

No. 22306

AUSTRALIA
and
ORGANISATION FOR ECONOMIC CO-OPERATION
AND DEVELOPMENT

Agreement on privileges and immunities of the Organisation in Australia (with exchange of notes). Signed at Paris on 14 January 1983

Authentic texts of the Agreement: English and French.

Authentic text of the Exchange of notes: English.

Registered by Australia on 11 August 1983.

AUSTRALIE
et
ORGANISATION DE COOPÉRATION
ET DE DÉVELOPPEMENT ÉCONOMIQUES

Accord relatif aux privilèges et immunités de l'Organisation en Australie (avec échange de notes). Signé à Paris le 14 janvier 1983

Textes authentiques de l'Accord : anglais et français.

Texte authentique de l'Échange de notes : anglais.

Enregistré par l'Australie le 11 août 1983.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF AUSTRALIA
AND THE ORGANISATION FOR ECONOMIC CO-OPERATION
AND DEVELOPMENT ON PRIVILEGES AND IMMUNITIES OF
THE ORGANISATION IN AUSTRALIA

The Government of Australia and

The Organisation for Economic Co-operation and Development (hereinafter referred to as the "Organisation"),

Considering that the Government of Australia, on 7th June 1971, acceded to the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960;² and

Having regard to the Supplementary Protocol No. 2³ to the Convention on the Organisation for Economic Co-operation and Development and, in particular, paragraph (d) thereof;

Have agreed as follows:

Article 1. DEFINITION

Section 1. For the purpose of this Agreement "Australia" shall mean the territory comprising the States and mainland Territories of Australia.

Article 2. JURIDICAL PERSONALITY

Section 2. The Organisation shall possess juridical personality. It shall have the capacity:

- (i) To contract;
- (ii) To acquire, hold and dispose of real and personal property; and
- (iii) To institute legal proceedings.

Article 3. PROPERTY, FUNDS AND ASSETS

Section 3. The Organisation and its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity. It is, however, understood that this does not imply waiver of immunity in respect of the execution of a judgment for which a separate waiver shall be necessary.

Section 4. The premises of the Organisation shall be inviolable. The property and assets of the Organisation, 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 Organisation, and in general all documents belonging to it or held by it, shall be inviolable wherever located.

¹ Came into force on 14 February 1983, the date on which the Government of Australia notified the Organisation that it had completed the necessary requirements to that effect, in accordance with article 10.

² United Nations, *Treaty Series*, vol. 888, p. 179.

Section 6. Without being restricted by financial controls, regulations or moratoria of any kind:

- (i) The Organisation may hold currency of any kind and operate accounts in any currency; and
- (ii) The Organisation may freely transfer its funds from Australia to another country or within Australia and convert any currency held by it into any other currency.

Section 7. The Organisation, its assets, income and other property shall be:

- (i) Exempt from all direct taxes; it is understood, however, that the Organisation shall not claim exemption from rates and taxes which are in fact charges for public utility services;
- (ii) Exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Organisation for its official use. It is understood, however, that articles imported under such exemption shall not be sold in Australia except under conditions agreed with the Government of Australia;
- (iii) Exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

Section 8. Although the Organisation shall not, as general rule, claim exemption from excise duties and from taxes on the sale of real and personal property which forms part of the price to be paid, nevertheless, when the Organisation is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, the Government of Australia shall, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

Article 4. FACILITIES IN RESPECT OF COMMUNICATIONS

Section 9. The Organisation shall have the right to avail itself, for telegraphic communications sent by it and containing only matter intended for publication by the press or for broadcasting (including communications addressed to or despatched from places outside Australia), of any reduced rates applicable in relation to telegraphic communications by the press.

Section 10. The official correspondence and other official communications of the Organisation shall not be liable to any form of censorship.

Article 5. THE REPRESENTATIVES OF MEMBERS

Section 11. Subject to the provisions of this article representatives of Members accredited to the Organisation or in attendance at an international conference convened by the Organisation shall, in the exercise of their functions and during their journey to and from the places of meeting, enjoy the following privileges and immunities, exemptions and facilities:

- (i) Immunity from personal arrest or detention;
- (ii) Immunity from suit and other legal process in respect of acts and things done in the exercise of their functions as such representatives;
- (iii) Inviolability of papers and documents;

- (iv) Exemption (including exemption of the spouse of each representative) from immigration restrictions, alien registration and national service obligations;
- (v) Exemption from currency or exchange restrictions to such extent as is accorded to a representative of a foreign government on a temporary mission on behalf of that government; and
- (vi) The like privileges and immunities, not being privileges and immunities of a kind referred to in any of preceding sub-paragraphs of this section as are accorded to a diplomatic envoy of comparable rank, other than exemption from duties on the importation or exportation of goods not forming part of personal baggage or from excise duties or from sales taxes.

