treatment not less favourable than that accorded by the Government of such a State to any other Government, including the latter's diplomatic mission, in the matter of priorities, rates and taxes for posts and telecommunications, and press rates for information to the press and radio.

SECTION 11

No censorship shall be applied to the official correspondence and other official communications of the Agency.

The Agency shall have the right to use codes and to dispatch and receive correspondence and other official communications by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

Nothing in this section shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a State party to this Agreement and the Agency.

Article V

REPRESENTATIVES OF MEMBERS

SECTION 12

Representatives of Members at meetings convened by the Agency shall, while exercising their functions and during their journeys to and from the place of meeting, 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 official capacity, immunity from legal process of every kind ;
- (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 from immigration restrictions, aliens' registration or national service obligations in the State which they are visiting or through which they are passing in the exercise of their functions ;
- (e) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions ;
- (f) The same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions.

SECTION 13

In order to secure for the representatives of Members of the Agency at meetings convened by the Agency complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

SECTION 14

Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members of the Agency at meetings convened by the Agency are present in a Member State for the discharge of their duties shall not be considered as periods of residence.

SECTION 15

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 connexion with the Agency. Consequently, a Member note only has the right but is under a duty to waive the immunity of its representatives in any case where, in the opinion of the Member, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.

SECTION 16

The provisions of sections 12, 13 and 14 are not applicable in relation to the authorities of a State of which the person is a national or of which he is or has been a representative.

Article VI

OFFICIALS

SECTION 17

The Agency shall from time to time make known to the Governments of all States parties to this Agreement the names of the officials to whom the provisions of this Article and of Article IX apply.

SECTION 18

(a) Officials of the Agency shall :

- (i) Be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity ;
- (ii) Enjoy the same exemption from taxation in respect of the salaries and emoluments paid to them by the Agency and on the same conditions as are enjoyed by officials of the United Nations ;
- (iii) Be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration ;
- (iv) Be accorded the same privileges in respect of exchange facilities as are accorded to officials of comparable rank of diplomatic missions ;
- (v) Be given, together with their spouses and relatives dependant on them, the same repatriation facilities in time of international crises as officials of comparable rank of diplomatic missions ;
- (vi) Have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

(b) Officials of the Agency shall, while exercising the functions of an inspector under Article XII of the Statute of the Agency or those of a project examiner under Article XI thereof, and while travelling in their official capacity en route to and from the performance of these functions, enjoy all the additional privileges and immunities set forth in Article VII of this Agreement so far as is necessary for the effective exercise of such functions.

SECTION 19

The officials of the Agency shall be exempt from national service obligations, provided that, in relation to the States of which they are nationals, such exemption shall be confined to officials of the Agency whose names have, by reason of their

duties, been placed upon a list compiled by the Director General of the Agency and approved by the State concerned.

Should other officials of the Agency be called up for national service, the State concerned shall, at the request of the Agency, grant such temporary deferments call-up of such officials as may be necessary to avoid interruption in the continuation of essential work.

SECTION 20

In addition to the privileges and immunities specified in section 18 and 19 above, the Director General of the Agency, including any official acting on his behalf during his absence from duty, shall be accorded on behalf of himself, his spouse and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys on behalf of themselves, their spouses and minor children, in accordance with international law. The same privileges and immunities, exemptions and facilities shall also be accorded to a Deputy Director General or official of equivalent rank of the Agency.

SECTION 21

Privileges and immunities are granted to officials in the interest of the Agency only and not for the personal benefit of the individuals themselves. The Agency shall have the right and the duty to waive the immunity of any official in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Agency.

SECTION 22

The Agency shall co-operate at all times with the appropriate authorities of Member States to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuses in connexion with the privileges, immunities and facilities mentioned in this Article.

Article VII

EXPERTS ON MISSIONS FOR THE AGENCY

SECTION 23

Experts (other than officials coming within the scope of Article VI) serving on committees of the Agency or performing missions for the Agency, including missions as inspectors under Article XII of the Statute of the Agency and as project examiners under Article XI thereof, shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions, including the time spent on journeys in connexion with service on such committees or missions :

- (a) Immunity from personal arrest or detention and from seizure of their personal baggage ;
- (b) In respect of words spoken or written or acts done by them in the performance of their official functions, immunity from legal process of every kind, such immunity to continue notwithstanding that the persons concerned are no longer serving on committees of, or employed on missions for, the Agency ;
- (c) Inviolability for all papers and documents ;
- (d) For the purposes of their communications with the Agency, the right to use codes and to receive papers or correspondence by courier or in sealed bags ;
- (e) The same facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions ;
- (f) The same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions.

SECTION 24

Nothing in sub-paragraphs (c) and (d) of section 23 shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a State party to this Agreement and the Agency.

SECTION 25

Privileges and immunities are granted to the experts of the Agency in the interests of the Agency and not for the personal benefit of the individuals themselves. The Agency shall have the right and the duty to waive the immunity of any expert in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Agency.

Article VIII

ABUSES OF PRIVILEGE

SECTION 26

If any State party to this Agreement considers that there has been an abuse of a privilege or immunity conferred by this Agreement, consultations shall be held between that State and the Agency 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 State and the Agency, the question whether an abuse of a privilege or immunity has occurred shall be settled by a procedure in accordance with section 34. If it is found that such an abuse has occurred, the State party to this Agreement affected by such abuse has the right, after notification to

the Agency, to withhold from the Agency the benefits of the privilege or immunity so abused. However, the withholding of privileges or immunities must not interfere with the Agency's principal activities or prevent the Agency from performing its principal functions.

