

Plenipotentiary Conference
for the Opening for Signature
of the EUMETSAT Protocol
on Privileges and Immunities

The States parties to the Convention for the Establishment of a European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT), opened for signature at Geneva on 24 May 1983 (hereinafter referred to as the "Convention");

WISHING to define the privileges and immunities in accordance with Article 12 of the Convention;

AFFIRMING that the purpose of the privileges and immunities set forth in this Protocol is to ensure the efficient performance of the official activities of EUMETSAT;

HAVE AGREED as follows:

Article 1

Use of Terms

For the purposes of this Protocol:

- a) "Member State" means a State party to the Convention;
- b) "archives" means all records, including correspondence, documents, manuscripts, photographs, films, optical and magnetic recordings, data recordings and computer programmes, belonging to or held by EUMETSAT;
- c) "official activities" of EUMETSAT means all activities carried out by EUMETSAT in pursuance of its objectives as defined in Article 2 of the Convention and includes its administrative activities;
- d) "property" means anything that may be subject to a right of ownership as well as contractual rights;
- e) "representatives" of Member States means representatives and their advisers;
- f) "staff members" means the Director and all persons employed by EUMETSAT, holding permanent appointments and who are subject to its Staff Rules;
- g) "expert" means a person other than a staff member appointed to carry out a specific task on behalf of EUMETSAT and at its expense.

Article 2

Legal Personality

EUMETSAT shall have legal personality in accordance with Article 1 of the Convention. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property, and to be a party to legal proceedings.

Article 3

Inviolability of Archives

The archives of EUMETSAT shall be inviolable.

Article 4

Immunity from Jurisdiction and Execution

(1) Within the scope of its official activities, EUMETSAT shall have immunity from jurisdiction and execution, except:

- a) in so far as, by decision of the Council, it has expressly waived such immunity in a particular case; the Council has the duty to waive this immunity in all cases where reliance upon it would impede the course of justice and it can be waived without prejudicing the interests of EUMETSAT;
- b) in respect of a civil action by a third party for damage arising from an accident caused by a vehicle or other means of transport belonging to or operated on behalf of EUMETSAT or in respect of a traffic offence involving such means of transport;
- c) in respect of the execution of an arbitration award made under Article 21, 22 or 23 of this Protocol or Article 14 of the Convention;
- d) in the event of the attachment, pursuant to a decision by the administrative or judicial authorities, of the salaries and emoluments, including pension rights, owed by EUMETSAT to a staff member or a former staff member;
- e) in respect of a counterclaim directly connected with judicial proceedings initiated by EUMETSAT;
- f) in respect of any commercial activity in which EUMETSAT might engage.

(2) The property of EUMETSAT, wherever located, shall be immune

- a) from any form of requisition, confiscation or expropriation;
- b) from any form of sequestration and administrative or provisional judicial constraint, except in the cases provided for in the preceding paragraph.

Article 5

Fiscal and Custom Provisions

(1) Within the scope of its official activities, EUMETSAT, its property and income shall be exempt from direct taxes.

(2) When purchases or services of substantial value and necessary for the exercise of the official activities of EUMETSAT are made or used by EUMETSAT and when the price of such purchases and services includes taxes or duties, the Member State that has levied the taxes or duties shall take appropriate measures to grant exemption

from such taxes or duties or to provide for their reimbursement, if they are identifiable.

(3) Goods imported or exported by EUMETSAT and necessary for the exercise of its official activities shall be exempt from all import and export duties and taxes and from all import or export prohibitions and restrictions.

(4) The provisions of this Article shall not apply to taxes or duties which are no more than charges for public utility services.

(5) Goods acquired or imported and exempted under this Article shall not be sold, hired out, lent or given away against payment or free of charge, except in accordance with conditions laid down by the Member States which have granted exemptions or reimbursements.

Article 6

Funds, Currency and Securities

EUMETSAT may receive and hold any kind of funds, currency, cash and securities. It may dispose of them freely for any of its official activities and hold accounts in any currency to the extent required to meet its obligations.

Article 7

Communication

(1) For its official communications and the transfer of all its documents, EUMETSAT shall enjoy treatment not less favourable than that accorded by each Member State to other comparable international organisations.

(2) With regard to the transmission of data within the scope of its official activities, EUMETSAT shall enjoy in the territory of each Member State treatment as favourable as that accorded by that State to its national meteorological service, taking into account the international obligations of that State in respect of telecommunications.

