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IMMUNITIES AND
PRIVILEGES



Treaty Series No. 14 (1969)

Headquarters Agreement

between the Government
of the United Kingdom of Great Britain
and Northern Ireland and the
International Wheat Council

London, 28 November 1968

[The Agreement entered into force on signature]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
February 1969*

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**HEADQUARTERS AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND
THE INTERNATIONAL WHEAT COUNCIL**

The Government of the United Kingdom of Great Britain and Northern Ireland and the International Wheat Council;

Having regard to paragraph (2) of Article 33 of the Wheat Trade Convention 1967, open for signature at Washington from 15 October, 1967 until 30 November, 1967;⁽¹⁾

Desiring to define the status, privileges and immunities of the Council and the Food Aid Committee;

Have agreed as follows:

ARTICLE 1

(1) This Agreement shall be interpreted in the light of its primary objective of enabling the Council and the Food Aid Committee at their Headquarters in the United Kingdom fully and efficiently to discharge their responsibilities and fulfil their purposes and functions.

(2) The term "the Organisation" is herein used to refer to the International Wheat Council or the Food Aid Committee as appropriate.

ARTICLE 2

The International Wheat Council and the Food Aid Committee shall have legal personality. They shall in particular have the capacity to contract, acquire, and dispose of movable and immovable property and to institute legal proceedings.

ARTICLE 3

(1) The premises of the Organisation shall be inviolable. The Government of the United Kingdom (herein referred to as "the Government") are under a special duty to take all appropriate steps to protect the premises of the Organisation against any intrusion or damage and to prevent any disturbance of the peace of the Organisation or impairment of its dignity.

(2) The location of the premises and the archives of the Organisation shall be made known to the Government by the Executive Secretary who shall also inform the Government of any change in the location or extent of such premises or archives and of any temporary occupation of premises for the fulfilment of its official functions. Where premises are temporarily used or occupied by the Organisation for the fulfilment of its official functions, these premises shall, with the agreement of the appropriate authorities, be accorded the status of premises of the Organisation.

⁽¹⁾ "Treaty Series No. 1 (1969)", Cmnd. 3840.

(3) No official of the Government or person exercising any public authority shall enter the premises of the Organisation except with the consent of and under conditions approved by the Executive Secretary. No service (other than attempted service by post) or execution of any legal process or any ancillary act such as the seizure of private property, shall take place within the premises of the Organisation except with the express consent of and under conditions approved by the Executive Secretary. Process sent by post addressed to the Organisation shall not be regarded as effecting service.

(4) Without prejudice to the terms of this Agreement, the Organisation shall not permit the premises of the Organisation to become a refuge from justice for persons who are avoiding arrest or service of legal process under the law of the United Kingdom or against whom an order of extradition or deportation has been issued by the appropriate authorities.

ARTICLE 4

(1) The Government undertake to assist the Organisation in the acquisition of premises by gift, purchase or lease or the hire of premises at such time as they may be needed.

(2) The Government shall do their utmost to ensure that the premises shall be supplied with necessary public services, including electricity, water, sewerage, gas, post, telephone, telegraph, drainage, collection of refuse and fire protection and that such public services shall be supplied on reasonable terms.

ARTICLE 5

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

ARTICLE 6

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

ARTICLE 7

(1) The Organisation shall have immunity from jurisdiction and execution except:

- (a) to the extent that the Organisation shall have expressly waived such immunity in a particular case; or
- (b) in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to, or operated on behalf of, the Organisation, or in respect of a motor traffic offence involving such a vehicle;
- (c) in respect of an enforcement of an arbitration award made either under Article 23, Article 24 or Article 27.

(2) The Organisation's property and assets wherever situated shall be immune from any form of requisition, confiscation, expropriation and sequestration. They shall also be immune from any form of administrative or provisional judicial constraint, except insofar as may be temporarily necessary in connection with the prevention of, and investigation into, accidents involving motor vehicles belonging to, or operated on behalf of, the Organisation.

ARTICLE 8

(1) Within the scope of its official activities, the Organisation and its property and income shall be exempt from all direct taxes. Direct taxes include:

- (a) income tax and surtax;
- (b) capital gains tax;
- (c) corporation tax;
- (d) selective employment tax;
- (e) municipal rates levied on the premises of the Organisation except the proportion which, as in the case of diplomatic missions, represents payment for specific services rendered.

The municipal rates referred to in sub-paragraph (e) shall in the first instance be paid by the appropriate authorities and the proportion which represents payment for specific services rendered shall be recovered by them from the Organisation.

(2) The Organisation shall be accorded a refund of the tax element in the price paid for purchases strictly necessary for its official activities. In this connection, the purchases envisaged are those made on a recurring basis or involving considerable quantities of goods, commodities or materials, or those involving considerable expenditure such as the furnishing of the premises of the Organisation or the principal residence of the Executive Secretary. The Organisation shall be accorded a refund of the excise duty element included in the price of spirits of United Kingdom origin purchased in the United Kingdom for the purpose of official entertainment to the extent that such relief is accorded to diplomatic missions. A certificate by the Executive Secretary that any purchase is for the purpose of official entertainment shall be accepted as conclusive.

