

OEA/SER.D/V.14/94

April 18, 1994

Original : in english

AGREEMENT BETWEEN THE GOVERNMENT OF THE
COOPERATIVE REPUBLIC OF GUYANA AND THE GENERAL
SECRETARIAT OF THE ORGANIZATION OF AMERICAN STATES ON THE
FUNCTIONING OF THE OFFICE OF THE GENERAL SECRETARIAT OF
THE ORGANIZATION OF AMERICAN STATES AND RECOGNITION OF ITS
PRIVILEGES AND IMMUNITIES

(Signed in Georgetown, Cooperative Republic of Guyana, April 18, 1994)



AGREEMENT BETWEEN THE GOVERNMENT OF THE
COOPERATIVE REPUBLIC OF GUYANA AND
THE GENERAL SECRETARIAT OF THE
ORGANIZATION OF AMERICAN STATES
ON THE FUNCTIONING OF THE OFFICE
OF THE GENERAL SECRETARIAT OF THE
ORGANIZATION OF AMERICAN STATES
AND RECOGNITION OF ITS PRIVILEGES
AND IMMUNITIES

(Signed in Georgetown, Co-operative Republic of Guyana, *April 15, 1954*)

AGREEMENT BETWEEN THE GOVERNMENT OF
THE CO-OPERATIVE REPUBLIC OF GUYANA
AND THE GENERAL SECRETARIAT OF THE ORGANIZATION
OF AMERICAN STATES ON THE FUNCTIONING OF THE
OFFICE OF THE GENERAL SECRETARIAT OF THE ORGANIZATION
OF AMERICAN STATES AND RECOGNITION OF ITS PRIVILEGES
AND IMMUNITIES

WHEREAS:

On January 8, 1991, the Government of the Co-operative Republic of Guyana deposited the instrument of ratification of the Charter of the Organization of American States, signed in Bogota on April 30, 1948;

In its resolution of June 3, 1953, the Council of the Organization of American States authorized the Secretary General to establish offices of the General Secretariat of the Organization of American States in the various Member States;

As a result of this authorization, an office of the General Secretariat of the Organization of American States was established in November 1993 by the General Secretariat in the Co-operative Republic of Guyana;

The Government of the Co-operative Republic of Guyana has cooperated to its fullest with the Office of the General Secretariat of the Organization of American States in the Co-operative Republic of Guyana and on several occasions has offered to increase this cooperation as appropriate;

Article 138 of the Charter of the Organization of American States provides that the Organization "shall enjoy in the territory of each member state such legal capacity, privileges and immunities as are necessary for the exercise of its functions and the accomplishment of its purposes";

Consequently, it is necessary to conclude a formal agreement for the purpose of defining the forms of cooperation between the parties and to determine the terms, facilities, privileges and immunities that the Government of the Co-operative Republic of Guyana will accord to the General Secretariat of the Organization of American States in connection with the functioning of the aforementioned office;

THEREFORE:

The General Secretariat of the Organization of American States, hereinafter called "The General Secretariat", represented by the Secretary General of the Organization, His Excellency Joao Clemente Baena Soares, and the Government of the Co-operative Republic of Guyana, hereinafter called "The Government", represented by the Honourable Clement Rohee, Senior Minister of Foreign Affairs

AGREE TO THE FOLLOWING:

I. GENERAL PROVISIONS

Article 1

Definitions

For the purpose of this agreement:

The term "The Organization" means the Organization of American States.

The term "The Secretary General" means the Secretary General of the Organization.

The term "the Office" means the Office of the General Secretariat of the Organization in the country.

The term "the country" means the Co-operative Republic of Guyana.

The term "the member states" means the states that are members of the Organization.

The term "the competent authorities" means the authorities of the Co-operative Republic of Guyana, in accordance with its laws.

The term "the Foreign Ministry" means the Ministry of Foreign Affairs of the Co-operative Republic of Guyana.

The term "property" includes real property, furniture, vehicles and means of transportation, working equipment and materials, rights of any nature, funds in any currency, gold and foreign exchange, assets, income and donations, operations and other resources, and, in general, anything that may constitute the property of a natural or juridical person.

The term "headquarters" includes all the branches and offices of the Office.

The term "archives" comprises the correspondence, manuscripts, books, documents and other library material, photographs, films, sound recordings and all audio-visual documents and materials of any nature, owned by the Office or in its possession.

The term "personnel of the Office" includes all staff members of the Office of any level and rank, including administrative and service personnel.