Section 12. The provisions of section 11 are not applicable to a representative of Australia or to an Australian citizen.

Section 13. In this article the expression “representatives” shall be deemed to include all delegates, alternates, advisers, technical experts and secretaries of delegations.

Section 14. Privileges, immunities, exemptions and facilities are accorded to the representatives of Members not for the personal benefit of the individuals concerned, but in order to safeguard the independent exercise of their functions in connection with the Organisation. Consequently, a Member may 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 purpose for which the immunity is accorded.

Article 6. OFFICIALS

Section 15. The categories of officials to which the provisions of this article apply are those specified by the Secretary-General and submitted to the Council of the Organisation for approval. The names of the officials included in these categories shall from time to time be made known to the Government of Australia.

Section 16. Officials of the Organisation shall enjoy the following privileges, immunities, exemptions and facilities:

- (i) Immunity from suit and from other legal process in respect of acts and things done in their capacities as such officials; they shall continue to be so immune after completion of their functions as officials of the Organisation;
- (ii) The same exemption from taxation in respect of the salaries and emoluments paid to them as is enjoyed by officials of the principal International Organisations and on the same conditions;
- (iii) Exemption, together with their spouses and dependent relatives, from immigration restrictions and alien registration;
- (iv) Exemption from currency or exchange restrictions to such extent as is accorded to an official of comparable rank forming part of a diplomatic mission;
- (v) The like repatriation facilities (including repatriation facilities for a spouse and any dependent relatives) in time of international crisis as are accorded to an envoy;
- (vi) The right, if not Australian citizens, to import furniture and effects free of duties when first taking up a post in Australia.

Section 17. In addition to the privileges, immunities, exemptions and facilities specified in section 16 of this article, the Secretary-General of the Organisation shall, in respect of himself, his spouse and children under the age of 21, be accorded in Australia the privileges, immunities, exemptions and facilities accorded to heads of diplomatic missions on behalf of themselves, their spouses and minor children, in accordance with international law. The Deputy Secretaries-General of the Organisation in respect of themselves, their spouses and children under the age of 21, shall receive the privileges, immunities, exemptions and facilities accorded to diplomatic representatives of comparable rank and their spouses and children under the age of 21.

Section 18. Privileges, immunities, exemptions and facilities are granted to officials in the interests of the Organisation and not for the personal benefit of the individuals concerned. The Secretary-General of the Organisation 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 Organisation. In the case of the Secretary-General and the Deputy Secretaries-General the Council of the Organisation shall have the right to waive immunity.

Section 19. The Organisation shall co-operate at all times with the appropriate authorities to facilitate proper administration of justice, secure respect for Australian laws and regulations and prevent the occurrence of any abuse in connection with the privileges, immunities, exemptions and facilities mentioned in this article.

Article 7. EXPERTS ON MISSIONS FOR THE ORGANISATION

Section 20. Experts (other than officials) performing missions on behalf of the Organisation shall be accorded in the exercise of their functions and while travelling to a place for the purpose of performing the mission or while returning from a place after performing the mission the following privileges, immunities, exemptions and facilities:

- (i) Immunity from personal arrest or detention;
- (ii) Immunity from suit and from other legal process in respect of acts and things done in performing the mission;
- (iii) Inviolability of papers and documents that relate to the mission;
- (iv) The right, for the purpose of communicating with the Organisation, to use codes and to send and receive correspondence and other papers and documents by courier or in sealed bags;
- (v) Exemption from currency or exchange restrictions to such extent as is accorded to a representative of a foreign government on a temporary mission on behalf of that government.

Section 21. Privileges, immunities, exemptions and facilities are granted to experts in the interests of the Organisation and not for personal benefit of the individuals concerned. The Secretary-General of the Organisation shall have the right and the duty to waive the immunity of any 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 Organisation.

