

HEADQUARTERS AGREEMENT FOR THE SECRETARIAT OF THE ANTARCTIC TREATY

The Antarctic Treaty Consultative Meeting (ATCM) and the Argentine Republic,

Convinced of the need to strengthen the Antarctic Treaty system;

Bearing in mind the special legal and political status of Antarctica and the special responsibility of the Antarctic Treaty Consultative Parties to ensure that all activities in Antarctica are consistent with the purposes and principles of the Antarctic Treaty and its Protocol on Environmental Protection;

Having regard to Decision 1 (2001) of the XXIV ATCM and Measure 1 (2003) of the XXVI ATCM on the Secretariat of the Antarctic Treaty in Buenos Aires, Argentina;

Desiring to enable the Secretariat as an organ of the ATCM fully and efficiently to fulfill its purposes and functions; and

Desiring to define the legal capacity of the Secretariat as an organ of the ATCM as well as its privileges and immunities and those of the Executive Secretary and other staff members in the territory of the Argentine Republic;

Have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purpose of this Agreement:

- a. “Antarctic Treaty” or “the Treaty” means the Antarctic Treaty done at Washington on 1 December 1959;
- b. “Appropriate Authorities” means the national, provincial or local authorities of the Argentine Republic in accordance with the laws of the Argentine Republic;
- c. “Archives” means all correspondence, documents, manuscripts, photographs, computer data storage, films, recordings and any other records, in paper, electronic or any other form, belonging to or held by the Secretariat;
- d. “Committee for Environmental Protection” or “CEP” means the Committee established under Article 11 of the Protocol;
- e. “Delegates” means Representatives, Alternate Representatives, Advisers and any other persons who represent the States Parties;

- f. “Executive Secretary” means the Executive Secretary appointed by the ATCM to head the Secretariat according to the instrument establishing the Secretariat;
- g. “Expert” means a person engaged to perform short term or temporary projects on behalf of the Secretariat or participate in the work of or perform a mission on behalf of the Secretariat without necessarily receiving remuneration from the Secretariat, but does not include staff members;
- h. “Government” means the Government of the Argentine Republic;
- i. “Headquarters” means the premises, including buildings or parts of buildings and any land ancillary thereto, irrespective of ownership, occupied by the Secretariat for the performance of its Official Activities;
- j. “Official Activities” means all activities undertaken pursuant to the Treaty and the Protocol including the Secretariat’s administrative activities;
- k. “Protocol” means the Protocol on Environmental Protection to the Antarctic Treaty done at Madrid on 4 October 1991;
- l. “Secretariat” means the Secretariat of the Antarctic Treaty, established as a permanent organ of the ATCM;
- m. “Staff member” means the Executive Secretary and all other persons appointed for employment with the Secretariat and subject to its Staff Regulations, but does not include persons recruited locally and assigned to hourly rates of pay; and
- n. “States Parties” means the States Parties to the Antarctic Treaty.

ARTICLE 2

LEGAL CAPACITY

The Secretariat as an organ of the ATCM has legal personality and capacity to perform its functions in the territory of the Argentine Republic. It has, in particular, the capacity to contract, to acquire and dispose of movable and immovable property, and to institute and be a party to legal proceedings. The Secretariat may exercise its legal capacity only to the extent authorized by the ATCM.

ARTICLE 3

HEADQUARTERS

1. The Headquarters shall be inviolable and shall be under the full authority of the Secretariat.
2. The Government shall provide premises rent-free, in Buenos Aires, suitable as the Headquarters.

3. The Government shall take all appropriate steps to protect the Headquarters against any intrusion or damage and to prevent any impairment of its dignity.
4. The Government shall arrange for the Headquarters to be supplied by the appropriate authorities with available public services, such as electricity, water, sewerage, gas, mail, telephone, telegraph, drainage, garbage collection and fire protection, on terms no less favourable than those enjoyed by diplomatic missions in Argentine Republic.
5. Through the ATCM, the Secretariat shall make known to the Government the need for any changes to the location or extent of its permanent premises or archives and of any temporary occupation of premises for the performance of its Official Activities. Where any premises other than those provided under paragraph 2 above are used or occupied by the Secretariat for the performance of its Official Activities, such premises shall, with the concurrence of the Government, be accorded the status of official premises of the Secretariat. Where any permanent or temporary changes are made to the premises of the Secretariat in accordance with this paragraph, any additional premises occupied by the Secretariat shall not necessarily be provided by the Government rent-free.
6. Without prejudice to the terms of this Agreement, the Secretariat shall not permit the Headquarters to become a refuge from justice for persons avoiding arrest or service of legal process or against whom an order of extradition or deportation has been issued.
7. The Appropriate Authorities may enter the Headquarters to carry out their duties only with the consent of the Executive Secretary and under the conditions agreed by him/her. The Executive Secretary's consent shall be deemed to have been given in the case of fire or other exceptional emergencies which require immediate protective action.

