

No. 27501

**JAPAN
and
INTERNATIONAL TROPICAL
TIMBER ORGANIZATION**

**Headquarters Agreement. Signed at Tokyo on 27 February
1988**

Authentic text: English.

Registered by Japan on 10 August 1990.

**JAPON
et
ORGANISATION INTERNATIONALE
DES BOIS TROPICAUX**

Accord de siège. Signé à Tokyo le 27 février 1988

Texte authentique : anglais.

Enregistré par le Japon le 10 août 1990.

HEADQUARTERS AGREEMENT¹ BETWEEN THE GOVERNMENT OF JAPAN AND THE INTERNATIONAL TROPICAL TIMBER ORGANIZATION

PREAMBLE

The Government of Japan and the International Tropical Timber Organization,

Considering that, pursuant to article 3, paragraph 3, of the International Tropical Timber Agreement, 1983,² the Council decided that the headquarters of the Organization shall be in Yokohama, Japan,

Having regard to article 17, paragraph 2 of the Agreement,

Desiring to define the status, privileges and immunities of the Organization, as well as of its staff, experts and representatives of Members,

Have agreed as follows:

Article 1. DEFINITIONS AND INTERPRETATION

1. For the purpose of this Agreement the expression:

a) "Agreement of 1983" means the International Tropical Timber Agreement, 1983;

(b) "Organization" means the International Tropical Timber Organization;

(c) "Government" means the Government of Japan;

(d) "Premise of the Organization" means the buildings or parts of buildings and the land ancillary thereto used for the official purposes of the Organization, and includes conference facilities when used by the Organization;

(e) "Official activities of the Organization" includes its administrative activities and those undertaken pursuant to the Agreement of 1983, or any succeeding agreement;

(f) "Member" has the meaning ascribed to it in article 2, paragraph 3, of the Agreement of 1983, or in any succeeding agreement;

(g) "Representatives" means representatives of Members and in each case means representatives, their alternates and advisers referred to in article 6, paragraph 2, of the Agreement of 1983, or in any succeeding agreement;

(h) "Executive Director" means the Executive Director of the Organization and includes the senior staff member when acting in place of the Executive Director in his absence;

(i) "Staff members" means the Executive Director and all staff appointed by him in accordance with article 16, paragraph 4, of the Agreement of 1983, or any succeeding agreement;

¹ Came into force on 27 May 1988, the date of an exchange of notes by which the Government and the Organization indicated their acceptance of the Agreement, in accordance with article 24 (1).

² United Nations, *Treaty Series*, vol. 1393, p. 67.

(j) "Dependants" means the spouse of the staff member and his dependent children below the age of 20 and includes children aged 20 and above if they are mentally or physically incapacitated and thus incapable of self support;

(k) "Experts" means persons other than staff members of the Organization who perform missions authorized by the Council, serve committees or subsidiary bodies of the Council referred to in article 24 of the Agreement of 1983, or in any succeeding agreement, or consult at its request with the Organization;

(l) "Council" means the International Tropical Timber Council;

(m) "Minister" means the Minister for Foreign Affairs of Japan.

2. This Agreement shall be interpreted in the light of the primary objective of enabling the Organization, at its headquarters in Japan, fully and efficiently to discharge its responsibilities and fulfil its purposes and functions.

Article 2. LEGAL STATUS OF THE ORGANIZATION

The Organization shall have legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property, and to institute legal proceedings.

Article 3. INVIOABILITY OF ARCHIVES

The archives of the Organization shall be inviolable. The term "archives" includes all records, correspondence, documents, manuscripts, photographs, films and recordings belonging to or held by the Organization.

Article 4. INVIOABILITY OF PREMISES

1. The premises of the Organization shall be inviolable. The Government shall use its best efforts within the laws and regulations of Japan to protect the premises of the Organization against any person or group of persons attempting unauthorized entry into or purposely disturbing the tranquility of the premises of the Organization in their immediate vicinity. No official of the Government or persons exercising any public authority within Japan shall enter the premises of the Organization to perform any official duties therein except with the consent of, and under the conditions agreed to by, the Executive Director or at his request. Such consent may be assumed in case of fire or other emergencies requiring prompt protective action.

