

UNDERSTANDING

BETWEEN

THE COSPAS-SARSAT PROGRAMME

AND

THE GOUVERNEMENT DU QUÉBEC

**CONCERNING EXEMPTIONS, FISCAL ADVANTAGES AND COURTESIES
ACCORDED TO THE PROGRAMME, REPRESENTATIVES OF MEMBER
STATES AND OFFICIALS OF THE SECRETARIAT**

THE COSPAS-SARSAT PROGRAMME

AND

THE GOUVERNEMENT DU QUÉBEC

WHEREAS the COSPAS-SARSAT Programme established under the *International COSPAS-SARSAT Programme Agreement signed in Paris on July 1, 1988*, was created in order to utilise satellites and a worldwide network of ground stations to detect and relay distress signals from maritime, aviation and land-based users in support of the search and rescue objectives of the International Maritime Organization (IMO) and the International Civil Aviation Organization (ICAO);

NOTING the decision of the Council of the COSPAS-SARSAT Programme to establish the headquarters of the COSPAS-SARSAT Programme in the City of Montréal;

GIVEN the Headquarters Agreement between Canada, the Republic of France, the Russian Federation and the United States of America regarding the COSPAS-SARSAT Programme;

WHEREAS the Gouvernement du Québec wishes to enable the COSPAS-SARSAT Programme to adequately carry out its mandate and to facilitate its performance;

HAVE REACHED THE FOLLOWING UNDERSTANDING:

DEFINITIONS

ARTICLE 1

For the purposes of this Understanding, unless the context indicates otherwise:

- a) “Organization” means the COSPAS-SARSAT Programme, comprising the Council and the Secretariat, established by virtue of the *International COSPAS-SARSAT Programme Agreement*;
- b) “Council” means the Council of the COSPAS-SARSAT Programme as established by virtue of the *International COSPAS-SARSAT Programme Agreement* and as described in Article 8 of this Understanding;
- c) “Representatives of Member States” means representatives of States that are Party to the *International COSPAS-SARSAT Programme Agreement*;
- d) “Secretariat” means the Secretariat of the COSPAS-SARSAT Programme as established by virtue of the *International COSPAS-SARSAT Programme Agreement* and as described in Article 10 of this Understanding;
- e) “Head of Secretariat” means the Secretariat official who is the Head of Secretariat designated in Article 10.2 of the *International COSPAS-SARSAT Programme Agreement*;
- f) “Official” means a member of the staff of the Secretariat who is employed full-time, other than the Head of Secretariat;
- g) “Expert on a mission” means a person, other than a representative of a Member State or an Official, who performs missions for the COSPAS-SARSAT Programme, including experts from States and organizations officially associated with the COSPAS-SARSAT Programme who participates in a meeting or conference of the COSPAS-SARSAT Programme;
- h) “Permanent Resident” means a person admitted to Canada with the status of permanent resident pursuant to the applicable provisions of Canadian immigration legislation.

Any term not defined in this Understanding has the meaning assigned to it by the *International COSPAS-SARSAT Programme Agreement* or the applicable legislation.

ARTICLE 2

For the application of the legislation of Québec, the Gouvernement du Québec recognizes the Organization as an international government organization.

EXEMPTION FROM JURISDICTION

ARTICLE 3

The exemption from jurisdiction enjoyed by the Organization, its property and its assets, wherever located and by whomsoever held, will be applied by the courts in applying the laws of Québec, except insofar as in any particular case the Council has waived such exemption.

The exemptions from search, requisition, expropriation or any other form of interference, whether by executive, administrative, judicial or legislative action enjoyed by the property and assets of the Organization, wherever located and by whomsoever held, will be applied in the territory of Québec, save where the Council consents to waive same.

ARTICLE 4

The exemption from jurisdiction enjoyed by the representatives of the Member States, including for their spoken and written words, as well as by their spouses and members of their families forming part of their households, will be applied by the courts in enforcing the laws of Québec.

The exemption from jurisdiction enjoyed by the Head of Secretariat, including for his spoken and written words, as well as by his spouse and his children who are minor, will be applied by the courts in enforcing the laws of Québec, it being understood that the exemption from civil and administrative jurisdiction does not apply to:

- a) a real action relating to private immovable property situated in the territory of Québec, unless they hold it on behalf of the Organization;
- b) an action relating to a succession in which they are involved as executor, administrator, heir or legatee as a private person, and not on behalf of the Organization;
- c) an action relating to any professional or commercial activity whatsoever exercised by them in Québec outside their official functions.

