

Convention
on Privileges and Immunities of the Shanghai Cooperation Organization

The Member States of the Shanghai Cooperation Organization (hereinafter referred to as “the Parties”),

Being guided by the universally recognized principles and norms of international law,

Proceeding from the provisions of Article 19 of the Charter of the Shanghai Cooperation Organization signed on June 7, 2002,

Have agreed as follows:

Article 1

For the purposes of the Convention:

1) The “Charter” refers to the Charter of the Shanghai Cooperation Organization of June 7, 2002;

2) The “SCO” or “the Organization” refers to the Shanghai Cooperation Organization;

3) “Member State” refers to the Member State of the SCO;

4) The “host state” refers to the Member State of the location of the headquarters of a permanent body of the SCO or its office;

5) The “permanent bodies of the SCO” refers to the Secretariat of the SCO and the RATS of the SCO;

6) The “Secretariat” refers to the Secretariat of the SCO that is a permanent administrative body of the SCO;

7) The “RATS” refers to the Regional Anti-Terrorist Structure of the SCO that is a permanent body of the SCO;

8) The “Council of the RATS” refers to the body of the RATS;

9) The “Executive Committee” refers to the body of the RATS;

10) The “Secretary General” refers to the Secretary General of the SCO;

11) The “Director” refers to the Director of the RATS Executive

Committee;

12) “Officials” refer to the persons directed by the Parties to work in the permanent bodies of the SCO and appointed to the corresponding positions;

13) The “Permanent representative” refers to the permanent representative of a Member State to the Secretariat of the SCO;

14) “Representatives of Member States” refer to heads of delegations, their deputies, delegates, advisers, technical experts and secretaries of delegations directed by the Member States to the meetings and sessions conducted in the framework of the Organization;

15) “Experts on missions for the Organization” refers to the experts other than the officials, performing missions for the SCO;

16) “Members of the family” refers to the spouse and children under 18 years forming part of the household;

17) “Premises” refers to buildings, parts of buildings and the land ancillary thereto used for the official purposes of the permanent bodies of the SCO, regardless of the form of ownership or attribution.

I Privileges and Immunities of the SCO

Article 2

1. The SCO shall have the international legal capacity and enjoy in the territory of each Member State such legal capacity as necessary for achieving its purposes and implementing its functions.

2. The SCO shall enjoy the rights of the legal person and it may, in particular, to:

Enter into contracts;

Acquire, rent, and dispose of immovable and movable property;

Open bank accounts and make transactions with funds in any currency;

Sue or be sued in courts.

3. The Secretary General and Director shall exercise the rights under this Article on behalf of the Secretariat and the Executive Committee respectively.

Article 3

1. The Organization, its property and assets, shall be immune from every form of administrative action or legal process, except in so far as in any particular case the immunity has been expressly waived by the Organization. No waiver of immunity shall extend to any measure of execution.

2. The premises, vehicles, archives and documents, including official correspondence of the permanent bodies of the SCO, wherever located, shall be exempt from search, requisition, confiscation, expropriation and any other forms of interference.

3. Representatives of the relevant authorities of the host state may not enter the premises of the permanent bodies of the SCO, except with the consent and on the conditions approved by the Secretary General, or Director or officials acting on their behalf.

4. Execution of any action pursuant to a decision of the respective authorities of the host state may take place at the premises of the SCO permanent bodies only with the consent of the Secretary General or Director, or officials acting on their behalf.

5. Premises and vehicles of the permanent bodies of the SCO shall not be used as asylum for any person persecuted according to the laws of any Member State or subject to extradition to any Member State or a third-party country.

6. Premises and vehicles of the permanent bodies of the SCO shall not be used for purposes inconsistent with the functions and tasks of the Organization or detrimental to the security and interests of the Parties.

7. The host state shall take appropriate measures to protect the premises of the permanent bodies of the Organization from any intrusion or damage.

8. On behalf of the Organization the Council of Heads of State of the SCO may expressly waive the privileges and immunities provided to the SCO.

Article 4

The SCO, its assets, income and other property shall be:

Exempt from all direct taxes and duties, and value-added tax (including reimbursement thereof pursuant to the laws and regulations of the respective Member State) levied in the territory of the Member States, except those that represent charges for specific types of service (services).

Exempt from customs duties and other charges, import and export prohibitions and restrictions on imports and exports by the Organization of articles intended for its official use. Articles imported under such exemption will not be sold in a Member State to the territory of which they were imported except under conditions agreed with the government of that Member State;

Exempt from customs duties and other charges, import and export prohibitions and restrictions on import and export of its own publications.

Article 5

1. For its official communications the SCO shall enjoy in the territory of each Member State the treatment not less favorable than that accorded by that State to diplomatic missions of foreign states.

2. The SCO shall have the right to use encrypted, courier and other communications ensuring confidentiality of information transfer, send and receive correspondence by courier or in sealed bags, which shall enjoy the same privileges and immunities as diplomatic couriers and bags.

