

HEADQUARTERS AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF TURKEY AND THE COMMISSION ON THE PROTECTION OF BLACK SEA AGAINST POLLUTION

The Government of the Republic of Turkey and the Commission on the Protection of the Black Sea Against Pollution;

Having regard to paragraph 11 of the Article XVII of the Convention on the Protection of the Black Sea Against Pollution;

taking into account paragraph 6 of the Article XVII of the Convention as per which the headquarters of the Commission and the Secretariat shall be established in Istanbul;

taking into account paragraph 8 of the Article XVII of the Convention according to which Representatives, Alternate Representatives, Advisers and Experts of the Contracting Parties shall enjoy in the territory of the respective Contracting Parties diplomatic privileges and immunities in accordance with international law;

taking into account the Agreement on Privileges and Immunities of the Commission on the Protection of the Black Sea Against Pollution;

considering that the Government of Turkey is also hosting the Programme Co-ordination Unit of the regional project entitled "Black Sea Environmental Programme", the objective of which is to assist the coastal States of the Black Sea for implementing the Convention, have agreed as follows:

Article I Definitions

For the purposes of this Agreement:

- a) "Convention" means the Convention on the Protection of the Black Sea Against Pollution signed in Bucharest, 21 April 1992;
- b) "Contracting Party" means the State Party to the Convention;
- c) "the Commission" means the Commission on the Protection of the Black Sea Against Pollution established in accordance with paragraph 1 of the Article XVII of the Convention and includes its Secretariat and other subsidiary bodies;
- d) "the Secretariat" means the permanent body of the Commission to be established in accordance with paragraph 6 of the Article XVII of the Convention;
- e) "Government" means the Government of the Republic of Turkey;
- f) "the Host Contracting Party" means, as the case may be, the Contracting Party on the territory of which the Headquarters or premises of the Commission are located, a meeting of the Commission or of its organ is held and where any staff member of the Secretariat is while exercising mission for the Commission;

g) "Representatives of Contracting Parties" means Representatives, Alternative Representatives and other members of delegations sent by Contracting Parties to participate in the meetings held by the Commission or its organ, including Advisers and Experts of delegations.

h) "the Executive Director" means the principal administrator of the Secretariat;

i) "the Officials of the Secretariat" means the Executive Director and other officials appointed by the Commission and are subject to the staff regulations adopted by the Commission;

j) "the support staff" means the auxiliary, administrative and technical staff appointed by the Executive Director, including those who are locally recruited and assigned to hourly rates of payment and are subject to the staff regulations adopted by the Commission.

k) "premises of the Commission" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used by the Commission, on a permanent or temporary basis, to carry out its functions.

Article 2 **Interpretation**

This Agreement shall be interpreted in light of its primary objective of enabling the Commission at its Headquarters in the Republic of Turkey (city of Istanbul) to discharge its responsibilities and fulfil its purposes and functions effectively.

Article 3 **Juridical Personality**

The Commission shall possess juridical personality. The Commission shall have the capacity:

- a) to contract;
- b) to acquire and dispose of immovable and movable property;
- c) to institute legal proceedings.

Article 4 **Immunity from Legal Proceedings**

1. Within the scope of its activities, the Commission shall enjoy immunity from any form of legal proceedings, except in the case of:

- a) civil action by a third party for damages arising out of an accident caused by a vehicle belonging to or operated on behalf of the Commission, where these damages are not recoverable from insurance;
- b) civil action relating to death or personal injury caused by an act or omission of the Commission or its staff member.

2. Without prejudice to the provision of paragraph 1 of this article, the property and assets of the Commission wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

Article 5 **Premises**

1. The Government shall provide a convenient building to the Commission free of rent for an unlimited time. The location of the permanent headquarters of the Commission will be selected in consultation with the Commission. The premises of the Commission may be changed upon mutual agreement.
2. The Government shall undertake to facilitate the acquisition or hire of additional premises by the Commission at such time as they may be needed.
3. Any location other than the Commission premises which may be used in concurrence with the Government for meetings convened by the Parties or the Commission shall be temporarily considered as a part of the headquarters.
4. The Government and the Commission may jointly agree to allow for the temporary or permanent use of the headquarters by third parties involved in studies or programmes pertaining to the Black Sea.
5. The premises of the Commission shall be supplied with necessary public services, including electricity, water, sewerage, gas, post, telephone, facsimile, telex, modem, electronic mail, drainage, collection of refuse and fire protection; and that such public services are rendered on terms not less favourable than that accorded by the Government to other inter-governmental specialised agencies.
6. The premises of the Commission shall be inviolable.
7. The Government of the Host Contracting Party shall provide appropriate security consistent with the status of the Commission as an Inter-Governmental Organisation against any intrusion or damage and to prevent any disturbance of the peace nearby or in the premises of the Commission.