Article 8. QUARANTINE

Section 22. The privileges, immunities, exemptions and facilities conferred by the previous articles of this Agreement are subject to the provisions of any Australian law relating to quarantine, or prohibiting or restricting the importation into, or the exportation from Australia of any animals, plants or goods, but this does not prejudice the immunity from suit and from civil or criminal process conferred by this Agreement.

Article 9. SUPPLEMENTARY AGREEMENTS

Section 23. The Government of Australia and the Organisation may conclude supplementary agreements varying the provisions of this Agreement.

Article 10

Section 24. This Agreement shall come into force on the date on which the Government of Australia notifies the Organisation that it has completed the requirements necessary in Australia to give effect to the Agreement.

EXCHANGE OF NOTES — ÉCHANGE DE NOTES

I

[TRADUCTION — TRANSLATION]

Sir,

I have the honour to refer to the Agreement signed today between the Government of Australia and the Organisation for Economic Co-operation and Development on Privileges and Immunities of the Organisation in Australia, and to reiterate hereinafter the statement which I made before the Council of OECD in connection with section 16 (ii) of the Agreement:

“The obligation to exempt from taxation the salaries and emoluments of officials of the Organisation is understood to require the Government of Australia to exempt from liability for any taxes and duties salaries and emoluments derived by an official in respect of services rendered outside Australia and salaries and emoluments in respect of services rendered in Australia where the official is not a resident of Australia, within the meaning of the law of Australia, or where the official is a resident of Australia within the meaning of that law but is not an Australian citizen and came to Australia solely for the purpose of performing duties of the office of the Organisation held by him”.

I have the honour further to request that you be good enough to take formal note of the above on behalf of the Organisation.

Monsieur le Secrétaire général,

J'ai l'honneur de me référer à l'Accord relatif aux privilèges et immunités de l'Organisation en Australie signé aujourd'hui entre le Gouvernement australien et l'Organisation de coopération et de développement économiques et de réitérer ci-dessous la déclaration que j'ai faite devant le Conseil de l'OCDE au sujet de l'alinéa ii de la section 16 de l'Accord :

«L'obligation d'exonérer d'impôts les traitements et les émoluments des fonctionnaires de l'Organisation signifie que le Gouvernement australien exempte de toutes taxes et de tous droits les traitements et émoluments perçus par un fonctionnaire en raison de services rendus hors de l'Australie et les traitements et émoluments perçus par un fonctionnaire en raison de services rendus en Australie quand le fonctionnaire n'est pas un résident en Australie, au sens que la législation australienne donne à cette expression, ou quand le fonctionnaire est un résident en Australie, au sens précité, mais qu'il n'est pas de nationalité australienne et qu'il n'est venu en Australie que pour y remplir les tâches afférentes au poste qu'il occupe dans l'Organisation.»

Je vous saurais en outre gré de bien vouloir, au nom de l'Organisation, prendre officiellement note de ce qui précède.

Accept, Sir, the assurances of my highest consideration.

Paris, 14 January 1983

[Signed]

J. C. HUMPHREYS
Ambassador
and Permanent Representative
of Australia to the OECD

Veillez agréer, etc.

Paris, le 14 janvier 1983

L'Ambassadeur et représentant
permanent de l'Australie à l'OCDE,

[Signé]

J. C. HUMPHREYS

II

OECD

ORGANISATION FOR ECONOMIC
CO-OPERATION AND DEVELOPMENT
PARIS

The Secretary-General

14th January 1983

EL-3807

Sir,

I have the honour to acknowledge receipt of your note of today's date, which reads as follows:

[See note I]

I have the honour further to take formal note of the above on behalf of the Organisation for Economic Co-operation and Development.

Accept, Sir, the assurances of my highest consideration.

[Signed]

E. VAN LENNEP

His Excellency

Mr. J. C. Humphreys
Head of the Australian Delegation
to the OECD
Paris

OCDE

ORGANISATION DE COOPÉRATION
ET DE DÉVELOPPEMENT ÉCONOMIQUES
PARIS

Le Secrétaire général

Le 14 janvier 1983

EL-3807

Monsieur l'Ambassadeur,

J'ai l'honneur d'accuser réception de votre note datée de ce jour, dont le texte est le suivant :

[Voir note I]

J'ai également l'honneur de prendre officiellement note des dispositions ci-dessus au nom de l'Organisation de coopération et de développement économiques.

Veillez agréer, etc.

[Signé]

E. VAN LENNEP

Son Excellence

Monsieur J. C. Humphreys
Chef de la Délégation australienne
à l'OCDE
Paris