

No. 21269

**AUSTRIA
and
OPEC FUND FOR INTERNATIONAL
DEVELOPMENT**

**Agreement regarding the headquarters of the Fund
(with exchange of notes). Signed at Vienna on
21 April 1981**

Authentic texts: German and English.

Registered by Austria on 6 October 1982.

**AUTRICHE
et
FONDS DE L'OPEP POUR LE DÉVELOPPEMENT
INTERNATIONAL**

**Accord concernant le siège du Fonds (avec échange de
notes). Signé à Vienne le 21 avril 1981**

Textes authentiques: allemand et anglais.

Enregistré par l'Autriche le 6 octobre 1982.

AGREEMENT¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE OPEC FUND FOR INTERNATIONAL DEVELOPMENT REGARDING THE HEADQUARTERS OF THE FUND

The Republic of Austria and the OPEC Fund for International Development, desiring to conclude an agreement regarding the headquarters of the Fund in the City of Vienna and to regulate questions connected therewith, have agreed as follows:

Article 1. When used in this Agreement,

(a) "The Fund" means the OPEC Fund for International Development established by virtue of the Agreement signed on January 28, 1976, as amended;

(b) "The Government" means the Federal Government of the Republic of Austria;

(c) "Director-General" means the Director-General of the Fund or any officer designated by him to act on his behalf;

(d) "Member Country" means a State which is a member of the Fund;

(e) "Minister" means a member of the Ministerial Council of the Fund as defined by the Agreement establishing the Fund;

(f) "Governor" means a representative or an alternate representative of a Member Country to the Governing Board of the Fund as defined in the Agreement establishing the Fund;

(g) "Representatives of Member Countries" means accredited representatives of Member Countries and members of their delegations excluding administrative and technical or other auxiliary staff;

(h) "Representatives of other countries" means representatives of States which are not members of the Fund who are sent by their governments to perform missions related to the Fund's activities, or who are sent as observers in accordance with the rules adopted by the Fund to meetings convened by the Fund, and members of their delegations excluding administrative and technical or other auxiliary staff;

(i) "Meeting convened by the Fund" means any meeting of the Ministerial Council or of the Governing Board of the Fund or of sub-committees thereof or any international conferences or other gatherings convened by the Fund or under its sponsorship;

(j) "Archives of the Fund" means records and correspondence, documents, manuscripts, still and moving pictures, films, and sound recordings belonging to or held by the Fund;

(k) "Officials of the Fund" means the Director-General and all members of the staff of the Fund, except those who are locally recruited and assigned to hourly rates;

¹ Came into force on 10 May 1982, upon an exchange of notes between the Federal Minister for Foreign Affairs of the Republic of Austria and the Director-General of the Fund, in accordance with article 31 (1).

(l) "Property" means all property, including funds and other assets, belonging to the Fund or held or administrated by the Fund in furtherance of its statutory functions and all income of the Fund; and

(m) "Headquarters" means the headquarters area with the building or buildings upon it and the Director-General's Residence, as defined in a supplemental agreement between the Government and the Fund, and, as the case may be, any other land or building which may from time to time be included, temporarily or permanently, therein in accordance with the provisions of article 2 (2).

Article 2. (1) The permanent headquarters of the Fund as defined in the supplemental agreement between the Government and the Fund referred to in article 1 (m) shall be in the headquarters seat.

(2) Any building outside the headquarters seat which is used with the concurrence of the Government for meetings convened by the Fund shall be temporarily included in the headquarters seat.

Article 3. (1) The Government recognizes the extraterritoriality of the headquarters seat, which shall be under the control and authority of the Fund as provided in this Agreement.

(2) Except as otherwise provided in this Agreement and subject to any regulation enacted under article 4, the laws of the Republic of Austria shall apply within the headquarters seat.

(3) Except as otherwise provided in this Agreement, the courts or other appropriate organs of the Republic of Austria shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place in the headquarters seat.