2. The Organization shall not permit the premises of the Organization to be used as a refuge by persons who are avoiding arrest under any law of Japan, who are required by the Government for extradition to another country, or who are endeavouring to avoid service of legal process.

Article 5. PREMISES

The Government shall ensure that suitable premises, with the fittings, furniture and equipment, as well as conference facilities, shall be made available gratis for the use of the Organization, and that necessary gas, electricity, water and fire protection shall be supplied gratis for the premises of the Organization.

Article 6. FLAG AND EMBLEM

The Organization shall be entitled to display its flag and emblem on its premises and on the means of transport of the Organization and of its Executive Director.

Article 7. IMMUNITY FROM JURISDICTION

1. The Organization 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 imply waiver of immunity in respect of the execution of judgement, for which a separate waiver by the Organization shall be necessary.

2. The property and assets of the Organization, wherever located and by whomsoever held, shall be immune from search, seizure, confiscation, sequestration, expropriation and any other form of interference, whether administrative, judicial or legislative, except with the consent of and under the conditions agreed to by the Executive Director.

3. The provisions of paragraphs 1 and 2 above shall not apply:

(a) In the case of an enforcement of an arbitration award made under article 21 paragraph 1;

(b) In the case of civil proceedings brought by a third party in respect of damage caused by a motor vehicle belonging to or operated on behalf of the Organization, or in the case of a motor traffic offence involving such a vehicle.

Article 8. EXEMPTION FROM TAXES AND CUSTOMS DUTIES FOR THE ORGANIZATION

1. Within the scope of its official activities, the Organization and its property, assets and income shall be:

(a) Exempt from all direct taxes except those 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 Japan except under conditions agreed with the Government;

(c) Exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

2. While the Organization 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 Organization is making important purchases for the official use of property on which such duties and taxes have been charged or are chargeable, the Government will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

Article 9. FUNDS, CURRENCY AND SECURITIES

The Organization may receive, acquire, hold and dispose of freely any kind of funds, gold, currencies or securities.

Article 10. COMMUNICATIONS

1. All official communications directed to the Organization, or to any of its staff members at the headquarters, and all official outward communications of the Organization, 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. Should there be reasonable cause to believe that apparently official communications contain unlawful or dangerous materials, they may be opened by the Japanese authorities in the presence of a staff member of the Organization, provided, however, that no such staff member need be present if those materials appear to present an immediate physical danger.

2. The Organization shall have the right to use codes and despatch and receive official correspondence by courier and in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

3. In respect of its official communications, the Organization shall, in the territory of Japan and in so far as may be compatible with any international conventions, regulations and arrangements to which Japan is a party, enjoy treatment not less favourable than that accorded by the Government to any other international organization in the matter of priorities, rates and taxes for post and telecommunications.

Article 11. CIRCULATION OF PUBLICATIONS

The circulation of publications and other information material sent by or to the Organization shall not be restricted or interfered with in any way.

Article 12. PRIVILEGES AND IMMUNITIES OF REPRESENTATIVES

1. Representatives shall enjoy, while exercising their functions and in the course of their journeys to and from the place of the meeting, the following privileges and immunities:

(a) Immunity from personal arrest or detention and from seizure of their personal luggage;

(b) Immunity from every form of legal process in respect of words spoken or written and all acts done by them in their official capacity except in the case of a motor traffic offence committed by a representative or in the case of damage caused by a motor vehicle belonging to, driven by or operated on behalf of a representative, such immunity to continue notwithstanding that the persons concerned may have ceased to be representatives;

(c) Inviolability for all their official papers and documents;

(d) The right to use codes and to receive documents or correspondence by courier or in sealed bags;

(e) Exemption for themselves and their spouses from immigration restrictions, alien registration and charges for visas;

(f) The same privileges in respect of exchange facilities as are accorded in Japan to representatives of foreign governments on temporary official missions;

(g) The same customs facilities for their personal luggage as are accorded to a diplomatic agent.

2. The provisions of the preceding paragraph shall be applicable irrespective of the relations existing between the Government and the Governments or intergovernmental organizations which the persons referred to represent, and are without prejudice to any special immunities to which such persons may be entitled.

3. The privileges and immunities described in paragraph 1 of this article shall not be accorded to any representative of the Government or to any national of Japan.

