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PRIVILEGES AND
IMMUNITIES



Treaty Series No. 38 (1972)

Headquarters Agreement

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

London, 9 February 1972

[The Agreement entered into force on 9 February 1972]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
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**HEADQUARTERS AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND
THE INTERNATIONAL TIN COUNCIL**

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

Having regard to Article 14 of the Fourth International Tin Agreement;⁽¹⁾

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

Have agreed as follows :

ARTICLE 1

Use of terms

For the purpose of this Agreement :

- (a) " Council " means the International Tin Council;
- (b) " Government " means the Government of the United Kingdom of Great Britain and Northern Ireland;
- (c) " representatives " means
 - (i) representatives of Member countries; and
 - (ii) representatives of intergovernmental organisations participating in the International Tin Agreement in accordance with article 50 of the Fourth International Tin Agreement or a corresponding article in any succeeding agreement.and in each case means heads of delegations and alternates;
- (d) " premises of the Council " means the buildings or parts of buildings and the land ancillary thereto used for the official purposes of the Council;
- (e) " official activities of the Council " includes its administrative activities and those undertaken pursuant to the Fourth International Tin Agreement or any succeeding agreement; and
- (f) " staff member " includes all persons appointed or recruited by the Council for full-time employment by the Council and subject to the staff regulations of the Council other than experts and persons recruited locally and assigned to hourly rates of pay.

ARTICLE 2

Interpretation

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

(1) Treaty Series No. 91 (1971), Cmnd. 4831.

ARTICLE 3

Legal personality

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

ARTICLE 4

Inviolability of archives

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

ARTICLE 5

Inviolability of premises

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

(2) The location of the premises and the archives of the Council shall be made known to the Government by the Executive Chairman 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 Council 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 Council.

(3) No official of the Government or person exercising any public authority shall enter the premises of the Council except with the consent of and under conditions approved by the Executive Chairman. Such consent may be assumed in the case of fire or other disasters requiring prompt protective action. No service (other than service by post) or execution of any legal process or any ancillary act such as the seizure of private property shall be permitted by the Government to take place within the premises of the Council except with the express consent of and under conditions approved by the Executive Chairman.

(4) Without prejudice to the terms of this Agreement, the Council shall not permit the premises of the Council 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 6

Premises

(1) The Government undertake to assist the Council in the acquisition of premises by gift, purchase or lease or in 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 be supplied on reasonable terms. In case of interruption or threatened interruption of any such services, the Government shall take all reasonable steps to ensure that the Council is not prejudiced.

ARTICLE 7

Flag and emblem

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

ARTICLE 8

Immunity from jurisdiction

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

- (a) to the extent that the Council shall have expressly waived such immunity in a particular case;
- (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 Council or in respect of a motor traffic offence involving such a vehicle; and
- (c) in respect of an enforcement of an arbitration award made under either Article 23 or Article 24.

(2) The Council's property and assets wherever situated shall be immune from any form of requisition, confiscation, expropriation, sequestration or acquisition. 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 Council.

ARTICLE 9

Exemption from taxes

(1) Within the scope of its official activities, the Council and its property and income shall be exempt from all direct taxes. Direct taxes include income tax and surtax, capital gains tax, corporation tax, selective

employment tax, and municipal rates levied on the premises of the Council except the proportion which, as in the case of diplomatic missions, represents payments for specific services rendered. The municipal rates referred to in this paragraph shall in the first instance be paid by the appropriate authorities and the proportion which represents payments for specific services rendered shall be recovered by them from the Council.

(2) The Council shall be accorded a refund of the tax element in the price paid for purchases 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 Council or the principal residence of the Executive Chairman. The Council 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 Chairman that any purchase is for the purpose of official entertainment shall be accepted as conclusive.

ARTICLE 10

Exemption from customs duties

(1) Goods whose import or export by the Council is necessary for the exercise of its official activities shall be exempt from all customs duties and other charges (except mere payments for services) and from all prohibitions and restrictions on import or export.

(2) The Council shall be accorded a refund of the customs duty on hydrocarbon oils purchased by the Council and necessary for the exercise of its official activities.

ARTICLE 11

Exemption from taxes and customs duties

Exemption in respect of taxes or customs duties under Article 9 or Article 10 shall not be granted in respect of goods purchased and imported for the personal benefit of the staff members of the Council.

ARTICLE 12

Re-sale

Goods which have been acquired under Article 9 or imported under Article 10 shall not be sold or given away in the United Kingdom except in accordance with conditions agreed with the Government.

ARTICLE 13

Funds, currency and securities

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

ARTICLE 14

Communications

(1) The Government shall permit and protect unrestricted communication on the part of the Council for all official purposes. The Council may employ all appropriate means of communication, including messages in code or cypher. However, the Council may install and use a wireless transmitter only with the consent of the appropriate authorities. The Executive Chairman 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 Council by whatever means of communication.

ARTICLE 15

Circulation of publications

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

ARTICLE 16

Representatives

(1) 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 done by them in the exercise of their functions, including words written or spoken;
- (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 registration formalities;
- (f) the same facilities in the matter of currency and exchange control as are accorded to a diplomatic agent in the United Kingdom of the State which they represent or, in the case of representatives of an intergovernmental organisation of the State in which that organisation has its headquarters, it being understood that where diplomatic relations with that State do not exist or have been broken off the facilities accorded shall be no less than those given to a diplomatic agent of any third State inside or outside the Scheduled Territories, as appropriate; and
- (g) the same customs facilities as regards their personal luggage as are accorded to diplomatic agents.