Article 4. (1) The Fund shall have the power to make regulations, operative within the headquarters seat, for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions. No law of the Republic of Austria which is inconsistent with a regulation of the Fund authorized by this article shall, to the extent of such inconsistency, be applicable within the headquarters seat. Any dispute between the Republic of Austria and the Fund as to whether a regulation of the Fund is authorized by this article or as to whether a law of the Republic of Austria is inconsistent with any regulation of the Fund authorized by this article shall be promptly settled by the procedure set out in article 29. Pending such settlement, the regulation of the Fund shall apply and the law of the Republic of Austria shall be inapplicable in the headquarters seat to the extent that the Fund claims it to be inconsistent with the regulation of the Fund.

(2) The Fund shall, from time to time as may be appropriate, inform the Government of regulations made by it in accordance with paragraph 1.

(3) This article shall not prevent the reasonable application of fire protection or sanitary regulations of the appropriate Austrian authorities.

Article 5. (1) The headquarters seat shall be inviolable. No officer or official of the Republic of Austria, or other person exercising any public authority within the Republic of Austria, shall enter the headquarters seat to

perform any duties therein except with the consent of, and under conditions approved by, the Director-General. The consent of the Director-General may, however, be assumed in case of fire or other disaster requiring prompt protective action.

(2) The service of legal process, including the seizure of private property, shall not take place within the headquarters seat except with the express consent of, and under conditions approved by, the Director-General.

Article 6. (1) The appropriate Austrian authorities shall exercise due diligence to ensure that the tranquillity of the headquarters seat is not disturbed by any person or group of persons attempting unauthorized entry into or creating disturbances in the immediate vicinity of the headquarters seat, and shall provide on the boundaries of the headquarters seat such police protection as may be required for these purposes.

(2) If so requested by the Director-General, the appropriate Austrian authorities shall provide a sufficient number of police for the preservation of law and order in the headquarters seat.

(3) The appropriate Austrian authorities shall take all reasonable steps to ensure that the amenities of the headquarters seat are not prejudiced and that the purposes for which the headquarters seat is required are not obstructed by any use made of the land or buildings in the vicinity of the headquarters seat. The Fund shall take all reasonable steps to ensure that the amenities of the land in the vicinity of the headquarters seat are not prejudiced by any use made of the land or buildings in the headquarters seat.

Article 7. The Government recognizes the juridical personality of the Fund and, in particular, its capacity:

- (a) To contract;
- (b) To acquire and dispose of movable and immovable property;
- (c) To perform all its financial and other operations as defined by the Agreement establishing the Fund;
- (d) To institute legal proceedings.

Article 8. The Government recognizes the right of the Fund to convene meetings within the headquarters seat or, with the concurrence of the Government, elsewhere in the Republic of Austria.

Article 9. The Fund and its property, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case the Fund shall have expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

Article 10. The property of the Fund, wherever located and by whomsoever held, shall enjoy immunity from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

Article 11. The archives of the Fund shall be inviolable wherever located.

Article 12. (1) The Fund, its assets, income and other property shall be exempt from all forms of taxation, provided, however, that such tax exemption shall not extend to the owner or lessor of any property rented by the Fund.

(2) In so far as the Government, for important administrative considerations, may be unable to grant to the Fund exemption from indirect taxes which constitute part of the cost of goods purchased by or services rendered to the Fund, including rentals, the Government shall reimburse the Fund for such taxes by the payment, from time to time, of lump sums to be agreed upon by the Fund and the Government. It is, however, understood that the Fund will not claim reimbursement with respect to minor purchases. With respect to such taxes, the Fund shall at all times enjoy at least the same exemptions and facilities as are granted to Austrian governmental administrations or to chiefs of diplomatic missions accredited to the Republic of Austria, whichever are the more favourable. It is further understood that the Fund will not claim exemption from taxes which are in fact no more than charges for public utility services.

(3) All loans, grants, purchases and transfers of currencies or other financial papers, deposits, investments and all other transactions to which the Fund is a party, and all documents recording such transactions, shall be exempt from all taxes, recording fees, and documentary taxes.

(4) Articles imported or exported by the Fund for official purposes shall be exempt from customs duties and other levies, and from prohibitions and restrictions on imports and exports.