Article 8

Publications

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

Article 9

Representatives

(1) Representatives of Member States shall, while exercising their official functions and in the course of their journeys to and from the place of meeting, enjoy the following privileges and immunities:

- a) immunity from arrest and detention, and from seizure of their personal luggage, except in the case of a grave crime or when found committing, attempting to commit or just having committed an offence;
- 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; this immunity shall not apply, however, in the case of a traffic offence committed by a representative of a Member State, nor in the case of damage caused by a vehicle or other means of transport belonging to or driven by him;
- c) inviolability for all their official papers and documents;

d) exemption from all measures restricting immigration and from aliens' registration formalities;

e) the same treatment in the matter of currency and exchange regulations as is accorded to the representatives of foreign governments on temporary official missions;

f) the same treatment in the matter of customs as regards their personal luggage as is accorded to the representatives of foreign governments on temporary official missions.

(2) Privileges and immunities are accorded to representatives of Member States not for their personal advantage but in order to ensure complete independence in the exercise of their functions in connection with EUMETSAT. Consequently, a Member State has the duty to waive the immunity of a representative wherever retaining it would impede the course of justice and it can be waived without prejudicing the purposes for which it was accorded.

(3) No Member State shall be obliged to accord privileges and immunities to its own representatives.

Article 10

Staff Members

The staff members of EUMETSAT shall enjoy the following privileges and immunities:

- a) immunity from jurisdiction, even after they have left the service of EUMETSAT, in respect of acts, including words written and spoken, done by them in the exercise of their function; this immunity shall not apply, however, in the case of a traffic offence committed by a staff member, nor in the case of damage caused by a vehicle or other means of transport belonging to or driven by him;
- b) exemption from all obligations in respect of national service, including military service;
- c) inviolability for all their official papers and documents;
- d) together with members of their families forming part of their households, exemption from all measures restricting immigration and from aliens' registration formalities;
- e) together with members of their families forming part of their households, the same facilities as to repatriation, in time of international crisis, as are normally accorded to staff members of international organisations;
- f) the same treatment in respect of currency and exchange regulations as is normally accorded to staff members of international organisations;
- g) exemption from all national income tax on their salaries and emoluments paid to them by EUMETSAT, excluding pensions and other similar benefits paid by EUMETSAT, from the date upon which staff members have begun to be liable for a tax on their salaries by EUMETSAT for the latter's benefit. The Member States reserve the right to take those salaries and emoluments into account when assessing the amount of tax to be applied to income from other sources;
- h) the right to import free of custom duties and other import charges their furniture and personal effects, including a motor vehicle, at the time of taking up their post in the territory of a Member State, and the right to export them free of duty upon termination of their functions, subject to the conditions laid down by the laws and regulations of the Member State concerned.

Goods imported and exempted under this paragraph shall not be sold, hired out, lent or given away against payment or free of charge, except in accordance with the conditions laid down by the Member States which have granted the exemptions.

Article 11 **Director**

In addition to the privileges and immunities provided for staff members under Article 10, the Director shall enjoy:

- a) immunity from arrest and detention, except when found committing, attempting to commit or just having committed an offence;
- b) immunity from civil and administrative jurisdiction and execution enjoyed by diplomatic agents, except in the case of damage caused by a vehicle or other means of transport belonging to or driven by him;
- c) full immunity from criminal jurisdiction, except in the case of a traffic offence caused by a vehicle or other means of transport belonging to, or driven by him, subject to sub-paragraph a) above;
- d) the same customs facilities as regards his personal luggage as are accorded to diplomatic agents.

Article 12 **Social Security**

Provided that the staff members are covered by a social security scheme of EUMETSAT providing adequate benefits, EUMETSAT, and its staff members shall be exempt from all compulsory contributions to national social security schemes, subject to agreements to be concluded with Member States concerned in accordance with Article 19 or equivalent measures taken by the Member States or other relevant provisions in force in the Member States.

Article 13 **Experts**

Experts other than the staff members shall enjoy the following privileges and immunities while performing their duties for EUMETSAT or carrying out missions on its behalf:

- a) 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; this immunity shall not apply, however, in the case of a traffic offence committed by an expert, nor in the case of damage caused by a vehicle or other means of transport belonging to or driven by him;
- b) inviolability for all their official papers and documents;
- c) exemption from all measures restricting immigration and from aliens' registration formalities;
- d) the same treatment in the matter of currency and exchange regulations as is accorded to the representatives of foreign governments on temporary official missions.