The term "personnel of the General Secretariat" includes all the staff members of the General Secretariat of whatever level and rank, including the administrative and service personnel, regardless of nationality and country or place in which they are working, staff members of any level and rank of the specialized agencies of the Organization, and the technicians, experts, and consultants of the Organization or of the centres or entities that are agencies of it.

The term "members of the family" includes the dependent relatives by consanguinity or affinity of the personnel of the Office and of the General Secretariat, whatever their grade, in accordance with the legal provisions in force in the country.

The term "levy" includes all taxes, fees and special assessments and any other charges and rates of the same or similar nature provided for in the legislation of the Co-operative Republic of Guyana.

The term "tax" means a levy charged due to a situation independent of any state activity related to the payer.

The expression "fee" describes a levy charged for actual or potential individualized public services furnished to the payer, with the proceeds earmarked only for the service for which the obligation is budgeted. Payment received from the user for services not inherent to the state is not a fee.

The expression "special assessment" is a levy charged for benefits stemming from public works or state activities, which is earmarked only to finance works or activities for which the obligation is budgeted.

The expression "assessment for improvement" means the assessment made to pay the cost of a public work that causes real property to appreciate and whose overall limit is the expenditure made and whose individual limit is the increase in the value of the real property benefitted.

The term "social security contribution" describes the levy paid by employers and workers who are members of the groups benefited and is intended to finance the welfare service.

The term "shipments" means the equipment, goods and merchandise shipped abroad by any means and intended for the Organization, the General Secretariat or the Office.

Article 2

Legal Status and Capacity of the Organization

In accordance with the Charter of the Organization, the Government recognizes to the Organization, the General Secretariat and the Office:

1. Full legal status in the territory of the country and, consequently, the capacity to acquire rights and undertake obligations and, in particular, to contract for, dispose of or encumber for any cause, furniture and real estate and rights; to institute legal and administrative proceedings and, in general, to execute all legal acts or business inherent in the performance of their duties.

2. Independence and freedom of action appropriate to international organizations, in accordance with international custom and the customs of the place, without prejudice to the provisions of the other Articles of this Agreement.

II. RECOGNITION, FUNCTIONS, REPRESENTATION
AND OBJECTIVES OF THE OFFICE

Article 3

Recognition and Functions

In accordance with the Charter of the Organization, the Government recognizes the Office that the General Secretariat has had established in the Co-operative Republic of Guyana since 1993, which, as part of the General Secretariat, shall perform in the country the duties assigned to it by the Secretary General.

Article 4

Representation

The Office shall be managed by a Director, who shall be its legal representative by delegation of the Secretary General.

Article 5

Objectives

The Office shall have as its principal objectives:

1. To represent the General Secretariat before the competent authorities in all acts related to the functions of the Office and of the General Secretariat in the country.

2. To serve as a centre to promote, supervise and coordinate all the activities and operations of the General Secretariat in the country.

3. To develop exchange of information and experience and promote coordination with other international organizations and also with the other organs, agencies and entities of the Inter-American System.

4. To disseminate the programmes and activities of the Organization and supervise the public information activities of the General Secretariat in the country.

5. To inform the national public on the principles, purposes and objectives of the Organization.

6. To sponsor knowledge of the art and culture of the peoples of the Americas, through the promotion in the country and exchange with countries of the Americas of exhibits, lectures and other manifestations of artistic and intellectual endeavour.

7. To represent the General Secretariat or to serve as an observer for the Secretariat at any seminars and lectures held in the country to which it may be invited, when so designated by the General Secretariat.

8. To give priority in its activities to the rendering of direct services of technical cooperation of the Organization in the country, to support the national economic, social, educational, scientific, technological and cultural development effort.

III. FINANCING OF THE OFFICE

Article 6

Budget of the Organization

For the maintenance of the Office in the country, the General Secretariat shall allocate the amount approved for this purpose in the programme-budget of the Organization and also other funds allocated to it according to the activities that the General Secretariat decides to undertake through the facilities of the Office, taking into account the country's relative state of development.

Article 7

National Contribution

a. The Government shall, as mutually agreed upon and to the extent possible, make a contribution to the General Secretariat for the exclusive use of the Office, as a means of contributing to the achievement of the objectives of the Office and helping to increase and improve the services rendered by it to the country. Accordingly, the Government shall provide the Office with rent-free accommodation which is reasonably satisfactory to the General Secretariat and sufficient for the accomplishment of its purposes and implementation of its programmes in the country.

b. The Office shall be responsible for the payment of all utility bills.

c. The Government shall review its contribution to the Office on an annual basis and shall increase it, if necessary, in accordance with the economic trend of the country and the programmes of the Organization.