(5) The Fund shall be exempt from customs duties and other levies, prohibitions and restrictions on the importation of service automobiles, and spare parts thereof, required for its official purposes.

(6) The Government shall, if requested, grant allotments of gasoline or other fuels and lubricating oils for each such automobile operated by the Fund in such quantities as are required for its work and at such special rates as may be established for diplomatic missions in the Republic of Austria.

(7) Articles imported in accordance with paragraphs (4) and (5) or obtained from the Government in accordance with paragraph (6) of this article shall not be sold by the Fund in the Republic of Austria within two years of their importation or acquisition, unless otherwise agreed upon by the Government.

Article 13. The Fund shall enjoy, as far as may be compatible with any international conventions, regulations and arrangements to which the Government is a party, for its official communications, treatment not less favourable than that accorded by the Government to any other organization or government, including diplomatic missions of such other government, in the matter of priorities and rates for mails, cables, telegrams, radiograms, telephotos, television, telephone and other communications, and press rates for information to press and radio.

Article 14. (1) All official communications directed to the Fund, or to any of its officials at the headquarters seat, and all outward official communications of the Fund, by whatever means or in whatever form transmitted, shall

be immune from censorship and from any other form of interception or interference with their privacy.

(2) The Fund 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 privileges and immunities as diplomatic couriers and bags.

Article 15. Without being subject to any controls or regulations of any kind, the Fund may freely for official purposes:

- (a) Purchase any currencies through authorized channels and hold and dispose of them;
- (b) Operate accounts in any currency;
- (c) Purchase through authorized channels, hold and dispose of funds and securities;
- (d) Transfer its funds, securities and currencies to or from the Republic of Austria, to or from any other country, or within the Republic of Austria;
- (e) Perform all the operations pertaining to its activities as defined by the Agreement establishing the Fund.

Article 16. Any pension fund or provident fund established by or conducted under the authority of the Fund shall enjoy legal capacity in the Republic of Austria if the Fund so requests, and shall enjoy the same exemptions, immunities and privileges as the Fund itself.

Article 17. The Fund shall be exempt from all compulsory contributions to, and officials of the Fund shall not be required by the Government to participate in, any social security scheme of the Republic of Austria.

Article 18. The Government shall make such provision as may be necessary to enable any official of the Fund who is not afforded social security coverage by the Fund to participate, if the Fund so requests, in any social security scheme of the Republic of Austria. The Fund shall, in so far as possible, arrange, under conditions to be agreed upon, for the participation in the Austrian social security system of those locally recruited or temporarily employed members of its staff to whom it does not grant social security protection at least equivalent to that offered under Austrian law.

Article 19. (1) The Government shall take all necessary measures to facilitate the entry into, and sojourn in Austrian territory and shall place no impediment in the way of the departure from Austrian territory of the persons listed below, shall ensure that no impediment is placed in the way of their transit to or from the headquarters seat and shall afford them any necessary protection in transit:

- (a) Ministers and Representatives of Member Countries and their families;
- (b) Governors and their families;
- (c) Officials of the Fund, their families and other members of their households;
- (d) Persons, other than officials of the Fund, performing missions authorized by the Fund or serving on specialized organs of the Fund, working parties or other subsidiary bodies of the Fund, and their spouses;

- (e) Representatives of other countries;
- (f) Representatives of other organizations or other persons invited by the Fund to the headquarters seat on official business.

(2) Visas which may be required by persons referred to in this article shall be granted without charge as promptly as possible.

Article 20. Ministers and Representatives of Member Countries, Governors and Representatives of other countries shall, without prejudice to any other privileges and immunities which they may enjoy while exercising their functions or performing their missions and during their journeys to and from the headquarters seat, enjoy within and with respect to the Republic of Austria, the following privileges and immunities:

- (a) Immunity in respect to themselves, their spouses and dependent children from personal arrest or detention and from seizure of their personal baggage;
- (b) Immunity from legal process of any kind in respect of words spoken or written, and of all acts done by them in the performance of their official functions, such immunity to continue notwithstanding that the persons may no longer be engaged in the performance of such functions;
- (c) Inviolability of all papers and documents;
- (d) The right to use codes and to dispatch or receive papers and correspondence by courier or in sealed bags;
- (e) Exemption, in respect of themselves, their spouses and dependent children from immigration restrictions, alien registration and national service obligations;
- (f) The same privileges with respect to currency and exchange restrictions as the Government accords to representatives of foreign Governments on temporary official missions; and
- (g) The same immunities and facilities with respect to their personal and official baggage as the Government accords to members, having comparable rank, of diplomatic missions in the Republic of Austria.

