

No. 16545

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## MULTILATERAL

**Convention on the privileges and immunities of the Agency for the Prohibition of Nuclear Weapons in Latin America (OPANAL). Adopted by the General Conference of the Agency for the Prohibition of Nuclear Weapons in Latin America at its fourth session at Mexico City on 8 September 1969**

*Authentic text: Spanish.*

*Registered by the Secretary-General of the Agency for the Prohibition of Nuclear Weapons in Latin America, acting on behalf of the Parties, on 24 April 1978.*

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## MULTILATÉRAL

**Convention sur les privilèges et immunités de l'Organisme pour l'interdiction des armes nucléaires en Amérique latine (OPANAL). Adoptée par la Conférence générale de l'Organisme pour l'interdiction des armes nucléaires en Amérique latine lors de sa quatrième session à Mexico, le 8 septembre 1969**

*Texte authentique : espagnol.*

*Enregistrée par le Secrétaire général de l'Organisme pour l'interdiction des armes nucléaires en Amérique latine, agissant au nom des Parties, le 24 avril 1978.*

## [TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> ON THE PRIVILEGES AND IMMUNITIES OF THE AGENCY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA (OPANAL)

The Contracting Parties,

Considering that on 12 February 1967 the States members of the Preparatory Commission for the Denuclearization of Latin America unanimously adopted the Treaty for the Prohibition of Nuclear Weapons in Latin America (the Treaty of Tlatelolco),<sup>2</sup>

Considering that article 22 of the Treaty of Tlatelolco stipulates that the Agency for the Prohibition of Nuclear Weapons in Latin America (OPANAL), hereinafter referred to as “the Agency”, shall enjoy in the territory of each of the Contracting Parties such legal capacity and such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its purposes, have agreed as follows:

## LEGAL PERSONALITY

*Article 1*

The Agency shall have legal personality and, in particular, the capacity to perform any act or enter into any contract permitted by the laws of the State concerned and may take part in any legal or administrative action in defence of its interests.

<sup>1</sup> Came into force on 19 March 1970 in respect of Jamaica which on that date deposited its instrument of ratification with the Secretary-General of the Agency, in accordance with article 8(2).

Subsequently, the Convention came into force for the following States on the date on which their instruments of ratification were deposited with the Secretary-General of the Agency, in accordance with article 8(2).

<i>State</i>	<i>Date of deposit of the instrument of ratification</i>
Mexico .....	28 November 1970
(With effect from 28 November 1970.)	
Ecuador .....	19 March 1974
(With effect from 19 March 1974.)	
Panama .....	5 March 1975
(With effect from 5 March 1975.)	
Nicaragua .....	24 June 1975
(With effect from 24 June 1975.)	
Haiti .....	7 March 1977
(With effect from 7 March 1977.)	
Dominican Republic .....	20 May 1977
(With effect from 20 May 1977.)	
Peru .....	12 July 1977
(With effect from 12 July 1977.)	
Venezuela* .....	22 December 1977
(With effect from 22 December 1977.)	

\* Confirming the reservation made upon signature. For the text of the reservation see p. 211 of this volume.

<sup>2</sup> United Nations, *Treaty Series*, vol. 634, p. 281.

## PROPERTY

*Article 2*

1. The Agency and its property, wherever situated and by whomsoever held, shall enjoy immunity from every form of legal process, except in cases in which it expressly waives such immunity. It is, however, understood that such waiver shall not apply to any judicial enforcement measures.

2. The premises of the Agency shall be inviolable. The property of the Agency, wherever situated and by whomsoever held, shall enjoy immunity from search, requisition, confiscation and expropriation and from any other form of interference, whether by executive, administrative, judicial or legislative action.

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

4. Without being subject to any fiscal orders, regulations or moratoria of any kind:

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

5. In exercising its rights under the foregoing paragraph, the Agency shall pay due regard to any representations made by the Government of any member insofar as it is considered that effect can be given to such representations without detriment to the interests of the Agency.