IV. PRIVILEGES AND IMMUNITIES

A. INSTITUTIONAL

Article 8

Privileges and Immunities in General

The Government recognizes that the Office, the General Secretariat and the Organization shall enjoy in the territory of the country:

1. In accordance with the provisions of Article 138 of the Charter of the Organization, such privileges and immunities as are necessary for the exercise of its functions and the accomplishment of its purposes as an international organization.

2. The immunities, privileges, exemptions and postage-free facilities set forth in the Agreement on Privileges and Immunities of the Organization of American States, open to signature on May 15, 1949.

Article 9

Immunity from Jurisdiction

The Office, the General Secretariat and the Organization, and also its property, premises, files and shipments shall enjoy immunity in the country against judicial and administrative procedure, being immune from search, seizure or any other measure of execution, except in particular cases in which that immunity is expressly waived by the Director of the Office, duly authorized to do so by the Secretary General.

The effects of the waiver shall not extend to measures of execution affecting the property, premises, files and shipments of the Office, the General Secretariat or the Organization, which shall require another express waiver.

Article 10

Inviolability

The premises, property, files, correspondence and shipments of the Office, the General Secretariat and the Organization shall be inviolable within the territory of the country, wherever located and by whomsoever held; and they shall be immune from search, requisition, inspection, censure, registration, seizure and from any other form of interference, whether of an executive, administrative, judicial or legislative nature. The consent of the Director of the Office shall be required for agents of the State to be permitted to enter the headquarters of the Office.

Article 11

Monetary and Foreign Exchange Restrictions

In accordance with Article 6 of the Agreement on Privileges and Immunities of the Organization of American States, the Office the General Secretariat and the Organization may, without the restriction of financial decrees, regulations or moratoria of any kind:

1. Hold funds, gold or currency of any kind and operate accounts in any currency;
2. Transfer their funds, gold or currency of any kind within or outside of the country; and
3. Convert any currency held by them into any other currency.

In the exercise of these privileges, the General Secretariat shall give due attention to any objection made by the Government, to the extent that it considers that such an objection may be taken into account without detriment to the interest of the Office, the General Secretariat and the Organization.

Article 12

Taxes

The Office, the General Secretariat and the Organization shall have the following tax privileges:

1. Total exemption from payment and transfer of charges with respect to national or municipal taxes involving the following taxable events:

(a) The importation into national territory of merchandise for their use or consumption or for that of projects of cooperation for development that they execute in whole or in part in the country or in whose execution they participate.

(b) The exportation from national territory for their use or consumption or for that of projects of cooperation for development that they execute in whole or in part in the country, or in whose execution they participate.

(c) The buying, selling or conducting of other equivalent operations with respect to merchandise for their use or consumption, or that has been in use or consumption for projects of cooperation for development that they execute in whole or in part in the country, or in whose execution they participate.

(d) The rendering and receiving of services of any class, including national and international air, sea and land passages.

(e) The holding, purchasing or use of real property and holding, registering and driving of vehicles of any kind for the execution of their activities or those of projects of cooperation for development that they execute in the country, or in whose execution they participate.

(f) The obtainment of income, rents, contributions, funds, donations and loans for the purposes set forth in the Charter of the Organization.

(g) The implementation of all kinds of agreements, conventions, acts, contracts, documents, actions, petitions and briefs with any type of persons or before any national or foreign authorities.

2. Regarding fees:

(a) Franking privileges for local telegraph service and postal service for correspondence, including printed matter and parcels, in accordance with Article 141 of the Charter of the Organization.

(b) Same rates as applied to the Government for water, light, telephone, telex, cable, telegram and mail services.

3. Total exemption from improvement, social security or any other type of special assessments. Consequently, the personnel of the Office and of the General Secretariat shall be protected under the employment systems and social welfare regulations of the Organization and the General Secretariat shall not be required to affiliate its personnel with the national social security and welfare systems. Notwithstanding, the General Secretariat may make arrangements with national social security and welfare institutions for its personnel, when it deems this advisable.

Article 13

Withholding and Declarations

The Office, the General Secretariat and the Organization shall be exempt from having to withhold or collect any levy and/or present declarations or returns in this respect.

Article 14

Communications

The Office, the General Secretariat and the Organization shall have the benefit of the following for its national and international official communications in the territory of the country:

(a) Facilities no less favourable than those granted by the Government to any international organization with respect to priorities, tariffs, and rates on cables, telegrams, radiograms, telexes, telephone, telephotos and other forms of communication.