3. All bags with official correspondence must bear visible external marks of their character, may contain only official correspondence and articles intended for official use that shall be transferred in confidentiality.

4. A courier must be provided with an official document indicating his status and the number of bags constituting the official correspondence.

Article 6

The SCO may use the flag, emblem and other symbols of the Organization on its premises and vehicles used for official purposes.

Article 7

The Organization may print and disseminate publications in accordance with its purposes and tasks.

Article 8

The Member States shall assist the SCO in acquiring premises necessary for performing its functions.

Article 9

The SCO shall cooperate with the relevant authorities of the Member States in order to ensure proper administration of justice and implementation of requirements of law enforcement agencies, as well as prevent any abuse of the privileges and immunities provided by this Convention.

II Privileges and Immunities of Officials

Article 10

1. Officials of the SCO permanent bodies shall be international civil servants.
2. In the performance of official duties, they shall not seek or receive instructions of any Member State and/or government, organization or individual.
3. Each Party shall undertake to fully respect the international character of the responsibilities of officials and not to influence them in the performance of their duties.

Article 11

In the territory of the Member States officials shall be accorded:

1) Immunity from legal process of every kind (criminal, civil or administrative) in respect of words spoken and written and for all actions performed by them in their official capacity, except for:

Claims for damages in connection with road accidents that are caused by a vehicle belonging to the Organization or its officials or driven by him (her);

Claims for damages due to death or personal injury caused by the action of an

official;

2) Exemption from taxes with regard to salary and other remunerations officials paid by the Organization.

3) Exemption from national service obligations.

4) Immunity, together with their family members, from immigration restrictions and from alien registration:

5) The same privileges in the area of currency operations as are accorded to diplomatic agents in the territory of the Member States;

6) Together with members of their families the same repatriation facilities as enjoyed by diplomatic agents in time of international crisis;

7) When first taking office and departing from the host State in connection with the termination of the contract, the right, without payment of customs duties, taxes and fees, to import/export property, including motor vehicles, intended for their personal use, in accordance with the laws and regulations of the receiving State, except those which are charges for specific services (services).

Article 12

In addition to the privileges and immunities set forth in Article 11 of this Convention, the Secretary General, Directors and their deputies as well as members of their families, shall enjoy other privileges and immunities accorded to diplomatic agents and members of their families under international law.

Article 13

Officials shall not engage in any commercial or other activities for the profit of their own or others.

Article 14

1. Officials and their family members shall enjoy the privileges and immunities under the Convention upon their entry into the territory of the host state on the way to their destination, or, if they have already been in this territory, they shall enjoy the privileges and immunities upon the officials' taking office

2. Upon termination of the official functions of an official, his (her) privileges and immunities, as well as that of members of his (her) family who are not nationals of the host state, shall cease at the time of the departure from the host

state or after an expiration of a reasonable period of time for doing so. Privileges and immunities of members of the family shall terminate when they cease to be such, but with the reservation that if such persons intend to leave the host state within a reasonable period thereafter, their privileges and immunities shall remain until their departure.

3. In the event of death of an official, members of his family shall continue to enjoy their privileges and immunities until they leave the host state or until the expiry of a reasonable period for the departure from the host state.

Article 15

1. The privileges and immunities enjoyed by officials shall be provided to them not for their personal gain, but for the efficient, independent exercise of their official functions in the interests of the Organization.

2. The right to waive the immunity in respect of the Secretary General shall rest with the Council of Heads of States of the SCO on the recommendation of the Council of Foreign Ministers of the SCO Member States.

3. The right to waive the immunity in respect of the Director and his deputies shall rest with the Council of Heads of States of the SCO on the recommendation of the Council of RATS.

4. The right to waive immunity in respect of the deputies of the Secretary General shall rest with the Council of Ministers of Foreign Affairs of the Member States of the SCO on the recommendation of the Council of National Coordinators of the Member States of the SCO.

5. The right to waive immunity in respect of other officials of the Secretariat shall rest with the Secretary General agreed with the Council of National Coordinators of SCO Member States and in respect of officials of the Executive Committee – with the Director in agreement with the Council of RATS.

6. Waiver of immunity must be express.

Article 16

Visas for officials shall be issued on an expedited basis and free of charge on the basis of the invitation letter for taking a position or official travel order.

III Experts on Missions for the Organization

Article 17

1. Experts (other than officials) performing missions for the SCO shall enjoy such privileges and immunities as necessary for the independent exercise of their functions during missions, including travelling time in connection with their missions. In particular, they shall enjoy:

immunity from personal arrest or detention and from seizure of their personal baggage;

exemption from criminal, civil and administrative liability in respect of words spoken or written and acts done by them in the performance of official duties. This immunity shall continue to be accorded after the persons concerned are no longer employed on missions for the Organization;

inviolability of all papers and documents;

the right to use encryption, receive and send papers or correspondence by courier or in sealed bags for their communications with the Organization;

the same privileges in respect of currency exchange limitations as those accorded to representatives of foreign governments on temporary official missions;

the same immunities and facilities in respect of their personal baggage as accorded to diplomatic envoys.