6. The Agency and its property shall be exempt:

- (a) From all direct taxes; it is understood, however, that it may not claim exemption from taxes which are, in fact, charges for public utility services;
- (b) From customs duties and prohibitions and restrictions in respect of articles imported or exported for its official use. It is understood, however, that articles imported duty-free shall not be sold in the country into which they are imported except under conditions agreed with the authorities of that country;
- (c) From customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

## FACILITIES IN RESPECT OF COMMUNICATIONS

*Article 3*

1. The Agency shall enjoy in the territory of each member, for its official communications, communication facilities that are no less favourable than those granted by the Government of that member to any other Government, including diplomatic missions, in the matter of priorities, dues and taxes on correspondence, cables, telegrams, radiograms, telephotos, telephone and other communications as well as press rates for information to the press and radio. No censorship shall be applied to the correspondence or other official communications of the Agency.

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

## REPRESENTATIVES OF MEMBER STATES

*Article 4*

1. Representatives of members to the principal and subsidiary organs and representatives to conferences convened by the Agency shall, while exercising their functions or in transit to or from the place of meeting, be accorded the following privileges and immunities:

- (a) Immunity from personal arrest or detention and from seizure of their personal baggage and immunity from legal process of every kind in respect of all acts performed and statements made, whether oral or written, in the exercise of their functions in the aforesaid capacity;
- (b) Inviolability for all papers and documents;
- (c) The right to use codes and to receive documents or correspondence by courier or in sealed bags;
- (d) Exemption for representatives and their spouses from all restrictions with regard to migration and alien registration and from any national service in the country they are visiting or through which they are passing in the exercise of their functions;
- (e) The same exemptions in respect of foreign currency restrictions as are accorded to representatives of foreign Governments on temporary official missions;
- (f) The same immunities and exemptions in respect of personal baggage as are accorded to diplomatic envoys, and also
- (g) Such other privileges, immunities and facilities compatible with the foregoing as are enjoyed by diplomatic envoys, except that they shall have no right to claim exemption from customs duties on goods imported, otherwise than as part of their personal baggage, or from sales and excise taxes.

2. In order to secure, for the representatives of members to the principal and subsidiary organs of the Agency and to conferences convened by it, freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of oral or written statements and all acts performed in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of members.

3. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of members to the principal and subsidiary organs of the Agency and to conferences convened by it are present in a country for the discharge of their duties shall not be considered as periods of residence for such purposes.

4. Privileges and immunities shall be accorded to the representatives of members not for their personal benefit but in order to safeguard the independent exercise of their functions in connection with the Agency. Consequently, a member not only has the right but the duty to waive the immunity of its representative in any case where, in the opinion of the member, the immunity would impede the course of justice and it can be waived without prejudice to the purposes for which the immunity was accorded.

5. The provisions of paragraphs 2, 3 and 4 may not be invoked against the authorities of the State of which the person concerned is a national or is or has been a representative.

6. The expression "representatives" as used in this article includes all representatives as well as alternate representatives, advisers and experts.

## OFFICIALS

*Article 5*

1. The Secretary-General of the Agency shall specify the categories of officials to which the provisions of this article shall apply. He shall submit a list of these categories to the General Conference, and they shall subsequently be made known to the Governments of all members periodically.

2. Officials of the Agency:

- (a) Shall be immune from legal process of any kind in respect of words written or spoken and all acts performed by them in their official capacity;
- (b) Shall be immune, together with their spouses and minor children, from migration restrictions and alien registration;
- (c) Shall be given, together with their spouses and minor children, the same repatriation facilities in time of international crisis as diplomatic envoys;
- (d) Shall be able to import free of duty their furniture and effects upon first entering the country to take up their posts.

3. Except in the country of which they are a national, officials of the Agency:

- (a) Shall be exempt from taxation on the salaries and emoluments paid to them by the Agency;
- (b) Shall be exempt from national service of any kind;
- (c) Shall enjoy the same privileges in respect of exchange facilities as are accorded to the officials of comparable rank forming part of diplomatic missions to the Government concerned.

4. In addition to the privileges and immunities enumerated in the two foregoing paragraphs, the Secretary-General of the Agency, and his spouse and minor children, shall be accorded the same privileges, immunities, exemptions and facilities as are accorded to diplomatic envoys under international law.

5. Privileges and immunities are granted to officials in the interests of the Agency and not for the personal benefit of the individuals themselves. The Secretary General of the Agency 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 Agency.

6. The Agency shall co-operate at all times with the competent authorities of members to facilitate the proper administration of justice, ensure compliance with police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this article.