SECTION 27

Representatives of Members at meeting convened by the Agency, while exercising their functions and during their journeys to and from the place of meeting, and officials within the meaning of section 1 (v), shall not be required by the territorial authorities to leave the country in which they are performing their functions on account of any activities by them in their official capacity. In the case, however, of abuse of privileges of residence committed by any such person in activities in that country outside his official functions, he may be required to leave by the Government of that country, provided that :

- (a) Representatives of Members, or persons who are entitled to the immunities provided in section 20, shall not be required to leave the country otherwise than in accordance with the diplomatic procedure applicable to diplomatic envoys accredited to that country ;
- (b) In the case of an official to whom section 20 is not applicable, no order to leave the country shall be issued by the territorial authorities other than with the approval of the Foreign Minister of the country in question, and such approval shall be given only after consultation with the Director General of the Agency ; and, if expulsion proceedings are taken against an official, the Director General of the Agency shall have the right to appear in such proceedings on behalf of the person against whom they are instituted.

Article IX

"LAISSEZ-PASSER"

SECTION 28

Officials of the Agency shall be entitled to use the United Nations *laissez-passer* in conformity with administrative arrangements concluded between the Director General of the Agency and the Secretary-General of the United Nations. The Director General of the Agency shall notify each State party to this Agreement of the administrative arrangements so concluded.

SECTION 29

States parties to this Agreement shall recognize and accept the United Nations *laissez-passer* issued to officials of the Agency as valid travel documents.

SECTION 30

Applications for visas, where required, from officials of the Agency holding United Nations *laissez-passer*, when accompanied by a certificate that they are travelling on the business of the Agency, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

SECTION 31

Similar facilities to those specified in section 30 shall be accorded to experts and other persons who, though not holders of United Nations *laissez-passer*, have a certificate that they are travelling on the business of the Agency.

SECTION 32

The Director General, the Deputy Directors General and other officials of a rank not lower than head of division of the Agency, traveling on United Nations *laissez-passer* on the business of the Agency, shall be granted the same facilities for travel as are accorded to officials of comparable rank in diplomatic missions.

Article X

SETTLEMENT OF DISPUTES

SECTION 33

The Agency shall make provision for appropriate modes of settlement of :

- (a) Disputes arising out of contracts or other disputes of a private character to which the Agency is a party ;
- (b) Disputes involving any official or expert of the Agency who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with sections 21 or 25.

SECTION 34

Unless in any case it is agreed by the parties to have recourse to another mode of settlement, all differences arising out of the interpretation or application of the present Agreement shall be referred to the International Court of Justice, in accordance with the Statute of the Court. If a difference arises between the Agency and a Member and they do not agree on any other mode of settlement, a request shall be made for an advisory opinion on any legal question involved, in accordance with Article 96 of the Charter of the United Nations and Article 65 of the Statute of the Court and the relevant provisions of the agreement concluded between the United Nations and the Agency. The opinion given by the Court shall be accepted as decisive by the parties.

Article XI

INTERPRETATION

SECTION 35

The provisions of this Agreement shall be interpreted in the light of the functions with which the Agency is entrusted by its Statute.

SECTION 36

The provisions of this Agreement shall in no way limit or prejudice the privileges and immunities which have been, or may hereafter be, accorded to the Agency by any State by reason of the location in the territory of the State of the Agency's Headquarters or regional offices, or of officials, experts, materials, equipment or facilities in connexion with Agency projects or activities, including the application of safeguards to an Agency project or other arrangement. This Agreement shall not be deemed to prevent the conclusion between the Agency and any State party thereto of supplemental agreements adjusting the provisions of this Agreement or extending or curtailing the privileges and immunities thereby granted.

SECTION 37

This Agreement shall not itself operate so as to abrogate, or derogate from, any provisions of the Statute of the Agency or any rights or obligations which the Agency may otherwise have, acquire or assume.

Article XII

FINAL PROVISIONS

SECTION 38

This Agreement shall be communicated to every Member of the Agency for acceptance. Acceptance shall be effected by the deposit with the Director General of an instrument of acceptance, and the Agreement shall come into force as regards each Member on the date of deposit of that Member's instrument of acceptance. It is understood that, when an instrument of acceptance is deposited on behalf of any State, that State will be in a position under its own law to give effect to the terms of this Agreement. The Director General shall transmit a certified copy of this Agreement to the Government of every State now or hereafter becoming a Member of the Agency, and shall inform all Members of the deposit of each instrument of acceptance and of the filing of any notification of denunciation provided for in section 39.

It shall be permissible for a Member to make reservations to this Agreement. Reservations may be made only at the time of the deposit of the Member's instrument of acceptance, and shall immediately be communicated by the Director General to all Members of the Agency.

SECTION 39

This Agreement shall continue in force as between the Agency and every Member which has deposited an instrument of acceptance for so long as that Member remains a Member of the Agency, or until a revised agreement has been approved by the Board of Governors and that Member has become a party to this revised agreement, provided that if a Member files a notification of denunciation with the Director General this Agreement shall cease to be in force with respect to such Member one year after the receipt of such notification by the Director General.

SECTION 40

At the request of one-third of the States parties to this Agreement, the Board of Governors of the Agency shall consider whether to approve amendments thereto. Amendments approved by the Board shall enter into force upon their acceptance in accordance with the procedure provided in section 38.