4. Privileges and immunities are accorded to representatives in order to ensure complete independence in the exercise of their functions in connection with the Organization. A Member should waive the immunity of its representatives where, in the opinion of the Member, the immunity would impede the course of justice and can be waived without prejudicing the purposes for which it is accorded.

5. In order to assist the Government in implementing the provisions of this article, the Executive Director shall as far as possible inform the Government of the names of representatives in advance of their arrival in Japan.

Article 13. PRIVILEGES AND IMMUNITIES OF THE EXECUTIVE DIRECTOR

In addition to the privileges and immunities provided in article 14, the Executive Director of the Organization, unless he is a national of or permanently resident in Japan, shall enjoy the privileges and immunities to which a diplomatic agent in Japan is entitled.

Article 14. PRIVILEGES AND IMMUNITIES OF STAFF MEMBERS

1. The staff members of the Organization shall enjoy the following privileges and immunities:

(a) Immunity from every form of legal process in respect of words spoken or written and all acts done by them in their official capacity except in the case of a motor traffic offence committed by a staff member or in the case of damage caused by a motor vehicle belonging to, driven by or operated on behalf of a staff member, such immunity to continue notwithstanding that the persons concerned may have ceased to be staff members of the Organization;

(b) Inviolability for all their official papers and documents;

(c) Exemption with respect to themselves and their dependants from immigration restrictions, alien registration and charges for visas;

(d) The same privileges in respect of exchange facilities as are accorded to a diplomatic agent in Japan;

(e) The same repatriation facilities as a diplomatic agent in time of international crises, for themselves and their dependants;

(f) The right to import free of customs duties their furniture and personal effects, including one motor vehicle each, at the time of first taking up their post in Japan;

(g) Exemption with respect to themselves and their dependants from national service obligations.

2. In addition to the privileges and immunities specified in paragraph 1 of this article, and with respect to the staff members who serve at the level of D-1 or above, the Government shall accord such staff the right to import, for personal use, free of customs duties, one automobile every three years, and reasonable quantities of foodstuffs, beverages, including alcoholic beverages, tobacco and clothing.

3. The provisions of paragraph 1 (c), (d), (e), (f) and (g) and paragraph 2 of this article shall not apply to staff members who are nationals of or permanently resident in Japan.

Article 15. PRIVILEGES AND IMMUNITIES OF EXPERTS

Experts in the exercise of their functions in connection with the Organization or in carrying out missions for the Organization shall enjoy the following privileges and immunities to the extent that they are necessary for the carrying out of their functions during the period of their missions, including the time spent on journeys made in carrying out their functions in the course of such missions:

(a) Immunity from every form of legal process in respect of acts done by them in the exercise of their functions, including words spoken or written, except in the case of a motor traffic offence committed by an expert or in the case of damage caused by a motor vehicle belonging to, driven by or operated on behalf of an expert; experts shall continue to enjoy this immunity after they have ceased to be employed by the Organization;

(b) Inviolability for all their official papers and documents;

(c) The same privileges in respect of exchange facilities as are accorded to a diplomatic agent in Japan unless they are nationals of or permanently resident in Japan;

(d) The same facilities with respect to their personal luggage as are accorded to a diplomatic agent in Japan unless they are nationals of or permanently resident in Japan.

Article 16. TAXATION

The staff members of the Organization who are not nationals of or permanently resident in Japan shall be exempt from Japanese taxation on the salaries and emoluments that they receive from the Organization. However, the Government shall have the right to take these salaries and emoluments into account for the purpose of assessing the amount of tax to be applied to income from other sources.

Article 17. SOCIAL SECURITY

1. The staff members of the Organization who are not nationals of or permanently resident in Japan shall not be required to participate in, and the Organization with respect to these staff members shall be exempt from all compulsory contributions to, any social security scheme established by the law of Japan.

2. The Council shall make necessary provision to enable staff members who are nationals of or permanently resident in Japan to participate in the social security scheme of Japan.

Article 18. NOTIFICATION OF APPOINTMENTS OF STAFF AND EXPERTS

1. When a person has been appointed as a staff member or expert of the Organization, the Organization shall in each case and without delay notify the Government of the name of the person, and in the case of a staff member his level and post in the Organization and the names of his dependants, together with other relevant information. The Organization shall likewise notify the Government, when a person so appointed ceases to be a staff member or expert, of the date of the cessation.