2. The privileges and immunities shall be accorded to experts in the interests of the SCO, and not for their personal benefit.

3. The right to waive immunity in respect of experts on mission for the SCO shall rest with the Secretary General agreed with the Council of National Coordinators and with the Director agreed with the Council of RATS respectively.

4. Waiver of immunity must be express.

IV Privileges and Immunities of the representatives of the Member States

Article 18

1. Representatives of the Member States in the performance of their duties and during their travel to the venue of activities organized by the SCO in the Member States and back, shall enjoy the following privileges and immunities:

1) Immunity from personal arrest or detention and from seizure of their personal luggage, as well as exemption from criminal, civil and administrative liability for words spoken or written and all acts performed by them as representatives;

2) Inviolability for all papers and documents;

3) The right to use encryption, receive and send papers or correspondence by couriers and sealed bags;

4) Exemption for themselves and their spouse (spouses) from immigration restrictions, alien registration or national service obligations in the country they are visiting or transitting in the exercise of their official duties;

5) The same privileges in respect of currency exchange limitations as those accorded to the representatives of foreign governments on temporary official missions;

6) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys;

7) Other privileges, immunities and facilities not inconsistent with the foregoing as accorded to diplomatic envoys, except for the right to claim exemption from customs duties on goods imported (other than their personal baggage) or from excise duties or sales taxes.

2. In order to ensure full freedom of speech and independence in the discharge of their duties the representatives of the Member States of the Organization shall be exempt from criminal, civil and administrative liability in respect of words spoken or written and all acts performed by them in the performance of official duties. This immunity shall continue to be accorded after the persons concerned are

no longer representatives of the Member States.

3. Where any form of taxation depends upon residence time, a period of attending by the representatives of the Member States of meetings in any Member State for the performance of their duties shall not be counted as period of residence.

4. The privileges and immunities shall be accorded to the representatives of the Member States of the Organization not for the personal benefit of the individuals, but in order to safeguard the independent exercise of their functions relating to their work in the SCO. A Member State shall not only have the right but also the duty to waive the immunity of its representative in any case where, in its opinion, the immunity would impede the course of justice, and the immunity can be waived without prejudice to the purpose for which it was accorded.

5. The provisions of paragraphs 1, 2 and 3 of this Article shall not apply to relations between a representative and the authorities of the State he (she) is national of or he (she) represents or represented.

V Permanent Representatives

Article 19

The Member States in accordance with their internal rules and procedures shall appoint their permanent representatives to the Secretariat, which will be part of the diplomatic staff of the embassies of the Member States in the host country of the Secretariat. Permanent Representatives shall enjoy the privileges and immunities to the extent provided for the diplomatic agent in the host state.

VI Final Provisions

Article 20

All persons enjoying privileges and immunities pursuant to this Convention shall, without prejudice to their privileges and immunities, be obliged to respect the laws of the Member States and not interfere in their internal affairs.

Article 21

In case of disputes and disagreements relating to the application or interpretation of the provisions of this Convention, the Parties shall settle them through consultations and negotiations.

Article 22

This Convention shall not limit the right of the Parties to conclude other international treaties on the subject matter of the present Convention that are not inconsistent with its aims and object, and also shall not affect the rights and obligations of the Parties arising from other international treaties to which they are parties to.

Article 23

1. This Convention is concluded for an indefinite period.
2. This Convention shall be subject to ratification by the signatory states and it shall enter into force on the thirtieth day following the date of the receipt by the Depositary of the last instrument of ratification.
3. This Convention shall apply provisionally by the Parties from the date of signing.

Article 24

1. This Convention shall be open for accession by any State becoming a member of the SCO in accordance with Article 13 of the Charter.
2. For acceding States the present Convention shall enter into force on the thirtieth day following the date of the receipt by the Depositary of the instrument of accession.

Article 25

This Convention shall remain in force in respect of each Member State as long as this Member State remains a member of the SCO.

Article 26

The present Convention may be changed and amended by way of separate protocols that form an integral part of this Convention. Changes and additions may be proposed by any Party by issuing a respective notice to the Depositary that shall send proposed amendments to the other Parties.

With the mutual consent of the Parties, protocols on amendments and additions may be applied provisionally and they shall enter into force in the manner specified in this Convention.

Article 27

In accordance with Article 102 of the Charter of the United Nations this Convention shall be registered with the Secretariat of the United Nations.

Done at the city of Tashkent on June 17, 2004, in a single original, in Russian and Chinese languages, both texts being equally authentic.

The Secretariat shall be the Depositary of this Convention that shall send a certified copy thereof to the Parties.

signatures