Notwithstanding the first two paragraphs of this Article, the representatives of the Member States and the Head of Secretariat who are Canadian citizens or Permanent Residents enjoy exemption from jurisdiction, including their spoken and written words, only when the courts apply the laws of Québec for acts performed in their official capacity.

The exemption from jurisdiction, including their spoken and written words, enjoyed by Officials and Experts on a mission will be applied by the courts in applying the laws of Québec for acts performed in their official capacity.

The Council or the Head of Secretariat, as the case may be, has the right and duty to waive the exemption from jurisdiction in any case where, in their opinion, the exemption would impede the course of justice and where the exemption can be waived without prejudice to the interests of the Organization or of a Party to the *International COSPAS-SARSAT Programme Agreement*.

FISCAL ADVANTAGES

ARTICLE 5

The Organization will enjoy exemption from or refund of, as the case may be, the following duties and taxes:

- a) duties levied under the *Taxation Act*;
- b) consumption taxes levied under Québec legislation in respect of property or services prescribed by regulation, subject to the conditions prescribed by regulation;
- c) duties levied under the *Act respecting duties on transfers of immovables*;
- d) charges that may be imposed under the *Act to foster the development of manpower training*.

ARTICLE 6

The Gouvernement du Québec will exempt from any and all property, municipal or school taxes any immovable property of the Organization that is exclusively dedicated to carrying out its mandate and to exempt the Organization from any form of personal tax or municipal compensation that might be levied on it as the owner, lessee or occupant of an immovable property, with the exception of taxes levied and collected as payment for specific services rendered.

ARTICLE 7

Where the incidence of any form of taxation depends upon residence, periods during which Representatives of Member States and Experts on a mission who are not citizens of Canada or Permanent Residents are present in Canada for the discharge of their duties will not be considered as periods of residence.

ARTICLE 8

The Head of Secretariat who is not a Canadian citizen or Permanent Resident will enjoy exemption from or refund of, as the case may be, the following duties and taxes:

- a) taxes levied under the *Taxation Act* on income earned in the exercise of his or her duties or employment with the Organization;
- b) consumption taxes levied under Québec legislation with respect to movable property or services prescribed by regulation, subject to the conditions prescribed by regulation, unless these taxes are levied with respect to goods or services purchased as part of any professional or commercial activity in Canada or any other office or employment other than his or her office or employment with the Organization.

The Head of Secretariat contemplated in the first paragraph who resides in Canada for the discharge of his or her duties will also be exempt under the *Taxation Act* with regard to all other income he or she earns, provided he or she does not carry on a business in Canada or hold any office or employment other than his or her office or employment with the Organization.

ARTICLE 9

Officials who are neither citizens of Canada nor Permanent Residents will enjoy an exemption under the *Taxation Act* with regard to income from their office or employment with the Organization.

The Officials contemplated in the first paragraph who reside in Canada will also enjoy the fiscal advantages outlined in the third paragraph if immediately prior to taking up their duties with the Organization:

- a) either they resided outside Canada; or
- b) they discharged duties for another international organization recognized by the Gouvernement du Québec for the purpose of fiscal advantages and:
 - i. either resided outside Canada immediately prior to taking up their duties with the other organization; or
 - ii. had been in compliance with one of the requirements of this subparagraph immediately prior to taking up their duties with the other organization.

The fiscal advantages contemplated in the second paragraph are the exemption from and refund of, as the case may be, the following duties and taxes:

- a) taxes levied under the *Taxation Act* on all income other than that contemplated in the first paragraph, provided they do not carry on a business in Canada or hold any office or employment other than their office or employment with the Organization;
- b) consumption taxes levied under Québec legislation with respect to movable property or services prescribed by regulation, subject to the conditions prescribed by regulation, unless these taxes are levied with respect to goods or services purchased as part of any professional or commercial activities in Canada or any office or employment other than their office or employment with the Organization.

