

Geneva, February 11th, 1955

EUROPEAN ORGANIZATION FOR NUCLEAR RESEARCH

SECOND SESSION OF COUNCIL

GENEVA

24-25 February 1955

HEADQUARTERS AGREEMENT

This document, together with the procès-verbal of the Rome meeting, has been considered by the Finance Committee at its second meeting (Geneva, January 25th, 1955) and by the Committee of Council at its first meeting (Geneva, January 27th, 1955); it is now submitted to the Council for final approval.

Annex I to the Agreement (Draft of the exchange of letters between CERN and the Swiss Government) is submitted to Council for the first time in its final form. If the Council approves the Agreement, it will be asked to give its formal assent to the following resolution :

"The Council of the European Organization for Nuclear Research,

Having considered the Draft Agreement between the Swiss Federal Council and the European Organization for Nuclear Research, concerning the legal status of the said Organization in Switzerland,

Accepts the text of the said Agreement, as it appears in the Annex to the present resolution;

Requests the Director-General to notify this acceptance to the appropriate Federal authorities, and to affix his signature to the said Agreement;

Expresses to the Swiss Federal Council its sincerest thanks for their understanding attitude and for the facilities extended to the Organization."

Note : The Customs Regulations mentioned in the Agreement have already been sent to the Member States.

EUROPEAN ORGANIZATION FOR NUCLEAR RESEARCH

AGREEMENT

between

THE SWISS FEDERAL COUNCIL

and

THE EUROPEAN ORGANIZATION FOR NUCLEAR RESEARCH

Concerning the legal Status of that Organization
in Switzerland

The Swiss Federal Council,
of the one part,

The European Organization for Nuclear Research,
of the other part,

Considering Article IX of the Convention of the 1st July, 1953,
for the establishment of a European Organization for Nuclear
Research,

Considering Resolutions 3 and 4 recorded in the Final Act of
the Conference which adopted the above-mentioned Convention,

Have concluded the following Agreement concerning the legal
Status in Switzerland of the European Organization for
Nuclear Research.

Article 1

Personality

The Swiss Federal Council recognizes the international personality and legal capacity in Switzerland of the Organization.

Article 2

Immunities

The Organization shall enjoy the immunities and privileges usually granted to international organizations to the extent required for the fulfilment of their tasks. Privileges and facilities in respect of customs shall be granted in accordance with the customs regulations of the Swiss Federal Council applying to international organizations, annexed to the present agreement.

Article 3

Inviolability of grounds and buildings

The grounds and buildings of the Organization shall be inviolable. No agent of the Swiss public authorities may enter them without the express consent of the Director-General or his duly authorized representative.

Article 4

Inviolability of archives

The archives of the Organization and all documents belonging to it or in its possession are inviolable.

Article 5

Freedom of meeting

The Swiss Federal Council recognizes that the Organization and the representatives of its Members in their relations with it shall enjoy absolute freedom of meeting including freedom of discussion and decision.

Article 6

Immunity from legal process and immunity from other measures

1. The Organization, its properties and assets wherever they may be or by whomsoever they may be held shall enjoy immunity from every form of legal process except in so far as this immunity is formally waived by the Council of the Organization or its duly authorized representative.

2. The property and assets of the Organization wherever they may be and by whomsoever they may be held shall enjoy immunity from search, requisition, confiscation, expropriation or any other form of seizure or interference by any public authority whatsoever its nature.

Article 7

Publications

The publications issued by the Organization and any which may be addressed to it shall not be subject to import and export prohibitions or restrictions.

Article 8

Fiscal status

The Organization shall be exempted from direct and indirect taxes, federal, cantonal and communal, on buildings of which it is the owner and which are occupied by its services as well as on its movable property; it is understood, however, that the Organization shall not claim exemption from taxes which are, in fact, no more than charges for public utility services.

Article 9

Free disposal of funds

1. The Organization may receive and hold funds, notes, bullion and securities of any kind and may dispose of them freely both within Switzerland and in other countries.

2. The facilities covered by this Article shall be extended also to Member States in their relations with the Organization.