Article 6 **Funds and Currencies**

Within the scope of its functions, without being restricted by financial controls, regulations or moratoria of any kind, other than exercised by the Contracting Parties jointly, the Commission:

- a) may hold funds, gold or currency, of any kind and operate accounts in any currency;
- b) may freely transfer their funds, gold or currency, from one country to another or within the Host Contracting Party and convert any currency held by it into any other currency.

Article 7 **Inviolability of Archives**

The archives of the Commission shall be inviolable wherever located or by whomsoever held. The term "archives" means all records, correspondence, documents, manuscripts, photographs, films and recordings belonging to or held by the Commission or by any physical or juridical persons nominated by the Commission to this effect.

Article 8 **Expenditures**

1. The Government shall meet 40 % of the total amount of initial expenditures regarding the establishment of the Headquarters of the Commission. The remaining 60 % of the total amount shall be met by the other Contracting Parties.

For a period of three years, the Government shall meet 40 % of the operational expenses of the Commission. The remaining 60 % of such expenses shall be met by the other Contracting Parties.

2. a) Equipment such as computers, printers, CD-ROM units, facsimile and photocopying machines, modem and other equipment required by the Commission and the Secretariat will be purchased from the budget of the Commission.

b) Furniture and other office elements/systems will be purchased from the budget of the Commission.

c) All maintenance and operational expenses regarding (a) and (b) above will be covered from the budget of the Commission.

d) The running costs, such as electricity and water supply (including air conditioning/cooling), telephone, facsimile, E-mail and other communication charges, cleaning, routine keep-up and sanitary services of the Secretariat will be covered from the budget of the Commission.

Article 9 **Exemption from Customs and Excise Duties**

1. The Commission, its assets, income and other property shall be exempt:

a) from all direct taxes, including income and corporate taxes: it is understood, however, that the Commission will not claim exemption from taxes which are in fact no more than charges for public utility services;

b) from customs duties and restrictions on imports and exports in respect of articles imported or exported by the Commission for its official use and its publications with the exception of charges levied for specific services which may be imposed on the Commission by reason of such imports and exports; it is understood, however, that articles imported under such exemption will not be sold in the country to which they were imported except under conditions agreed to with the Government concerned;

c) for the purposes of this article, the term duties means custom duties, taxes and related charges which are established, or can be established, in accordance with regulations of the respective Contracting Parties.

2. The Commission shall not, as a general rule, claim exemption from excise duties and from taxes such as VAT on the sale of services or movable and immovable property which form part of the price to be paid. Nevertheless, when the Commission is making important purchases for official use of services or property on which such duties and taxes have been charged or are chargeable, the Government of the concerned Contracting Party shall, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

Article 10

Communications and Publications

1. The Commission shall enjoy, in the territory of Turkey, for its official communications, treatment not less favourable than that accorded by the Government to other UN specialised agencies in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications, and press rates for information to the press, television and radio.

2. No censorship shall be applied to the official correspondence and other official communications of the Commission.

Article 11

Contacts with the Government

The Executive Director is authorised to contact the Government directly for issues pertaining to the activities and to the day to day management of the Secretariat. However the counterpart of the Government on substantial issues shall be the Commission through its Chairman.

Article 12

Representatives of the Contracting Parties and the Chairman of the Commission

1. Representatives of Contracting Parties and the Chairman of the Commission, while exercising their functions and during their journeys to and from the place of meetings, enjoy the diplomatic privileges and immunities as stated in paragraph 8 of the Article XVII of the Convention. This provision is not applicable between a representative and the authorities of the Contracting Parties of which he or she is a national or a permanent resident.

2. Privileges and immunities accorded to persons, mentioned in paragraph 1 of the present article, are intended to safeguard the independent exercise of their functions in connection with the Commission and are not for the personal benefit of the individuals themselves. Consequently, it is incumbent on a Contracting Party to waive the immunity of its representatives or national acting as the Chairman of the Commission, if in the opinion of the Contracting Party, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.