ARTICLE 10

Any pension that may be paid by the Organization to the Head of Secretariat or an Official who is or becomes upon retirement a citizen of Canada or a Permanent Resident ordinarily resident in Québec will not be exempt from duties levied under the *Taxation Act*.

ARTICLE 11

Members of the families of the Head of Secretariat and of the Officials contemplated respectively in the first paragraph of Article 8 and the second paragraph of article 9 who reside with them and who are neither citizens of Canada nor Permanent Residents will benefit from an exemption from or a refund of, as the case may be, the following duties and taxes:

- a) duties levied under the *Taxation Act*, provided that they do not carry on a business in Canada or hold any office or employment in Canada;
- b) consumption taxes levied under Québec legislation with respect to movable property or services prescribed by regulation, subject to the conditions prescribed by regulation, unless these taxes are levied with respect to goods or services purchased as part of any professional or commercial activities in Canada or any office or employment in Canada.

PENSION PLAN

ARTICLE 12

Without prejudice to the privileges, courtesies and exemptions from which it might otherwise benefit, the Organization undertakes to comply with the *Act respecting the Québec Pension Plan*, with respect only to the Head of Secretariat and the Officials who are citizens of Canada or Permanent Residents. In this regard, the employment in Québec of the Head of Secretariat and Officials is considered as pensionable employment for the purposes of such Act, unless such employment is exempted under paragraph g of section 3 of such Act

OCCUPATIONAL HEALTH AND SAFETY

ARTICLE 13

The Gouvernement du Québec undertakes to ensure to the Head of Secretariat and to the Officials of the Secretariat, including those contemplated in the first paragraphs of Articles 8 and 9, the protection of the *Act respecting occupational health and safety* and the *Act respecting industrial accidents and occupational diseases* under the conditions provided for in the Act.

Without prejudice to the privileges, courtesies and exemptions from which it might otherwise benefit, the Organization undertakes to comply with the provisions of the *Act respecting occupational health and safety* and the *Act respecting industrial accidents and occupational diseases*, including those in respect of employer contributions to the occupational health and safety scheme, in order that the Head of Secretariat and the Officials may benefit from the scheme.

HEALTH INSURANCE AND HOSPITAL INSURANCE

ARTICLE 14

The Gouvernement du Québec undertakes to extend the benefits of the health insurance scheme, the hospital insurance scheme and other health services, in accordance with the prescribed conditions, to the Head of Secretariat and the Officials residing in Québec, as well as the members of their families residing with them on a permanent basis, provided that the Head of Secretariat, the Officials and the members of their families registered with the Government pursuant to Article 21 are not citizens of Canada or Permanent Residents and, as such, are not registered under the health insurance scheme.

Without prejudice to the privileges, courtesies and exemptions from which it might otherwise benefit, the Organization undertakes to comply with the provisions of the *Act respecting the Régie de l'assurance maladie du Québec* with respect to employer contributions on the salaries that it pays to the Head of Secretariat and the Officials.

For the purposes of this Article, members of the family of the Head of Secretariat or an Official include his or her spouse, children and father and mother who are financially dependent on him or her.

**STATUS OF THE ORGANIZATION WITH RESPECT TO
THE CHARTER OF THE FRENCH LANGUAGE**

ARTICLE 15

The Gouvernement du Québec acknowledges that the Organization has the status of an international organization within the meaning of Article 92 of the *Charter of the French Language* for the purposes of this Charter.

EDUCATION IN ENGLISH

ARTICLE 16

At the request of the Head of Secretariat or an Official contemplated in the first paragraphs of Articles 8 or 9, the ministère des Relations internationales will issue a document attesting that the person making the request is registered with the Department. This attestation will allow this person to obtain a temporary authorization from the Minister of Éducation so that his or her dependent child or that of his or her spouse may be taught in English, provided that the child is not a citizen of Canada.

GENERAL TUITION FEE SCHEME

ARTICLE 17

The Gouvernement du Québec undertakes to extend the benefits of the general tuition fee scheme, as it applies to Québec students, to the Head of Secretariat and the Officials contemplated in the first paragraphs of Articles 8 and 9, as well as to their spouses and dependent children residing with them.

