

INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT

JANUARY 19 (legislative day, JANUARY 18), 1966.—Ordered to be printed

Mr. LONG of Louisiana, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 8210]

The Committee on Finance, to which was referred the bill (H.R. 8210) to amend the International Organizations Immunities Act with respect to the European Space Research Organization, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

I. SUMMARY

This bill provides that at the discretion of the President, the European Space Research Organization (ESRO) may be designated by the President as an international organization for purposes of the International Organizations Immunities Act. Upon such a designation, the Organization, to the extent so provided by the President, will be exempt from customs duties on property imported for the activities it engages in, from income taxes, from withholding taxes on wages, and from excise taxes on services and facilities. In addition, the employees of the international organization, to the extent not nationals of the United States, may not be subject to U.S. income tax on the income they receive from ESRO. ESRO is an organization of 11 Western European countries concerned with space research for peaceful purposes, which is interested in establishing a telemetry command station near Fairbanks, Alaska.

This bill has been reported unanimously by your committee. The State Department and the National Aeronautics and Space Administration have reported favorably on this bill, and the Treasury Department has indicated no objection.

II. GENERAL STATEMENT

Under the International Organizations Immunities Act (59 Stat. 669; 22 U.S.C. 288), international organizations may enjoy the extraterritorial privileges generally granted to foreign governments. Thus, they may be exempt from Federal income taxes, from wage withholding taxes, and from excise taxes on services and facilities. They also may be exempt from customs duties for property imported for the activities in which they engage. In addition, the employees of such an international organization (other than nationals of the United States) for tax purposes may also be treated in the same manner as the employees of foreign governments. Thus, their wages, fees, and salaries paid by the international organization for official services may not be included in gross income for purposes of the Federal income tax, and no income tax return may be required with respect to this compensation. Other special privileges also may be extended to the international organizations. Thus, for example, its property in the United States may enjoy immunity from suit and judicial process, except to the extent that this immunity is waived for purposes of the business to be transacted. Assets and records also may be immune from search and seizure.

For purposes of the International Organizations Immunities Act, an international organization is one in which the United States participates (under treaty or under a congressional authorization or appropriation for participation) and which has been designated by the President, through an appropriate Executive order, as being entitled to the privileges and immunities in question. The form of the action taken by the President determines the privileges of the type outlined above to which the organization may be entitled. Moreover, if the privileges granted are abused, they may be withdrawn, conditioned, limited, or revoked by the President.

The European Space Research Organization (ESRO) is an international organization established by 11 Western European countries, but it cannot qualify as an "international organization" under the International Organizations Immunities Act because the United States is not a member.

This organization was established in June 1962, to undertake the planning of scientific activities in the peaceful use of outer space by 11 Western European countries. They are Belgium, Denmark, the Federal Republic of Germany, France, Italy, the Netherlands, Norway, Spain, Sweden, Switzerland, and the United Kingdom. As a part of a network for acquiring data for ESRO satellites, the organization is seeking to establish a small satellite telemetry command station near Fairbanks, Alaska. ESRO has initiated negotiations with the Department of State for permission to have such a station. The Alaska station would be one unit of a network, others being located in Spitzbergen, the Falkland Islands, and Belgium, with a control center in the Netherlands. The organization has discussed with the State of Alaska the availability of land for such a station.

The National Aeronautics and Space Administration has been granted privileges similar to those sought by ESRO in other countries in which it has established tracking stations. The United States, for example, in our Mercury, Gemini, and other space programs, has negotiated a large number of government-to-government agreements,

including agreements with certain ESRO member states, which extend to the United States privileges and immunities commensurate with those sought by ESRO.

In view of the considerations set forth above, your committee bill, like the bill as passed by the House, amends the International Organizations Immunities Act (22 U.S.C. sec. 288-288(f)) to permit that act to be extended to the European Space Research Organization in the same manner, and to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any act of Congress authorizing participation or making an appropriation for such participation. This enables the President to designate ESRO as an international organization which will result in the privileges, exemptions, and immunities previously described being accorded to it to the extent provided by the President. Moreover, the President also will still have the right to withdraw, limit, condition, or revoke these privileges, exemptions, and immunities should he deem it desirable.

III. CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman):

INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT

(59 Stat. 669)

AN ACT To extend certain privileges, exemptions, and immunities to international organizations and to the officers and employees thereof, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SECTION 1. For the purposes of this title, the term "international organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be justified

by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time to revoke the designation of any international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title.

SEC. 2. International organizations shall enjoy the status, immunities, exemptions, and privileges set forth in this section, as follows:

(a) International organizations shall, to the extent consistent with the instrument creating them, possess the capacity—

- (i) to contract;
- (ii) to acquire and dispose of real and personal property;
- (iii) to institute legal proceedings.

(b) International organizations, their property and their assets, wherever located, and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by foreign governments, except to the extent that such organizations may expressly waive their immunity for the purpose of any proceedings or by the terms of any contract.