Article 14 **Waiver**

(1) The privileges and immunities provided for in this Protocol are not granted to staff members and experts for

their personal advantage. They are provided solely to ensure, in all circumstances, the unimpeded functioning of EUMETSAT and the complete independence of the persons to whom they are accorded.

(2) The Director has the duty to waive the immunity of a staff member or an expert in all cases wherever retaining it would impede the course of justice and it can be waived without prejudicing the interests of EUMETSAT. In the case of the Director, the Council is competent to waive such immunity.

Article 15

Notification of Staff Members and Experts

The Director of EUMETSAT shall at least once every year notify the Member States of the names and nationalities of the staff members and experts.

Article 16

Entry, Stay and Departure

Member States shall take all appropriate measures to facilitate the entry into, stay in, or departure from their territories of representatives of Member States, staff members and experts.

Article 17 **Security**

The provisions of this Protocol shall not prejudice the right of each Member State to take all precautionary measures necessary in the interests of its security.

Article 18

Cooperation with the Member States

EUMETSAT shall co-operate at all times with the competent authorities of Member States in order to facilitate the proper administration of justice, to ensure the observance of the laws and regulations, and to prevent any abuse of the privileges, immunities and facilities provided for in this Protocol.

Article 19

Complementary Agreements

EUMETSAT may conclude with one or more Member States complementary agreements to give effect to the provisions of this Protocol as regards such State or States, and other arrangements to ensure the efficient functioning of EUMETSAT.

Article 20

Privileges and Immunities for Nationals and Permanent Residents

No Member State shall be obliged to accord the privileges and immunities referred to in Articles 9, 10 b), d), e), f) and h), 11 and 13 c) and d) to its own nationals or permanent residents.

Article 21

Arbitration Clause in Written Contracts

When concluding written contracts, other than those concluded in accordance with the staff regulations, EUMETSAT shall provide for arbitration. The arbitration clause or the special arbitration agreement concluded to this end shall specify the law and procedure applicable, the composition of the tribunal, the procedure for the appoint-

ment of the arbitrators and the seat of the tribunal. The execution of the arbitration award shall be governed by the rules in force in the State on whose territory the award is to be executed.

Article 22

Settlement of Disputes concerning Damage, Non-Contractual Responsibility or Staff Members and Experts

Any Member State may submit to arbitration in accordance with the procedure provided for in Article 14 of the Convention any dispute

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

Article 23

Settlement of Disputes concerning the Interpretation or Application of this Protocol

Any dispute between EUMETSAT and a Member State or between two or more Member States concerning the interpretation or application of this Protocol which is not settled by negotiation or through the Council shall, at the request of any party to the dispute, be submitted to arbitration in accordance with the procedure provided for in Article 14 of the Convention.

Article 24

Entry into Force, Duration and Termination

(1) This Protocol shall be open for signature or accession by the States parties to the Convention.

(2) The said States shall become parties to this Protocol:

- either by signature that is not subject to ratification, acceptance or approval;
- or by the deposit of an instrument of ratification, acceptance or approval with the Government of the Swiss Confederation, which shall be the depositary, if the Protocol has been signed subject to ratification, acceptance or approval;
- alternatively, by the deposit of an instrument of accession.

The Swiss Government shall notify all States that have signed or acceded to the Convention and the Director of EUMETSAT of the signatures, of the deposit of any instrument of ratification, acceptance, approval or accession, the entry into force of this Protocol, any denunciation of this Protocol, and of its expiry. Upon the entry into force of this Protocol, the depositary shall register it with the Secretary General of the United Nations in accordance with Article 102 of the Charter of the United Nations.

(3) This Protocol shall enter into force thirty days after its signature by six States without their signatures being subject to ratification, acceptance or approval, or thirty days after the date of deposit of their instruments of ratification, acceptance, approval or accession.

(4) Once this Protocol has entered into force, it shall take effect vis-à-vis the States that have signed it without their signatures being subject to ratification, acceptance or approval, or which have deposited their instruments of ratification, acceptance, approval or accession, thirty days after the date of signature or of deposit of the relevant instrument.

(5) This Protocol shall remain in force until the expiry of the Convention.

(6) Any denunciation of the Convention by a Member State in accordance with Article 18 of the Convention shall automatically imply denunciation by that State of this Protocol.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized thereto, have signed this Protocol.

Done at Darmstadt
on the 1st of December 1986

in the English and French languages, both texts being equally authoritative, in a single original which will be deposited in the archives of the Government of the Swiss Confederation, which shall transmit certified copies to all signatory and acceding States.