Article 21. The privileges and immunities accorded by article 20 are conferred, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the Fund. Consequently, it is incumbent upon a Member Country as well as upon any other State sending representatives to perform missions related to the Fund's activities or observers to meetings convened by the Fund to waive the immunity of any of its representatives or of the Governor nominated by the respective State, in any case where, in the judgement of the country concerned, the immunity would impede the course of justice and where it can be waived without prejudice to the purposes for which it was accorded.

Article 22. Officials of the Fund shall enjoy within and with respect to the Republic of Austria the following privileges and immunities:

- (a) Immunity from legal process of any kind in respect of words spoken or written, and of acts performed by them, in their official capacity; such immunity to continue notwithstanding that the persons concerned may have ceased to be officials of the Fund;

- (b) Immunity from seizure of their personal and official baggage;
- (c) Immunity from inspection of official baggage, and, if the official comes within the scope of article 23, immunity from inspection of personal baggage;
- (d) Exemption from taxation in respect of the salaries, emoluments, indemnities and pensions paid to them by the Fund for services past or present or in connexion with their service with the Fund;
- (e) Exemption from any form of taxation on income derived by them from sources outside the Republic of Austria;
- (f) Exemption, with respect to themselves, their spouses, their dependent relatives and other members of their households from immigration restrictions and alien registration;
- (g) Freedom to acquire or maintain within the Republic of Austria or elsewhere foreign securities, foreign currency accounts, and other movable and under the same conditions applicable to Austrian nationals immovable property; and at the termination of their Fund employment, the right to take out of the Republic of Austria through authorized channels without prohibition or restriction their funds in the same currency and up to the amounts they had brought into the Republic of Austria and the interest accruing thereupon, as well as to transfer all the amounts saved from their salaries earned in an official capacity with the Fund and the interest accruing thereupon;
- (h) The same protection and repatriation facilities with respect to themselves, their spouses, their dependent relatives and other members of their households as the Government accords in time of international crises to members, having comparable rank, of diplomatic missions in the Republic of Austria; and
- (i) The right to import for personal use, free of duty and other levies, prohibitions and restrictions on imports:
 - (i) Their furniture and effects in one or more separate shipments, and thereafter to import necessary additions to the same;
 - (ii) One automobile every four years;
 - (iii) Limited quantities of certain articles for personal use or consumption and not for gift or sale; the Fund shall enjoy the right to establish a commissary of its own or its officials shall have access to the VIC commissary or one of the existing commissaries in Vienna; a supplemental agreement shall be concluded to regulate the exercise of these rights.

Article 23. In addition to the privileges and immunities specified in article 22:

- (a) The Director-General shall be accorded in respect of himself, his spouse and his dependent children the privileges and immunities, exemptions and facilities accorded to ambassadors who are chiefs of missions;
- (b) The Assistant Directors-General, Chiefs of the Departments, Senior Officers and such additional categories of officials as may be designated, in agreement with the Government, by the Director-General on the ground of the responsibilities of their positions in the Fund the same privileges and immunities, exemptions and facilities as the Government accords to

members, having comparable rank, of diplomatic missions in the Republic of Austria.

Article 24. (1) Persons, other than officials of the Fund, performing missions authorized by the Fund or serving on specialized organs of the Fund, working parties or other subsidiary bodies of the Fund and representatives of other organizations or other persons invited by the Fund to the headquarters seat on official business shall, without prejudice to any other privileges and immunities which they may enjoy for other reasons, enjoy immunity from legal process of any kind in respect of words spoken or written, and of acts performed by them in direct connexion with their official business.