ARTICLE 9

Goods imported or exported by the Organisation and strictly necessary for the exercise of its official activities shall be exempt from all customs duties and other customs charges except mere payments for services rendered and from all prohibitions and restrictions on import or export.

ARTICLE 10

The official activities of the Organisation shall, for the purposes of this Agreement, include its administrative activities and those undertaken pursuant to the International Grains Arrangement, 1967.⁽²⁾

(2) "Treaty Series No. 1 (1969)", Cmnd. 3840.

ARTICLE 11

No exemption in respect of taxes or customs duties shall be granted under Article 8 or Article 9 in respect of goods purchased and imported for the personal benefit of the staff members of the Organisation.

ARTICLE 12

Goods which have been acquired under Article 8 or imported under Article 9 shall not be sold or given away except in accordance with conditions laid down by the Government.

ARTICLE 13

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

ARTICLE 14

The Organisation may receive funds in any currency. It may dispose of them freely in the United Kingdom or in any other country for an official purpose. In addition to its sterling accounts it may hold accounts in any other currency to the extent required to meet its obligations. It may acquire and hold securities expressed in any currency. These exemptions shall be applied within the framework of the Exchange Control laws and procedural requirements prescribed by the Government, which the Organisation shall observe.

ARTICLE 15

(1) The Government shall permit and protect unrestricted communication on the part of the Organisation for all official purposes. The Organisation may employ all appropriate means of communication, including messages in code or cypher. However, the Organisation may instal and use a wireless transmitter only with the consent of the appropriate authorities. The Executive Secretary shall permit the inspection of wireless transmitting apparatus at all reasonable times by the appropriate authorities.

(2) No censorship shall be applied to official communications of the Organisation by whatever means of communication.

ARTICLE 16

(1) Representatives of Member countries (including alternate representatives) shall enjoy while exercising their functions and in the course of their journeys to and from the place of meeting the following privileges and immunities:

- (a) immunity from arrest and detention, and from seizure of their personal luggage;
- (b) immunity from jurisdiction, even after the termination of their mission, in respect of acts, including words spoken and written, done by them in the exercise of their functions;

- (c) inviolability for all their official papers and documents;
- (d) the right to use codes and to receive documents or correspondence by special courier or sealed bag;
- (e) exemption for themselves and their spouses from all measures restricting entry, from charges for visas and from aliens' registration formalities;
- (f) the same facilities in the matter of currency and exchange control as are accorded to official representatives of the State of which they are residents on temporary official missions;
- (g) the same customs facilities as regards their personal luggage as are accorded to diplomatic agents.

(2) The privileges and immunities described in paragraph (1) of this Article shall not be accorded to any representative of the Government, or to any citizen of the United Kingdom and Colonies.

(3) Privileges and immunities are accorded to representatives of Member countries in order to ensure complete independence in the exercise of their functions in connection with the Organisation. A Member country may waive the immunity of its representative where, in the opinion of that country, the immunity would impede the course of justice and where it can be waived without prejudicing the purposes for which it was accorded.

ARTICLE 17

In addition to the privileges and immunities provided for in Article 18 below, the Executive Secretary of the Organisation and, when the office is vacant, the staff member specially designated to act in his place, shall enjoy the privileges and immunities (other than priority for telecommunications) to which a diplomatic agent in the United Kingdom (having the same nationality and residence status) is entitled.

ARTICLE 18

The staff members of the Organisation:

- (a) shall have, even after they have left the service of the Organisation, immunity from jurisdiction in respect of acts, including words written and spoken, done by them in the exercise of their functions; this immunity shall not apply, however, in the case of a motor traffic offence committed by a staff member of the Organisation, nor in the case of damage caused by a motor vehicle belonging to or driven by a staff member;
- (b) unless they are citizens of the United Kingdom and Colonies, shall be exempt from any obligations in respect of military service;
- (c) shall enjoy inviolability for all their official papers and documents;
- (d) shall enjoy exemption from all measures restricting immigration, from charges for visas and from aliens' registration formalities, and members of their families forming part of their households shall enjoy the same facilities;

- (e) shall be accorded the treatment in matters of exchange control which is accorded to a diplomatic agent in the United Kingdom of the State in which they are resident for exchange control purposes when appointed a staff member;
- (f) shall enjoy the same facilities as to repatriation as diplomatic agents in time of international crisis, and members of their families forming part of their households shall enjoy the same facilities;
- (g) unless they are citizens of the United Kingdom and Colonies shall be exempt from customs duties and other customs charges (except mere payments for services rendered) in respect of import of their furniture and personal effects (including one motor car each) in their ownership or possession or already ordered by them and intended for their personal use or for their establishment at the time of first taking up their post in the United Kingdom. Such goods shall normally be imported within three months of first entry of the staff member into the United Kingdom, but in exceptional circumstances an extension of this period may be granted. This privilege shall be subject to the conditions considered necessary by the Government.