ARTICLE 4

IMMUNITIES

1. Subject to what is provided for in the Treaty, the Protocol or this Agreement, the activities of the Secretariat in the Argentine Republic shall be governed by Argentine domestic law consistent with international law.
2. Within the scope of its Official Activities, the Secretariat as an organ of the ATCM and its property, premises and assets shall have immunity of jurisdiction in judicial and administrative proceedings except:
 - a) to the extent that the ATCM expressly waives such immunity;
 - b) in respect of any contract for the supply of goods or services and any loan or other transaction for the provision of finance and any guarantee or indemnity in respect of any such transaction or of any other financial obligation;

- c) in respect of a civil action by a third party for death, damage or personal injury arising from an accident caused by a motor vehicle belonging to, or operated on behalf of, the Secretariat to the extent that compensation is not recoverable from insurance;
 - d) in respect of a motor vehicle offence involving a motor vehicle belonging to, or operated on behalf of, the Secretariat;
 - e) in the event of a claim for salaries, wages or other emoluments owed by the Secretariat;
 - f) in respect of a counter-claim directly connected with proceedings initiated by the Secretariat;
 - g) in respect of claims made on real estate situated in the Argentine Republic; and
 - h) in respect of actions based on the Secretariat's status as heir or beneficiary of property situated in the Argentine Republic.
3. The Secretariat's property, premises and assets shall have immunity from any form of restrictions or controls such as requisition, confiscation, expropriation or attachment. They shall also be immune from any form of administrative or judicial constraint provided that motor vehicles belonging to or operated on behalf of the Secretariat shall not be immune from administrative or judicial constraint when temporarily necessary in connection with the prevention of, and investigation into, accidents involving such motor vehicles.
4. Nothing in this Agreement shall impair, or shall be construed as a waiver of, immunity that States enjoy in the territory of other States.

ARTICLE 5

OBJECTIVE AND WAIVER OF PRIVILEGES AND IMMUNITIES

1. Privileges and immunities provided for in this Agreement are granted to ensure the unimpeded functioning of the ATCM and the Secretariat and the complete independence of the persons to whom they are accorded. They are not granted for the personal benefit of the individuals themselves.
2. Except as provided in paragraph 3 below, the privileges and immunities provided in this Agreement may be waived by the ATCM. They should be waived in a particular case where the privilege and immunity in question would impede the course of justice and can be waived without prejudice to the purpose for which they are accorded.
3. In the case of Delegates, their privileges and immunities provided in this Agreement may be waived by the States Parties which they respectively represent.

ARTICLE 6*ARCHIVES*

The Archives shall be inviolable.

ARTICLE 7*THE TREATY FLAG AND EMBLEM*

The Secretariat shall be entitled to display the Treaty flag and emblem on the premises and means of transport of the Secretariat and of the Executive Secretary.

ARTICLE 8*EXEMPTION FROM DIRECT TAXES*

Within the scope of its Official Activities, the Secretariat, its property, premises and assets, and its income (including contributions made to the Secretariat as the result of any agreement arrived at by the States Parties) shall be exempt from all direct taxes including income tax, capital gains tax and all State taxes. The Secretariat shall be exempt from municipal taxes with the exception of those which constitute payment for specific services rendered in accordance with paragraph 4 of Article 3 above.

ARTICLE 9*EXEMPTION FROM CUSTOMS AND EXCISE DUTIES AND VALUE ADDED TAX*

1. The property used by the Secretariat necessary for its Official Activities (including the ATCM publications, motor vehicles and items for official entertainment purposes) shall be exempt from all customs and excise duties.
2. The Secretariat shall be exempt from any value added tax or similar taxes for services and goods, including publications and other information material, motor vehicles and items for official entertainment purposes, if the services and goods so purchased by the Secretariat are necessary for its official use.

ARTICLE 10*EXEMPTION FROM RESTRICTIONS AND PROHIBITIONS*

Goods imported or exported for the Official Activities of the Secretariat shall be exempt from any prohibitions or restrictions applicable to such goods on grounds of national origin.

ARTICLE 11

RE-SALE

Goods which have been acquired or imported by the Secretariat to which exemptions under Article 9 above apply and goods acquired or imported by the Executive Secretary or other staff members to which the exemptions under Article 16 or Article 17 below apply, shall not be given away, sold, lent, hired out or otherwise disposed of in the Argentine Republic, except under conditions agreed in advance with the Government.