(b) The right to use codes or keys and to send and receive their correspondence by courier or in sealed pouches, enjoying for this purpose the same privileges and immunities as those granted for diplomatic mail, couriers or pouches.

(c) The right to be free of all restrictions in their correspondence or other official communications.

Article 15

Travel Document

The Government recognizes the "Official Travel Document" issued by the General Secretariat as a valid and sufficient document for national and international travel of the staff members or other persons on official travel on behalf of the Office, the General Secretariat or the Organization within or outside of the country. This document requires no visa for its holder to enter the country and remain there until the conclusion of his mission or service in the country. Family members of the holder of the "Official Travel Document" not included therein shall be given official visas in their national passport to permit them to enter the country and to remain therein. These visas shall be issued without delay, for no fixed time, and shall not require the presence of the family members in the diplomatic or consular mission of the country, or payment of any fee. The same provision shall apply to officers, personnel or contractors of the General Secretariat or of the Organization, and to members of their families, who, because of the short duration of the official mission, do not have the "Official Travel Document" and must enter the country with passports issued by their countries of origin. The Government shall take the appropriate measures for these cases.

Article 16

Fares

Because their goal is to provide service, officers, staff members or contractors of the office, the General Secretariat or the Organization taking national or international trips on official mission, and also OAS fellowship students and individuals invited by the Organization to participate in contests or special events, shall not be required to pay entry and embarkation taxes at ports and airports. These provisions also apply to family members of the staff and of the fellowship students of the Organization.

Article 17

Insurance

The Government shall accept, as valid in the country, all insurance contracted by the General Secretariat or the self insurance plans established by the General Secretariat in connection with persons, shipments, vehicles and other assets of the Organization, even though said insurance is contracted with insurance companies located in other Member countries.

B. PERSONNEL

Article 18

General

Staff members of the Office of the General Secretariat:

1. Shall have the status of international officers serving an international organization, in accordance with Article 123 of the Charter of the Organization, and shall be selected, contracted and appointed by the Secretary General, in accordance with the provisions of Article 118 of the Charter.

2. In their position as officers of an international organization:

(a) They shall enjoy immunity from personal arrest, detention, administrative and judicial proceedings in connection with the official acts and deeds that they execute and in respect of words spoken or written by them in the performance of their duties and even after these have concluded, without prejudice to the Secretary General's power to waive that immunity in cases in which he considers this necessary.

(b) They shall be exempt from taxes of all kinds on their salaries, benefits and other remunerations received from the Office and from the General Secretariat, including their retirement pensions and indemnities and other payments for retirement or separation.

(c) They shall be provided with an official identification document issued by the Ministry of Foreign Affairs.

Article 19

Foreign Staff Members

Staff members of the General Secretariat and the Organization, and members of their families not nationals of the country, shall, in addition, enjoy the following privileges and immunities.

1. Inviolability of their baggage, personal effects, papers and documents.

2. Exemption from compulsory national service.

3. The same repatriation facilities as those accorded to diplomatic agents in time of international crisis.

4. The usual facilities and courtesies compatible with the laws on nationality and immigration in force in the country; and freedom to enter, leave and travel in national territory with no other requirement or document than the "Official Travel Document" issued by the Organization.

5. Full exemption from the following taxes:

(a) On importation or introduction into the country of baggage, furniture, household effects and equipment, and merchandise and articles for family use or consumption, upon their entry into the country as part of the family's installation therein.

(b) On the importation or introduction into the country of baggage, furniture, household effects and equipment, vehicles and merchandise and articles for personal or family use or consumption, during the period of official stay in and up to three months after final departure from the country, subject to the following rules:

i. Baggage, furniture, household effects and equipment, merchandise and articles shall be inspected by customs, resulting duties assessed and exemptions declared, which shall not exceed the annual quota and maximum limits assigned per shipment, in accordance with the regulations in force. These limitations may not be smaller than those allocated to diplomatic agents. For this purpose, the annual quota assigned to the Director of the Office shall be the same as that assigned to Heads of Mission, and other staff members shall be allowed the same quota as that assigned to first secretaries military, naval and air attaches, and high-ranking civilians.

ii. Vehicles shall be restricted to one automobile or to some other vehicle for personal use for each member of the staff.

(c) On export of baggage, furniture, personal effects, household equipment, merchandise, articles and vehicles for personal or family use, owned by a member of the staff, at the close of his mission or service and up to six months after his final departure from the country.