(2) They shall further enjoy the same protection and repatriation facilities with respect to themselves, their spouses, their dependent relatives and other members of their households as the Government accords in time of international crises to members, having comparable rank, of diplomatic missions in the Republic of Austria.

(3) Where the incidence of any form of taxation depends upon residence, periods during which the persons referred to in paragraph 1 may be present in the Republic of Austria for the discharge of their duties shall not be considered as periods of residence.

Article 25. (1) The privileges and immunities accorded by articles 22, 23 and 24 are conferred in the interest of the Fund and not for the personal benefit of the individuals themselves. Consequently, it is incumbent upon the Fund to waive the immunity of any of its officials or of any person covered by the provision of article 24 in all cases where the immunity impedes the course of justice and where it can be waived without prejudice to the interest of the Fund. In any case where these privileges and immunities arise, the official or other person involved shall immediately report to the Director-General, who shall decide, in consultation, where appropriate, with the Governing Board, whether they shall be waived. In the case of the Director-General, the Ministerial Council shall have the right to waive immunities.

(2) The Fund and its officials shall co-operate at all times with the appropriate Austrian authorities to facilitate the prompt execution of the laws of the Republic of Austria and to prevent the occurrences of any abuses in connexion with the privileges and immunities accorded by this Agreement.

Article 26. All persons of Austrian citizenship and all stateless persons resident in Austria and employed by the Fund shall enjoy the privileges and immunities, exemptions and facilities accorded by this Agreement to the extent recognized by international law as accepted by the Government, provided, however, that articles 17 and 22 (g) shall not and article 22 (d) shall, in any event, apply to officials of the Fund who are Austrian citizens or who are stateless persons resident in Austria. They shall also have access to the commissary established in accordance with article 22, paragraph (i), sub-paragraph (iii), the exercise of this right being regulated by the supplemental agreement provided for in that sub-paragraph.

Article 27. (1) The Fund shall communicate to the Government a list of persons within the scope of articles 20, 22 and 24 and shall revise such list from time to time as may be necessary.

(2) The Government shall furnish persons within the scope of article 22 with an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to all Austrian authorities.

Article 28. The Director-General shall take every precaution to ensure that no abuse of a privilege or immunity conferred by this Agreement shall occur. Should the Government consider that abuse of a privilege or immunity conferred by this Agreement has occurred, the Director-General shall upon request consult with the Federal Minister for Foreign Affairs of the Republic of Austria to determine whether any such abuse has occurred. If such consultations fail to achieve within a reasonable time a result satisfactory to the Government and to the Director-General, the matter may be referred by either party for final decision to a tribunal of three arbitrators: one to be chosen by the Federal Minister for Foreign Affairs of the Republic of Austria, one to be chosen by the Director-General and the third, who shall be chairman of the tribunal, to be chosen by the first two arbitrators. If the tribunal is not constituted within three months from the date of the request made for the submission of the dispute to arbitration, the appointment of the arbitrators not yet designated shall be made by the President of the International Court of Justice at the request of the Government or the Fund.

Article 29. Any dispute which may arise between the Government and the Fund as to the interpretation or application of this Agreement shall, at the request of either of them, be referred to arbitration. The arbitration tribunal shall consist of three arbitrators: one to be chosen by the Federal Minister for Foreign Affairs of the Republic of Austria, one to be chosen by the Director-General and the third, who shall be chairman of the tribunal, to be chosen by the first two arbitrators. If the tribunal is not constituted within six months from the date of the request made for the submission of the dispute to arbitration, the appointment of the arbitrators not yet designated shall be made by the President of the International Court of Justice at the request of the Government or the Fund.

Article 30. If and to the extent that the Republic of Austria shall enter into any agreement with any intergovernmental organization containing terms or conditions more favourable to that organization than similar terms or conditions of this Agreement, the Republic of Austria shall extend such more favourable terms or conditions to the Fund by means of a supplemental agreement.

Article 31. (1) This Agreement shall enter into force upon an exchange of notes between the Federal Minister for Foreign Affairs of the Republic of Austria and the Director-General duly authorized thereto by decision of the Governing Board of the Fund.