AUTHORIZATION TO WORK IN QUÉBEC

ARTICLE 18

Subject to the conditions prescribed by the regulations, the Gouvernement du Québec undertakes to expedite the delivery of the authorization to work in Québec to the spouse of the Head of Secretariat or an Official contemplated in the first paragraphs of Articles 8 or 9, as well as their children residing with them on a permanent basis.

CERTIFICATE OF SELECTION

ARTICLE 19

Subject to the conditions prescribed by the regulations, the Gouvernement du Québec undertakes to expedite the delivery of a certificate of selection to the Head of Secretariat or an Official contemplated in the first paragraphs of Articles 8 or 9 and to those members of their families and to their dependents who wish to settle in Québec as Permanent Residents.

DRIVER'S LICENSE AND LICENSE PLATES

ARTICLE 20

The Gouvernement du Québec undertakes to deliver, without examination, to the Head of Secretariat and to Officials contemplated in the first paragraphs of Articles 8 and 9, as well as to their spouses and adult children who are financially dependent on them and residing with them, on presentation of proof that they hold valid driver's licenses issued by their country of origin or by the country where they were previously posted, that they do not have Canadian citizenship and that they do not carry on a business or hold any office or employment in Québec other than their functions with the Organization, a driver's license equivalent to the one they hold, valid for the duration of their assignment on payment of all fees and insurance contributions prescribed pursuant to the *Automobile Insurance Act*.

Subject to the conditions prescribed in the regulations, the Head of Secretariat will be entitled to a diplomatic license plate on payment of all fees and insurance contributions prescribed pursuant to the *Automobile Insurance Act*.

The Official vehicle used by the Organization may also bear diplomatic license plates, subject to the same conditions.

NOTIFICATION

ARTICLE 21

For the application of the provisions of this Understanding, the Organization, at the start of each year, will provide the ministère des Relations internationales with a list of the names and status of each of the Representatives of the Member States, the Head of Secretariat and the Officials based in Québec, with an indication of those contemplated in the first paragraphs of Articles 8 and 9, as well as the names of the members of their families residing with them. The Organization will also notify the ministère des Relations internationales of the names of persons who wish to avail themselves of the provisions of Article 17.

The Organization will also notify the ministère des Relations internationales during the year of any changes in the list resulting from the arrival or departure of a Representative of a Member State, the Head of Secretariat or an Official, as well as the names and status of all Experts on a mission.

ABUSE OF PRIVILEGES

ARTICLE 22

The Organization will cooperate with the Gouvernement du Québec to prevent the use of exemptions, fiscal advantages and courtesies for any purpose other than those for which they were intended.

Without prejudice to their exemptions, fiscal advantages and courtesies, it is the duty of all persons enjoying exemptions, fiscal advantages and courtesies under this Understanding to abide by the laws and regulations of Québec.

PROTECTION OF PERSONAL INFORMATION

ARTICLE 23

In communications between the Organization and the Gouvernement du Québec, any information from which the identity of a physical or moral person can be easily determined is to be kept confidential and used solely for the purposes of this Understanding, unless its release is required under Québec legislation.

INTERPRETATION

ARTICLE 24

This Understanding is to be interpreted in light of its primary objective, which is to enable the Organization to adequately carry out its mandate and to facilitate its performance.

ARTICLE 25

Any dispute concerning the interpretation or application of this Understanding will be resolved by negotiation between the Parties.

AMENDMENT

ARTICLE 26

This Understanding may be amended at the request of either Party. In order to do so, the Parties will consult each other on appropriate amendments to the provisions of the Understanding.

TRANSFER OF THE HEADQUARTERS OF THE ORGANIZATION

ARTICLE 27

The Understanding will be terminated if the headquarters of the Organization are transferred outside the territory of Québec, with the exception of the provisions of the Understanding which would be necessary to allow the Organization to terminate its activities and dispose of its property and assets in Québec.

EFFECTIVE DATE

ARTICLE 28

This Understanding will become effective on the date agreed in an exchange of notifications between the Parties.

Either Party may terminate this Understanding by providing one year's written notice to the other Party.

17th day of May 2005

Done at *Montreal*, this day of 2005, in duplicate, in the English and French languages.

FOR THE COSPAS-SARSAT
PROGRAMME

FOR THE GOUVERNEMENT
DU QUÉBEC

Daniel Lévesque
Head of Secretariat

Monique Gagnon-Tremblay
Ministre des Relations
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