(d) On transfer of his automobile or other vehicle for personal use, under the terms and conditions established by legislation in force. Notwithstanding, the transfer shall be exempt from such terms and conditions with respect to automobiles or other vehicles for personal use that:

i. Belonged to staff members who died while carrying out their mission or service;

ii. Occurred because of the official transfer of the staff member to another country or country of repatriation, if he has served in the country for one year or more.

Article 20

Customary Courtesies

When they visit the country on official mission, the Secretary General and the Assistant Secretary General of the Organization, the Executive Secretaries, Assistant Secretaries and other high officials of the General Secretariat of the Organization shall enjoy the facilities appropriate to their position and station, in accordance with international custom.

Article 21

Fellowship Students of the Organization

Fellowship students designated by the Organization to receive training or do research in the country or abroad shall have the following benefits:

1. Exemption from any levies on the living allowance received from the Organization, including taxes, fees or assessments, or any other contributions, charges or rates, howsoever they may be called.

2. For foreign fellowship students, their spouses and dependents, exemption from any obligation to register as aliens.

3. Official visas, free of charge, in the passports of foreign fellowship students and in those of their spouses and dependents for the period of duration of the fellowship in the country.

Article 22

Accreditation

The Director of the Office shall send to the Ministry of Foreign Affairs a list of the personnel of the Office and of the General Secretariat working in the country, eligible for the privileges and immunities under the terms of this Agreement.

C. GENERAL FEATURES

Article 23

Nature of the Privileges and Immunities

In accordance with Article 14 of the Agreement of Privileges and Immunities referred to in Article 8, the privileges and immunities in this section are granted to the personnel of the Office and of the General Secretariat in the interest only of the General Secretariat and of the Organization. Consequently, the Secretary General or the Director, by delegation, shall waive the privileges and immunities of any staff member in any case where, in the judgment of the Secretary General, the exercise thereof would impede the course of justice, and when such waiver can be made without prejudice to the interests of the Office and of the General Secretariat.

Article 24

Most Favourable Provision

The Office, the General Secretariat and the Organization, and also their staff members, may avail themselves of the most favourable provisions now in force or that may be issued or agreed upon in the future by the country regarding immunities, privileges or prerogatives for other international organizations or technical cooperation missions, and for the personnel of these organizations or missions.

IV. GENERAL PROVISIONS

Article 25

Cooperation

The Office, the General Secretariat and the Organization:

1. Shall cooperate with the competent authorities of the country to facilitate the proper administration of justice, to see to the compliance with police, traffic and health ordinances and regulations, and other similar ones; and to prevent abuses of the privileges, immunities and facilities granted through this Agreement.

2. Shall take whatever steps may be necessary for the appropriate settlement of:

(a) Disputes arising out of contracts or other matters of private law to which they may be party;

(b) Disputes involving any of their staff members with respect to which they enjoy immunity provided that the General Secretariat has not expressly waived this immunity.

Article 26

Security

No article of this Agreement shall be construed as precluding the adoption of appropriate security measures in the interest of the country.

Article 27

Settlement of Disagreements

Any disagreement on application or interpretation of the provisions of this Agreement shall be settled by whatever procedure is agreed to by the Government and the General Secretariat.

Article 28

Amendment

This Agreement may be amended by mutual consent of the Government and of the General Secretariat.

Article 29

Force

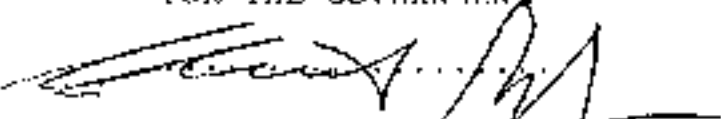
This Agreement shall enter into force on the day it is signed

and shall remain in force until either of the parties decides to terminate it. Either party shall notify the other of its desire to do so one year in advance of the date on which that termination is to take effect.

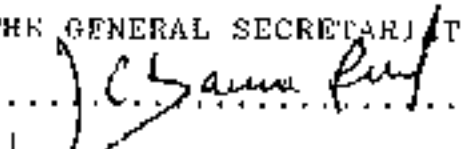


IN WITNESS WHEREOF, The undersigned, duly authorized to do so, sign two identical copies of this Agreement in Georgetown, on this ^{16th} day of ^{April} one thousand nine hundred and ninety-four.

FOR THE GOVERNMENT


Hon. Clement J. Rohde
Senior Minister of
Foreign Affairs

FOR THE GENERAL SECRETARIAT


His Excellency,
Joao Clemente Baena Soares
Secretary General.