(2) Consultations with respect to modification of this Agreement shall be entered into at the request of the Government or the Fund. Any such modification shall be by mutual consent.

(3) This Agreement shall be construed in the light of its primary purpose of enabling the Fund at its headquarters in the Republic of Austria fully and efficiently to discharge its responsibilities and fulfill its purposes.

IN WITNESS THEREOF, the respective representatives of the Republic of Austria and the Fund have signed this Agreement.

DONE in duplicate in Vienna, this day of April 21 of 1981, in the German and English languages, both texts being equally authentic.

For the Republic of Austria:

WILLIBALD PAHR m.p.

For the OPEC Fund for International Development:

IBRAHIM F. I. SHIHATA m.p.

EXCHANGE OF NOTES

I

THE FEDERAL MINISTER FOR FOREIGN AFFAIRS

Vienna, 21 April 1981

Excellency,

With reference to the Agreement between the OPEC Fund for International Development and the Republic of Austria regarding the headquarters of the Fund in the City of Vienna to which I have this day affixed my signature, I have the honour to propose that:

(1) The articles mentioned in paragraph (7) of article 12 of the Agreement may be disposed of without charge only for the benefit of international organizations or charitable institutions;

(2) Having regard to article 38 (1) of the Vienna Convention on Diplomatic Relations¹ and to the practice of Austria, the Republic of Austria will accord persons referred to in article 26 of the Agreement—persons of Austrian citizenship and stateless persons resident in Austria—only the immunity from legal process of any kind in respect of words spoken or written, and of acts performed by them in direct connexion with their official business;

(3) In accordance with the practice of the Republic of Austria which is in conformity with article 42 of the Vienna Convention on Diplomatic Relations to which Austria is a party, diplomatic agents accredited to the Republic of Austria may not practise for personal profit any professional or commercial activity. It is understood that the same restriction shall apply to all persons to whom the Agreement accords the same privileges and immunities as are accorded to members, having comparable rank, of diplomatic missions in the Republic of Austria;

(4) Persons to whom the Agreement applies and members of their families who are not Austrian nationals or stateless persons resident in Austria shall not benefit from Austrian regulations governing family and maternity allowances;

(5) Without prejudice to the provisions of article 22 (g) of the Agreement, officials of the Fund and persons, other than officials of the Fund, performing missions authorized by the Fund or serving on specialized organs of the Fund, working parties or other subsidiary bodies of the Fund shall be allowed, over and above the facilities granted by the Agreement, to make transfers to other countries up to a maximum amount of twenty-six thousand Austrian schillings (AS 26,000) per year, to the debit of

¹ United Nations, *Treaty Series*, vol. 500, p. 95.

accounts in Austrian shillings held in their names at Austrian credit institutions; if the aforementioned persons wish to make Austrian currency transfers exceeding the amount mentioned above, such transfers shall be authorized by the Austrian authorities up to the amount of all salary previously received from the Fund by the person concerned in Austrian currency, as well as the amount they had brought into the Republic of Austria, and the interest accruing thereupon.

If the Fund agrees to this proposal, I have the honour to propose that this note and your note of confirmation shall constitute an Agreement between the Fund and the Republic of Austria, entering into force on the same day as the Headquarters Agreement.

Accept, Excellency, the assurances of my highest consideration.

WILLIBALD PAHR m. p.

His Excellency Mr. Ibrahim F. I. Shihata
Director-General of the OPEC Fund
for International Development
Vienna

II

THE OPEC FUND FOR INTERNATIONAL DEVELOPMENT

Vienna, April 21, 1981

Excellency,

I have the honour to acknowledge receipt of your note of April 21, 1981, which reads as follows:

[*See note I*]

I have the honour to confirm that the Fund agrees with the above proposal and that your note and this reply will constitute an Agreement between the Fund and the Republic of Austria, entering into force on the same day as the Headquarters Agreement.

Accept, Excellency, the assurances of my highest consideration.

IBRAHIM F. I. SHIHATA m. p.
Director-General

His Excellency Dr. Willibald Pahr
Federal Minister for Foreign Affairs
Vienna