Article 10

Official communications

The Organization shall enjoy for its official communications treatment not less favourable than that accorded to other international organizations in Switzerland in respect of:

- a) all priorities for communications and transport;
- b) postal, telegraphic, radio-telegraphic, telephonic, radio-telephonic and telephotographic tariffs, etc.

Article 11

Exemption from censorship

No censorship shall be applied to the duly authenticated official communications of the Organization, whatever the means of communication employed.

Article 12

Freedom of access and residence

1. The Swiss authorities shall take the necessary steps to facilitate the entry into, residence in, and departure from Swiss territory of all persons having official business with the Organization, that is to say:

- a) representatives of Member States whatever may be the relations between Switzerland and the said States;
- b) the Director and staff of the Organization, as defined by the Convention;
- c) other persons irrespective of nationality invited by the Organization.

2. All federal police regulations tending to restrict the entry of foreigners into Switzerland or to regulate the conditions of their residence shall not apply to the persons covered by this article.

Article 13

Representatives

For the purpose of the present agreement the word representative is considered as including all delegates, delegates' deputies, advisers, technical experts and secretaries of delegations.

Article 14

Immunities of the representatives of the Members of
the Organization

1. The representatives of the Members of the Organization having official business with the Organization shall enjoy in Switzerland, in the exercise of their functions, the following privileges and immunities:

- a) immunity from personal arrest, or from detention or seizure of their personal belongings and, in respect of the acts performed in the discharge of their duties, including their oral and written statements, immunity from jurisdiction;
- b) inviolability of all papers and documents;
- c) the right to use codes and to receive documents and correspondence by courier or sealed bags;
- d) for them and for their spouses exemption from any immigration restriction, from aliens' registration formalities and from any national service duties;
- e) the same facilities concerning currency or exchange regulations as are granted to representatives of foreign governments on official temporary mission;
- f) customs facilities granted in accordance with the customs regulations of the Swiss Federal Council applying to international organizations.

2. The privileges and immunities granted to the representatives of the Members of the Organization are not designed for their personal benefit but are designed solely to ensure complete independence in the performance of their duties towards the Organization. Therefore, a Member of the Organization shall have not only the right but the duty to waive the immunity of its representative whenever he feels that this immunity would impede the course of justice and that it can be waived without prejudice to the purpose for which it was granted.

Article 15

Immunities of the Director-General and certain officials

1. The Director-General of the Organization and the senior officials within those categories designated by the Council of the Organization, or by its duly authorized representative, and agreed to by the Swiss Federal Council, shall enjoy the privileges and immunities granted to the senior staff of international organizations established in Switzerland.

2. The customs privileges and facilities shall be granted in accordance with the customs regulations of the Swiss Federal Council applying to international organizations.

Article 16

Immunity from jurisdiction of officials

The officials and experts of the Organization shall enjoy immunity from jurisdiction for all acts performed in the discharge of their duties including any oral or written statements.

Article 17

Exemptions and facilities granted to officials
not of Swiss nationality

The officials of the Organization who are not of Swiss nationality:

- a) shall be exempted from any taxes on the salaries and emoluments paid by the Organization;
- b) shall be exempted from any national service duties;
- c) shall, together with their family dependants, not be subject to any immigration restrictions nor to aliens' registration formalities;
- d) shall enjoy the same privileges concerning currency exchange facilities as are granted to the officials of international organizations established in Switzerland;
- e) shall enjoy, together with their family dependants, the same repatriation facilities as are granted to diplomatic agents in a time of international crisis;
- f) shall enjoy the customs facilities provided for by the customs regulations of the Swiss Federal Council applying to international organizations.

Article 18

Military service of Swiss officials

1. The Director-General of the Organization, or his duly authorized representative, shall communicate to the Swiss Federal Council a list of the officials of Swiss nationality who are subject to military obligations.
2. The Director-General of the Organization, or his duly authorized representative, and the Swiss Federal Council will draw up by common agreement a restricted list of officials of Swiss nationality who on account of their functions will be granted dispensations from military service.
3. In the event of mobilization of other Swiss officials, the Director-General of the Organization may request through the Federal Political Department a postponement of the calling up or any other appropriate measures for the officials of Swiss nationality.