ARTICLE 19

Experts other than the staff members referred to in Article 18 in the exercise of their functions in connection with the Organisation or in carrying out missions for the Organisation, shall enjoy the following privileges and immunities, to the extent that they are necessary for the carrying out of their functions, including during journeys made in carrying out their functions and in the course of such missions:

- (a) immunity from jurisdiction in respect of acts done by them in the exercise of their functions, including words written or spoken, 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 or driven by him; experts shall continue to enjoy this immunity after they have ceased to be employed by the Organisation;
- (b) inviolability for all their official papers and documents;
- (c) the same facilities as regards monetary and exchange regulations and as regards their personal luggage as are accorded to officials of the State of which they are residents on temporary official missions.

ARTICLE 20

(1) The Executive Secretary and the staff members of the Organisation shall be subject to a tax imposed by the Organisation for its benefit, on salaries and emoluments paid by the Organisation. From the date on which this tax is applied such salaries and emoluments shall be exempt from national income tax; but the Government shall retain the right to take these salaries and emoluments into account for the purpose of assessing the amount of taxation to be applied to income from other sources.

(2) The provisions of paragraph (1) of this Article shall not apply to pensions and annuities paid by the Organisation to its former Executive Secretaries and staff members.

ARTICLE 21

(1) The privileges and immunities accorded in the present Agreement to the Executive Secretary, staff members and experts of the Organisation are provided solely to ensure, in all circumstances, the unimpeded functioning of the Organisation and the complete independence of the persons to whom they are accorded.

(2) The Executive Secretary has the right and the duty to waive such immunity when he considers that such immunity is preventing the carrying out of justice and when it is possible to dispense with the immunity without prejudicing the interests of the Organisation. In respect of the Executive Secretary, the Council may waive such immunity.

ARTICLE 22

(1) The Organisation shall co-operate at all times with the appropriate authorities in order to facilitate the proper administration of justice, to ensure the observance of police regulations and regulations concerning handling of inflammable material, public health, labour inspection or other similar national legislation, and to prevent any abuse of the privileges, immunities and facilities provided for in this Agreement.

(2) Nothing in this Agreement shall prevent the reasonable application by the appropriate authorities of measures for the protection of the premises of the Organisation against fire.

(3) The Government retains the right to take all precautionary measures in the interests of its security.

ARTICLE 23

The Organisation shall be obliged in all written contracts, other than those concluded in accordance with staff regulations, into which it enters, to include an arbitration clause whereby any disputes arising out of the interpretation or execution of the contract, unless the Organisation waives its immunity in regard to the dispute, shall be submitted to private arbitration at the request of either party.

ARTICLE 24

The Organisation shall, at the instance of any Party to the Wheat Trade Convention, 1967, or the Food Aid Convention, 1967,⁽³⁾ submit to an international Arbitration Tribunal any dispute:

- (a) arising out of damage caused by the Organisation;
- (b) involving any other non-contractual responsibility of the Organisation;
- (c) involving the Executive Secretary, a staff member or expert of the Organisation, and in which the person concerned can claim immunity from jurisdiction under this Agreement, if this immunity is not waived.

⁽³⁾ "Treaty Series No. 1 (1969)", Cmnd. 3840.

The award of the Arbitration Tribunal shall be enforceable in the United Kingdom and the Organisation shall have no immunity from jurisdiction in proceedings for enforcement of such an award.

ARTICLE 25

(1) The Organisation shall from time to time send to the Government a list of all staff members, indicating in each case whether the individual is a citizen of the United Kingdom and Colonies or permanently resident in the United Kingdom. The Organisation may inform the Government of the appointment of staff members individually for addition to the list.

(2) The Government shall issue to all staff members, on notification of their appointment, a card bearing the photograph of the holder and identifying him as a staff member. This card shall be accepted by the appropriate authorities as evidence of identity and appointment.

ARTICLE 26

At the request either of the Government or of the Organisation consultations shall take place respecting the implementation, modification or extension of this Agreement. Any understanding, modification or extension may be given effect by an Exchange of Notes between a representative of the Government and the Executive Secretary after approval by the Organisation.

ARTICLE 27

Any dispute between the Government and the Organisation concerning the interpretation or application of this Agreement or any question affecting the relations between the Government and the Organisation which is not settled by negotiation or by some other agreed method shall be referred for final decision to a panel of three arbitrators. One of these arbitrators shall be chosen by Her Majesty's Secretary of State, one shall be chosen by the Executive Secretary and the third, who shall be the Chairman of the Tribunal, shall be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the third within one year of their own appointment, the third arbitrator, at the request of the Government or of the Organisation shall be chosen by the President of the International Court of Justice.

ARTICLE 28

(1) This Agreement shall enter into force on signature.

(2) This Agreement may be terminated by agreement between the Government and the Organisation. In the event of the Headquarters of the Organisation being moved from the territory of the United Kingdom, this Agreement shall, after the period reasonably required for such transfer and for the disposal of the property of the Organisation in the United Kingdom, cease to be in force.

In witness whereof the respective representatives have signed this Agreement.

Done in duplicate at London this 28th day of November, 1968, in the English language, which shall be authoritative.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

WILLIAM WHITLOCK.

For the International Wheat Council:

R. E. MOORE.

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