## INSPECTORS AND EXPERTS ON MISSIONS FOR THE AGENCY

*Article 6*

1. Inspectors and experts of the Agency (other than the officials referred to in article 5) performing missions for the Agency shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular, they shall be accorded:

- (a) Immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) In respect of words spoken or written and acts performed by them in the course of the performance of their mission, 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 employed on missions for the Agency;

- (c) Inviolability for all papers and documents;
- (d) For the purposes of communicating 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 or exchange regulations, except in the country of which they are a national, 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 diplomatic envoys;
- (g) Immunity, for themselves and for their spouses and minor children, from migration restrictions and alien registration.

2. Privileges and immunities are granted to inspectors and experts in the interests of the Agency and not for the personal benefit of the individuals themselves. The Secretary General of the Agency shall have the right and the duty to waive the immunity of any inspector or expert 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 Agency.

#### SETTLEMENT OF DISPUTES

##### *Article 7*

1. The Agency shall take appropriate steps for the settlement of:

- (a) Disputes arising out of contracts or other disputes of a private law character to which the Agency is a party;
- (b) Disputes involving any official of the Agency who by reason of his official position enjoys immunity, if the Secretary-General of the Agency has not waived the immunity of the official concerned.

2. Disputes arising out of the interpretation or application of this Convention may be referred to the International Court of Justice, unless in any particular case the Parties agree to have recourse to a different mode of settlement. In the event of a difference of opinion between the Agency and a member, a request may 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 International Court of Justice. The opinion given by the Court shall be accepted as decisive by the Parties.

#### FINAL PROVISIONS

##### *Article 8*

1. After its approval by the General Conference of the Agency, this Convention shall be open for signature to all member States.

2. It shall enter into force for signatory States members of the Agency on the date on which their instruments of ratification are deposited to the Secretary-General of the Agency.

3. The Secretary General of the Agency shall inform all the members of the deposit of each instrument of ratification.

DONE at Mexico City on 23 December 1969.

For the United Mexican States:

*[Signed]*

ANTONIO CARRILLO FLORES  
Secretary for External Relations  
12 January 1970

For Costa Rica:

*[Signed]*

JOSÉ AMADOR GUEVARA  
Ambassador  
27 January 1970

For Jamaica:

*[Signed]*

EGERTON R. RICHARDSON, Kt., CMG  
Ambassador  
19 March 1970

For the Dominican Republic:

*[Signed]*

Dr. GUSTAVO GÓMEZ CEARA  
Ambassador  
23 March 1970

For Peru:

*[Signed]*

ANÍBAL PONCE SOBREVILLA  
Ambassador  
18 August 1970

For the Eastern Republic of Uruguay:

*[Signed]*

JUAN BAUTISTA OCHOTECO  
Ambassador  
5 December 1972

For the Republic of Panama:

*[Signed]*

EMILIA AROSEMENA VALLARINO  
Ambassador  
9 July 1973

For the Republic of Haiti:

*[Signed]*

Dr. ADRIEN RAYMOND  
Secretary of State, Foreign Affairs  
30 July 1973

For the Republic of Ecuador:

*[Signed]*

Dr. JOSÉ RICARDO MARTÍNEZ COBO  
Ambassador  
4 October 1973

For the Republic of Honduras:

*[Signed]*

Dr. TITO H. CÁRCAMO TERCERO  
Ambassador  
23 November 1973

For the Republic of Nicaragua:

*[Signed]*

ALEJANDRO MONTIEL ARGÜELLO  
Minister for Foreign Affairs  
28 February 1975

For the Republic of El Salvador:

*[Signed]*

Corl. MAURICIO VIDES CEBALLOS  
Ambassador  
22 April 1975

For the Republic of Venezuela:

[*Signed*]

Dr. RAFAEL JOSÉ NERI  
Ambassador  
31 March 1977

*Reservation:*

In accordance with the constitutional provisions of the Republic presently in force, the privileges and immunities referred to in this Agreement will not apply in the national territory to Venezuelan citizens. [*Signed*]  
Rafael J. Neri

For the Republic of Suriname:

[*Signed*]

H.E. HENRICUS A. F. HEIDWEILLER  
Ambassador  
2 February 1979

For the Republic of Paraguay:

[*Signed*]

S.S. HUGO COUCHONNAL LAGRAVE  
Councillor, Chargé d'affaires, a.i.  
30 March 1979

For the Republic of Bolivia:

[*Signed*]

RAÚL ANGEL OSSIO AYONoz  
Minister Councillor, Chargé d'affaires, a.i.  
7 February 1980

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