ARTICLE 12

CURRENCY AND EXCHANGE

The Secretariat shall be exempt from any currency or exchange restrictions, including those in respect of funds, currency and securities received, acquired, held or disposed of. The Secretariat may also operate without restrictions bank or other accounts for its official use in any currency, and have them transferred freely within the Argentine Republic or to any other country.

ARTICLE 13

COMMUNICATIONS

1. With regard to its official communications and the transfer of all its documents, the Secretariat shall enjoy treatment not less favourable than that generally accorded by the Government to any other government, including the latter's diplomatic mission, in the matter of priorities, rates and taxes on mails and all forms of telecommunications.
2. The Secretariat may employ any appropriate means of communication, including encrypted messages. The Government shall not impose any restriction on the official communications of the Secretariat or on the circulation of its publications.
3. The Secretariat may install and use radio transmitters with the consent of the Government.
4. Official correspondence and other official communications of the Secretariat are not subject to censorship and shall enjoy all the guarantees established by Argentine domestic law.

ARTICLE 14

PUBLICATIONS

The importation and exportation of the Secretariat's publications and other information material imported or exported by the Secretariat within the scope of its Official Activities shall not be restricted in any way.

ARTICLE 15*PRIVILEGES AND IMMUNITIES OF DELEGATES*

1. Delegates of the States Parties shall enjoy, during their stay in the Argentine Republic for exercising their official functions, the privileges and immunities of diplomatic agents as established in the Vienna Convention on Diplomatic Relations of 18 April 1961.
2. The provisions of paragraph 1 above shall be applicable irrespective of the relations existing between the governments which the persons referred to represent and the Government, and are without prejudice to any additional immunities to which such persons may be entitled in the Argentine Republic.
3. The privileges and immunities described in paragraph 1 above shall not be accorded to any delegate of the Government or to any national or permanent resident of the Argentine Republic.
4. The Government shall treat Delegates with all due respect and shall take all necessary measures to prevent encroachment on their person, freedom and dignity. Where it appears that an offence may have been committed against a Delegate, steps shall be taken in accordance with Argentine legal procedures to investigate the matter and to ensure that appropriate action is taken with respect to the prosecution of the alleged offender.

ARTICLE 16*EXECUTIVE SECRETARY*

In addition to the privileges, immunities, exemptions and facilities provided for in Article 17 below, the Executive Secretary, unless he or she is a national or a permanent resident of the Argentine Republic, shall enjoy the privileges, immunities, exemptions and facilities to which a diplomatic agent in the Argentine Republic is entitled, including privileges, immunities, exemptions and facilities in respect of the members of their family which form a part of the household, unless they are nationals or permanent residents of the Argentine Republic.

ARTICLE 17*STAFF MEMBERS*

1. Staff members of the Secretariat:
 - a) shall have, even after the termination of their service with the Secretariat, immunity from suit and any other legal or administrative proceedings or judicial request in respect of acts and things done by them in the exercise of their official functions, including words written or spoken;

- b) immunities set out in the sub-paragraph above shall not, however, apply in the case of a motor vehicle offence committed by such a staff member or the Executive Secretary nor in the case of civil or administrative proceedings arising out of death, damage or personal injury caused by a motor vehicle belonging to or driven by him or her to the extent that compensation is not recoverable from insurance;
- c) shall be exempt from any obligations in respect of military service and all other kinds of mandatory service, unless they are nationals or permanent residents of the Argentine Republic;
- d) shall be exempt from the application of laws relating to the registration of aliens and immigration;
- e) unless they are nationals or permanent residents of the Argentine Republic, they shall be accorded the same exemption from currency and exchange restrictions as is accorded to an official of comparable rank from an international agency in the Argentine Republic;
- f) unless they are nationals or permanent residents of the Argentine Republic, they shall when taking up their post in the Argentine Republic for the first time, be exempt from customs duties and other such charges (except payments for services) in respect of import of furniture, motor vehicles and other personal effects in their ownership or possession or already ordered by them and intended for their personal use or for their establishment. Such goods shall be imported within six months of a staff member's first entry into the Argentine Republic but in exceptional circumstances an extension of this period shall be granted by the Government. Goods which have been acquired or imported by staff members and to which exemptions under this sub-paragraph apply shall not be given away, sold, lent, hired out, or otherwise disposed of except under conditions agreed in advance with the Government. Furniture and personal effects may be exported free of duties when leaving the Argentine Republic on the termination of the official functions of the staff member;
- g) shall be exempt from all taxes on income received from the Secretariat. This exemption shall not apply to staff members who are nationals or permanent residents of the Argentine Republic;
- h) shall have similar repatriation facilities as are accorded to representatives of international agencies in times of international crisis; and
- i) shall have personal inviolability with respect to any form of personal arrest or detention or seizure of their personal baggage unless they are nationals or permanent residents of the Argentine Republic.