(c) Property and assets of international organizations, wherever located and by whomsoever held, shall be immune from search, unless such immunity be expressly waived, and from confiscation. The archives of international organizations shall be inviolable.

(d) Insofar as concerns customs duties and internal-revenue taxes imposed upon or by reason of importation, and the procedures in connection therewith; the registration of foreign agents; and the treatment of official communications, the privileges, exemptions, and immunities to which international organizations shall be entitled shall be those accorded under similar circumstances to foreign governments.

SEC. 3. Pursuant to regulations prescribed by the Commissioner of Customs with the approval of the Secretary of the Treasury, the baggage and effects of alien officers and employees of international organizations, or of aliens designated by foreign governments to serve as their representatives in or to such organizations, or of the families, suites, and servants of such officers, employees, or representatives shall be admitted (when imported in connection with the arrival of the owner) free of customs duties and free of internal-revenue taxes imposed upon or by reason of importation.

* * * * *

SEC. 6. International organizations shall be exempt from all property taxes imposed by, or under the authority of, any Act of Congress, including such Acts as are applicable solely to the District of Columbia or the Territories.

SEC. 7. (a) Persons designated by foreign governments to serve as their representatives in or to international organizations and the officers and employees of such organizations, and members of the immediate families of such representatives, officers, and employees residing with them, other than nationals of the United States, shall, insofar as concerns laws regulating entry into and departure from the United States, alien registration and fingerprinting, and the registration of foreign agents, be entitled to the same privileges, exemptions, and immunities as are accorded under similar circumstances to officers and employees, respectively, of foreign governments, and members of their families.

(b) Representatives of foreign governments in or to international organizations and officers and employees of such organizations shall be immune from suit and legal process relating to acts performed by them in their official capacity and falling within their functions as such representatives, officers, or employees except insofar as such immunity may be waived by the foreign government or international organization concerned.

(c) Section 3 of the Immigration Act approved May 26, 1924, as amended (U.S.C., title 8, sec. 203), is hereby amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (7) a representative of a foreign government in or to an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act, or an alien officer or employee of such an international organization, and the family, attendants, servants, and employees of such a representative, officer, or employee".

(d) Section 15 of the Immigration Act approved May 26, 1924, as amended (U.S.C., title 8, sec. 215), is hereby amended to read as follows:

"SEC. 15. The admission to the United States of an alien excepted from the class of immigrants by clause (1), (2), (3), (4), (5), (6), or (7) of section 3, or declared to be a nonquota immigrant by subdivision (e) of section 4, shall be for such time and under such conditions as may be by regulations prescribed (including, when deemed necessary for the classes mentioned in clause (2), (3), (4), or (6) of section 3 and subdivision (e) of section 4, the giving of bond with sufficient surety, in such sum and containing such conditions as may be by regulations prescribed) to insure that, at the expiration of such time or upon failure to maintain the status under which admitted, he will depart from the United States: *Provided*, That no alien who has been, or who may hereafter be, admitted into the United States under clause (1) or (7) of section 3, as an official of a foreign government, or as a member of the family of such official, or as a representative of a foreign government in or to an international organization or an officer or employee of an international organization, or as a member of the family of such representative, officer, or employee, shall be required to depart from the United States without the approval of the Secretary of State."

SEC. 8. (a) No person shall be entitled to the benefits of this title unless he (1) shall have been duly notified to and accepted by the Secretary of State as a representative, officer, or employee; or (2) shall have been designated by the Secretary of State, prior to formal notification and acceptance, as a prospective representative, officer, or employee; or (3) is a member of the family or suite, or servant, of one of the foregoing accepted or designated representatives, officers, or employees.

(b) Should the Secretary of State determine that the continued presence in the United States of any person entitled to the benefits of this title is not desirable, he shall so inform the foreign government or international organization concerned, as the case may be, and after such person shall have had a reasonable length of time, to be determined by the Secretary of State, to depart from the United States, he shall cease to be entitled to such benefits.

(c) No person shall, by reason of the provisions of this title, be considered as receiving diplomatic status or as receiving any of the privileges incident thereto other than such as are specifically set forth herein.

SEC. 9. The privileges, exemptions, and immunities of international organizations and of their officers and employees, and members of their families, suites, and servants, provided for in this title, shall be granted notwithstanding the fact that the similar privileges, exemptions, and immunities granted to a foreign government, its officers, or employees, may be conditioned upon the existence of reciprocity by that foreign government: *Provided*, That nothing contained in this title shall be construed as precluding the Secretary of State from withdrawing the privileges, exemptions, and immunities herein provided from persons who are nationals of any foreign country on the ground that such country is failing to accord corresponding privileges, exemptions, and immunities to citizens of the United States.

SEC. 10. This title may be cited as the "International Organizations Immunities Act".

Sec. 11. The provisions of this title may be extended to the European Space Research Organization in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