(2) The provisions of the preceding paragraph shall be applicable irrespective of the relations existing between the Governments or intergovernmental organisations which the persons referred to represent and the Government of the United Kingdom 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 citizen of the United Kingdom and Colonies.

(4) Privileges and immunities are accorded to representatives in order to ensure complete independence in the exercise of their functions in connection with the Council. A Member country or intergovernmental organisation may waive the immunity of its representative where, in the opinion of that country or organisation, 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

The Executive Chairman

In addition to the privileges and immunities provided for in Article 18 of this Agreement, the Executive Chairman of the Council, unless he is a citizen of the United Kingdom and Colonies or a permanent resident of the United Kingdom, shall enjoy the privileges and immunities (other than priority for telecommunications and facilities in matters of exchange control) to which a diplomatic agent in the United Kingdom is entitled. In matters of exchange control he shall enjoy the facilities which are accorded to a diplomatic agent in the United Kingdom of a State inside or outside the Scheduled Territories as appropriate.

ARTICLE 18

Staff members

The staff members of the Council:

- (a) shall have (even after they have left the service of the Council) immunity from jurisdiction in respect of acts done by them in the exercise of their functions, including words written or spoken; this immunity shall not however apply in the case of a motor traffic offence committed by a staff member of the Council nor in the case of damage caused by a motor vehicle belonging to or driven by a staff member;
- (b) shall be exempt from any obligations in respect of military service, and members of their families forming part of their households shall enjoy the same exemption, provided that this exemption shall not apply to any person who is a citizen of the United Kingdom and Colonies;
- (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 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; and
- (g) unless they are citizens of the United Kingdom and Colonies, shall at the time of first taking up their post in the United Kingdom be exempt from customs duties and other customs charges (except mere payments for services) 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. Such goods shall normally be imported within three months of the 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 conditions agreed with the Government.

ARTICLE 19

Experts

Experts (other than the staff members referred to in Article 18) in the exercise of their functions in connection with the Council or in carrying out missions for the Council 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 Council;
- (b) inviolability for all their official papers and documents;
- (c) the same facilities as regards monetary and exchange regulations as are accorded to diplomatic agents in the United Kingdom of the State of which they are residents; and
- (d) the same facilities as regards their personal luggage as are accorded to officials of the State of which they are residents on temporary official missions.

ARTICLE 20

Income tax

(1) The Executive Chairman and the staff members of the Council shall be subject to a tax imposed by the Council for its benefit on salaries and emoluments paid by the Council. From the date on which this tax is applied such salaries and emoluments shall be exempt from United Kingdom 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) In the event that the Council operates a system for the payment of pensions and annuities to its former Executive Chairmen and staff members, the provisions of paragraph (1) of this Article shall not apply to such pensions and annuities.

ARTICLE 21

Object of privileges and immunities. Waiver

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

(2) The Executive Chairman 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 Council. In respect of the Executive Chairman, the Council may waive such immunity.

ARTICLE 22

Co-operation

(1) The Council 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 the handling of inflammable material, public health, labour inspection and other similar national 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) Nothing in this Agreement shall prevent the reasonable application by the appropriate authorities of measures for the protection of the premises of the Council against fire.

ARTICLE 23

Contracts

Where the Council enters into contracts (other than contracts concluded in accordance with staff regulations) with a person resident in the United Kingdom or a body incorporated or having its principal place of business in the United Kingdom and embodies the terms of the contract in a formal instrument, that instrument shall include an arbitration clause whereby any disputes arising out of the interpretation or execution of the contract may at the request of either party be submitted to private arbitration.

ARTICLE 24

Submission to an international arbitration tribunal

The Council shall, at the instance of the Government, submit to an international arbitration tribunal any dispute (other than a dispute concerning the interpretation or application of the Fourth International Tin Agreement or any succeeding agreement):

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

ARTICLE 25

Notification of appointments. Cards

(1) The Council shall from time to time send to the Government a list of all staff members indicating in each case whether or not the individual is a citizen of the United Kingdom and Colonies or permanently resident in the United Kingdom. The Council 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

Modification

At the request either of the Government or of the Council, 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 Letters between a representative of the Government and the Executive Chairman (after approval by the Council).

ARTICLE 27

Disputes

Any dispute between the Government and the Council concerning the interpretation or application of this Agreement or any question affecting the relations between the Government and the Council 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 Principal Secretary of State for Foreign and Commonwealth Affairs, one shall be chosen by the Executive Chairman 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 Council, shall be chosen by the President of the International Court of Justice.

ARTICLE 28

Entry into force and termination

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

(2) This Agreement may be terminated by agreement between the Government and the Council. In the event of the Headquarters of the Council being moved from the territory of the United Kingdom, this Agreement shall, after the period reasonably required for such transfer and the disposal of the property of the Council 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 ninth day of February, 1972 in the English language, which shall be authoritative.

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

LOTHIAN

For the International Tin Council:

H. W. ALLEN