2. Privileges and immunities applicable to a staff member in accordance with sub-paragraphs c), d), e), f), h) and i) of paragraph 1 above shall also apply to the members of his or her family forming a part of the household, unless they are nationals or permanent residents in the Argentine Republic.

ARTICLE 18*EXPERTS*

In the exercise of their functions experts shall enjoy the following privileges and immunities to the extent necessary for the carrying out of their functions, including while traveling in the Argentine Republic to that effect:

- a) immunity from suit and any other legal or administrative proceedings or judicial request in respect of acts and things done by them in the exercise of their official functions, including words written or spoken. This immunity shall not, however, apply in the case of a motor vehicle offence committed by such experts nor in the case of civil or administrative proceedings arising out of death, damage or personal injury caused by a motor vehicle belonging to or driven by him or her to the extent the compensation is not recoverable from insurance. Such immunity shall continue after the expert's function in relation to the Secretariat has ceased;
- b) inviolability for all their official papers and documents as well as other official materials, which are related to the performance of the functions of the Secretariat;
- c) unless they are nationals or permanent residents of the Argentine Republic, the same exemption from currency and exchange restrictions as is accorded to a representative of a foreign Government on a temporary mission in Argentina on behalf of that Government; and
- d) unless they are nationals or permanent residents of the Argentine Republic, immunity from personal arrest and detention and from attachment of personal luggage.

ARTICLE 19*VISAS*

1. All persons having official business with the Secretariat, namely Delegates and members of their families forming a part of the household, staff members of the Secretariat and any members of their families forming a part of the household, and the experts referred to in Article 18 above, shall have the right of entry into, stay in and exit from the Argentine Republic.

2. The Government shall take all measures necessary to facilitate the entry into the Argentine Republic, the sojourn on that territory and the exit therefrom of all persons mentioned in paragraph 1 above. Visas, where required, shall be granted without wait or delay, and without fee, on production of a certificate that the applicant is a person described in paragraph 1 above. In addition, the Government shall facilitate travel for such persons within the territory of the Argentine Republic.

ARTICLE 20
COOPERATION

The Secretariat shall co-operate fully at all times with the appropriate Authorities in order to prevent any abuse of the privileges, immunities and facilities provided for in this Agreement. The Government reserves its sovereign right to take reasonable measures to preserve security. Nothing in this Agreement prevents the application of laws necessary for health and quarantine or, with respect to the Secretariat and its officials, laws relating to public order.

ARTICLE 21
NOTIFICATION OF APPOINTMENTS, IDENTITY CARDS

1. The ATCM shall notify the Government of the appointment of an Executive Secretary and the date when he or she is to take up or relinquish the post.
2. The Secretariat shall notify the Government when a staff member takes up or relinquishes his or her post or when an expert starts or finishes a project or mission.
3. The Secretariat shall twice a year send to the Government a list of all experts and staff members and the members of their families forming a part of the household in the Argentine Republic. In each case the Secretariat shall indicate whether such persons are nationals or permanent residents of the Argentine Republic.
4. The Government shall issue to all staff members and experts as soon as practicable after notification of their appointment, a card bearing the photograph of the holder and identifying him or her as a staff member or expert as the case may be. This card shall be accepted by the appropriate Authorities as evidence of identity and appointment. The members of their families forming a part of the household shall also be issued with an identity card. When the staff member or expert relinquishes his or her duties, the Secretariat shall return to the Government his or her identity card together with identity cards issued to members of his or her family forming a part of the household.

ARTICLE 22
CONSULTATION

The Government and the Secretariat as an organ of the ATCM shall consult at the request of either of them concerning matters arising under this Agreement. If any such matter is not promptly resolved, the Secretariat shall refer it to the ATCM.

ARTICLE 23
AMENDMENT

This Agreement may be amended by agreement between the Government and the ATCM.

ARTICLE 24
SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation or application of this Agreement shall be settled by consultation, negotiation or any other mutually acceptable method, which may include resort to binding arbitration.

ARTICLE 25
ENTRY INTO FORCE AND TERMINATION

1. This Agreement shall enter into force upon signature.
2. This Agreement may be terminated by written notification by either Party. Termination shall take effect two years after receipt of such notification unless otherwise agreed.

Done in Punta del Este, on the tenth day of May, two thousand and ten, in two originals, in the Spanish, English, French and Russian languages, both being equally authentic.

For the Argentine Republic

Jorge Enrique Taiana
Minister of Foreign Affairs,
International Trade and Worship

For the Antarctic Treaty
Consultative Meeting

Roberto Puceiro Ripoll
Chairman of the XXXIIIrd. Antarctic
Treaty Consultative Meeting