2. The Government shall not be obliged to extend to any person the privileges and immunities provided by this Agreement until the Government has received the notification under paragraph 1 of this Article with regard to the person concerned.

3. The Government shall, on receipt of such notification, furnish the staff member or expert with an identification card bearing the photograph of the holder. This card shall serve to identify the holder in relation to all Japanese authorities.

Article 19. OBJECT AND PREVENTION OF ABUSE OF PRIVILEGES AND IMMUNITIES

1. The privileges and immunities accorded under this Agreement to the Executive Director and staff members and experts of the Organization are provided solely to ensure in all circumstances the unimpeded functioning of the Organization and the complete independence of the persons to whom they are accorded.

2. The Executive Director shall take every precaution to prevent any abuse of these privileges and immunities, in accordance with the rules and regulations of the Organization.

3. Should the Government consider that an abuse of any of these privileges or immunities has occurred, the Executive Director shall, upon request, consult with the Government to determine whether any such abuse has occurred. If such consultation fails to achieve a result satisfactory to the Executive Director and to the Government, the matter shall be determined in accordance with the procedures set out in article 21.

Article 20. WAIVER OF IMMUNITIES

1. The Executive Director has the right and the duty to waive any immunity accorded to staff members other than himself and to experts under this Agreement when he considers that such immunity is impeding the course of justice and when it is possible to dispense with it without prejudice to the interests of the Organization.

2. The Council may waive the immunities accorded to the Executive Director under this Agreement.

Article 21. SETTLEMENT OF DISPUTES

1. Where the Organization enters into contracts in Japan with natural or juridical persons (other than contracts concluded in accordance with staff regulations), these contracts shall, at the request of the other party or parties thereto, include an arbitration clause whereby any disputes arising out of the interpretation or execution of the contracts may at the request of either party be submitted to private arbitration.

2. The Organization shall make provision for appropriate modes of settlement of:

(a) Disputes of a private law character other than those arising from contracts specified in paragraph 1 of this article;

(b) Disputes involving the Executive Director, a staff member or expert of the Organization who by reason of his official position enjoys immunity, if such immunity has not been waived in accordance with article 20.

3. Any dispute between the Organization and the Government concerning the interpretation or application of this Agreement or any question affecting the rela-

tionship between the Organization and the Government which is not settled by negotiation or other agreed modes of settlement shall be referred to a tribunal of three arbitrators: one to be appointed by the Minister, one to be appointed by the Organization and the third, who shall be the chairman of the tribunal, to be appointed by the first two arbitrators. Should the first two arbitrators fail to agree upon the third within six months following their appointment, the third arbitrator shall be appointed by the President of the International Court of Justice at the request of the Government or the Organization. The decisions of the tribunal shall be final and binding upon the Government and the Organization.

Article 22. CO-OPERATION

1. The Organization shall co-operate at all times with the appropriate authorities of Japan in order to facilitate the proper administration of justice at all times, to ensure the observance of police regulations, regulations concerning fire prevention, public health and labour inspection and other similar legislation, and to prevent any abuse of the privileges and immunities and facilities provided for in this Agreement, but the right of the Government to take all precautionary measures in the interests of its security shall not be prejudiced by any provision in this Agreement.

2. Without prejudice to the privileges and immunities accorded by this Agreement, it is the duty of the Organization and of all persons enjoying such privileges and immunities to observe the laws and regulations of Japan.

Article 23. MODIFICATION

At the request either of the Government or of the Organization, consultations shall take place with respect to modification of this Agreement. Any modification shall be made by mutual consent.

Article 24. ENTRY INTO FORCE AND TERMINATION

1. This Agreement shall enter into force on the date on which the Government and the Organization exchange notes indicating their acceptance of this Agreement.

2. This Agreement may be terminated by agreement between the Government and the Organization. In the event of the headquarters of the Organization being moved from the territory of Japan, or the liquidation of the Organization, this Agreement shall, after the period reasonably required for such transfer or liquidation and the disposal of the property of the Organization in Japan, cease to be in force.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Agreement.

DONE at Tokyo, in duplicate, in the English language, on this twenty-seventh day of February, 1988.

For the Government of Japan:

SOUSUKE UNO

For the International Tropical Timber Organization:

FREEZAILAH BIN CHE YEOM