Article 19

Identity card

1. The Federal Political Department shall, for each official furnish the Organization with an identity card bearing the photograph of the holder. This card, authenticated by the Federal Political Department and the Organization, shall serve to identify the official to all federal cantonal and communal authorities.

2. The Organization shall communicate at regular intervals to the Federal Political Department a list of the officials of the Organization, including the members of their families, specifying their date of birth, their nationality, their address in Switzerland and the category or grade of their posts.

Article 20

Pensions Fund and Special Funds

1. Any Pensions Fund or Provident Fund administered officially for the benefit of the officials of the Organization shall enjoy legal capacity in Switzerland, if it so requests, and shall enjoy the same exemptions, immunities and privileges as the Organization itself within the limits of its activities to the benefit of the said officials.

2. Funds and foundations, whether endowed with legal capacity or not, administered under the auspices of the Organization and designed for its official purposes, shall enjoy the same exemptions, immunities and privileges as the Organization itself with regard to their movable property.

Article 21

The Organization is exempt from all compulsory contributions to general social insurance funds such as equalization, unemployment insurance and workmen's compensation funds, etc., it being understood that the Organization will so far as possible and under conditions to be agreed upon insure with Swiss social insurance funds those of its agents who are not assured of equivalent social protection by the Organization itself.

Article 22

Object of the immunities

1. The privileges and immunities provided for in the present Agreement in respect of officials of the Organization are not designed for the personal benefit of these officials but are designed solely to ensure the free functioning of the Organization and the complete independence of its agents in all circumstances.

Waiver of immunity

2. The Director-General shall have the right and duty to waive the immunity of any official whenever he considers that such immunity would impede the course of justice and can be waived without prejudice to the interests of the Organization. In the case of the Director-General, the right to waive immunity shall rest with the Council.

Article 23

Prevention of abuses

The Organization and the Swiss authorities shall co-operate at all times to facilitate the proper administration of justice, secure the observance of police regulations and prevent any abuse in connection with the privileges, immunities and facilities provided for in this Agreement.

Agreement 24

Disputes of a private nature

The Organization shall make provision for appropriate methods of settlement of:

- a) disputes arising out of contracts and other disputes in private law to which the Organization is a party;
- b) Disputes involving an official of the Organization who by reason of his official position enjoys immunity, if such immunity has not been waived under the provisions of Article 22.

Article 25

Non-responsibility of Switzerland

Switzerland shall not incur any international responsibility by reason of the activity of the Organization on its territory for acts or omissions of the Organization or of its agents acting or abstaining from acting within the limits of their functions.

Article 26

Security of Switzerland

1. Nothing in the present Agreement shall affect the right of the Swiss Federal Council to take the precautions necessary for the security of Switzerland.
2. If the Swiss Federal Council considers it necessary to apply the first paragraph of this article, it shall approach the Organization as soon as circumstances allow in order to determine by mutual agreement the steps necessary to protect the interests of the Organization.
3. The Organization shall collaborate with the Swiss authorities to avoid any prejudice to the security of Switzerland resulting from its activities.

Article 27

Execution of the Agreement by Switzerland

The Federal Political Department shall be entrusted with the execution of this Agreement by the Swiss Confederation.

Article 28

Jurisdiction

1. Any divergence of opinion concerning the application or interpretation of this Agreement, which has not been settled by direct conversations between the parties may be submitted by either party to a tribunal of three members which shall be established upon the coming into force of this Agreement.
2. The Swiss Federal Council and the Organization shall each designate one member of the said tribunal.
3. The members so appointed shall designate their president.
4. In the event of a disagreement between the members on the designation of a president, the president shall be designated by the President of the International Court of Justice at the request of the members of the tribunal.
5. The tribunal may assume jurisdiction upon request by either party.
6. The tribunal shall determine its own procedure.

Article 29

Entry into force

This Agreement shall enter into force as soon as it has been approved by the Swiss Federal Council and the Council of the Organization.

Article 30

Modification of the Agreement

1. This Agreement may be revised at the request of either party.
2. In this event the two parties shall consult each other concerning the amendments to be introduced in its provisions.
3. In case the negotiations should fail the Agreement may be denounced by either party upon two years' notice.

Article 31

Languages of the Agreement

The French and English texts of this Agreement shall be equally authoritative.

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