Article 13

Officials of the Secretariat

1. Officials of the Secretariat shall be immune from legal processes in respect of words spoken or written and all acts performed by them in the exercise of their official functions or to produce official correspondence and documents relating thereto;

2. Officials of the Secretariat except those who are the nationals of the Republic of Turkey and permanent foreign residents shall enjoy within and with respect to the Republic of Turkey the following privileges and immunities:

a) Exemption from taxation in respect of salaries and emoluments paid to them by the Commission and on the same conditions as are enjoyed by the officials of the United Nations of comparable rank in the territory of the Republic of Turkey in accordance with the "Convention on the Privileges and Immunities of the United Nations" (1946);

b) Exemption in respect of themselves, their spouses and their dependents of under age 18 from immigration restrictions, aliens registration, from all personal services, from all public services of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting in the territories of the Republic of Turkey;

c) Privileges in respect of exchange facilities as are accorded to officials of comparable rank of United Nations of comparable rank in the Republic of Turkey, in accordance with the "Convention on the Privileges and Immunities of the United Nations" (1946);

d) With their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as accorded to officials of comparable rank of the United Nations in the territory of the Republic of Turkey, in accordance with the "Convention on the Privileges and Immunities of the United Nations" (1946);

e) The right to import free of duty their furniture and effects at the time of first taking up their post in the Republic of Turkey, as provided for by the "Convention on the Privileges and Immunities of the United Nations" (1946) with respect to officials of the United Nations.

If the officials of the Secretariat on the termination of their functions export furniture and effects to which this paragraphs applies, they shall be exempt from any customs duties, except payments for services, which may be imposed by reason of such export.

3. Privileges and immunities are granted to officials in the interests of the Commission only and not for the personal benefit of the individuals themselves. The Commission shall have the right and the duty to waive the immunity of the officials of the Secretariat, including the Executive Director in any case where, in its opinion the immunity would impede the course of the justice and can be waived.

4. With the purpose of facilitating the performance of their functions, identification cards with the same effect of the residence permits shall be issued to them, their spouses and their dependents of under age of 18, by the Government.

Article 14

Support Staff of the Secretariat

1. The support staff of the Secretariat are under no obligation to give evidence concerning matters connected with the exercise of their functions, or to produce official correspondence and documents relating thereto;

2. The support staff of the Secretariat except those who are the nationals of the Republic of Turkey and permanent foreign residents in its territory:

a) shall with respect to services rendered for the Secretariat be exempt from any obligations in regard to work permits imposed by the laws and regulations of the Republic of Turkey concerning the employment of foreign labour;

b) shall be exempt from dues and taxes on wages which they receive for their services;

c) shall be exempt of all personal services, from all public of any kind whatsoever and from military obligations such as those connected with requisitioning, military contributions and billeting in the territory of the Republic of Turkey.

3. With regard to the support staff of the Secretariat except those who are the nationals of the Republic of Turkey and permanent foreign residents in its territory, the Government shall issue identification cards in conformity with their status. These identification cards will be used in lieu of residence permits.

4. The Executive Director shall have the right and the duty to waive the immunity of a member of the support staff provided for in paragraph 1 of this article in any case where, in his or her opinion the immunity would impede the course of justice and can be waived.

Article 15 **Social Security**

The provisions of the Vienna Convention on Diplomatic Relations, dated 18 April 1961 shall be applicable to the officials of the Secretariat in matters concerning social security.

Article 16 **Cooperation**

The Commission shall cooperate at all times with the competent authorities of the Government to facilitate proper administration of justice, to secure the observance of police regulations and to prevent the occurrence of abuses in connection with the privileges, immunities and facilities mentioned in Articles 13 and 14 above.

Article 17 **Notification of appointments**

The Executive Director shall annually send to the Government, a list of all the officials and support staff of the Secretariat. The Executive Director on behalf of the Commission shall inform the Government when an official of the Secretariat takes up or relinquishes his duties. The Executive Director shall in each case indicate whether or not the individual concerned is a national of or resident in the Republic of Turkey.

Article 18 **Amendments**

The Commission and the Government may at any time propose an amendment to this Agreement and it can be amended through negotiation between the Commission and the Government.

Article 19
Settlement of Disputes

Any dispute that may arise from the interpretation and implementation of this Agreement shall be resolved through negotiation between the Government and the Commission.

Article 20
Entry into force and termination

The present agreement shall enter into force on the date following the day the Depositary receives written information from the Government of Turkey on the ratification of this agreement in accordance with the national procedures, and shall be valid as long as the location of the headquarters is in Istanbul.

In the event of the headquarters of the Commission being moved from the territory of the Republic of Turkey, this Agreement shall cease to be in force after a reasonable period required for such transfer and the disposal of the property of the Commission in the Republic of Turkey upon the decision taken by the Contracting Parties.

Done in Istanbul, on the 28th day of the month April two thousand in the English and Turkish languages, in three copies, both texts being equally authentic which are going to be maintained by the Depositary, by the Government of the Republic of Turkey and by the Black Sea Commission.

On behalf of the Commission

On behalf of the Government of the
Republic of Turkey