

HEADQUARTERS AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE ASIAN AFRICAN LEGAL CONSULTATIVE COMMITTEE

The Government of the Republic of India and the Asian-African Legal Consultative Committee;

RECALLING the decision by the Committee as its Special Session in New Delhi on 14th October 1997 to establish the Permanent Headquarters of the Committee at New Delhi;

DESIROUS to conclude an agreement to facilitate the establishment and operation of the Permanent Headquarters of the Committee at New Delhi;

HEREBY AGREE as follows:

ARTICLE 1

USE OF TERMS

For the purpose of this Agreement:

- a. "the Government" means the Government of the Republic of India
- b. "the Committee" means the Asian-African Legal Consultative Committee
- c. "the Secretariat" means the Secretariat of the Asian-African Legal Consultative Committee
- d. "the Secretary General" means the Secretary General of the Committee

ARTICLE 2

JURIDICAL PERSONALITY

The Committee shall possess juridical personality and shall have the capacity to contract, acquire and dispose of immovable and movable property and to institute legal proceedings in its name.

ARTICLE 3

SEAT OF THE COMMITTEE

The Committee shall have its permanent Headquarters at New Delhi.

ARTICLE 4

PREMISES OF THE SECRETARIAT

1. The Government shall provide the Committee in accordance with its requirements free of cost suitable premises for its Headquarters and the residence of the Secretary General within the framework of the Government's offer vide Ministry of External Affairs letter No.L-445/2/96 dated 25.4.1997.
2. In the event that the Committee decides to wind up its activities or shifts its Headquarters from New Delhi, the Headquarters premises, including the residence of the Secretary General, shall remain the ownership of the Government.

ARTICLE 5

PROPERTY, FUNDS AND ASSETS

1. The Committee, its property and assets in the territory of the Republic of India, shall enjoy immunity from every form of legal process, except in so far as in any particular case the Committee has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.
2. The premises of the Committee, its property and assets as well as its archives in the territory of the Republic of India and in general all documents belonging to it wherever located and by whomsoever held shall be inviolable and be immune from search, requisition, confiscation, expropriation and any other form of interference whether by executive, administrative, judicial or legislative action.
3. The Committee may, without being restricted by financial controls, regulations or moratoria of any kind hold funds or currency of any kind and operate accounts in any currency. It shall be free to transfer its funds or currency from India to another country or to convert any currency held by it into any other currency.
4. In exercising its rights under sub paragraph (3) above, the Committee shall pay due regard to any representations made by the Government in so far as effect can be given to such representations without detriment to the interest of the Committee.
5. The Committee, its assets, income and other property whether owned or occupied shall be:
 - a. exempt from all direct taxes. It is understood, however, that the Committee shall not claim exemption from taxes which are, in fact, no more than charges for public utility services;
 - b. exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Committee for its official

use. It is understood, however, that articles imported under such exemption shall not be sold in India except under conditions agreed with the Government;

- c. exempt from custom duties and prohibitions and restrictions in imports and exports in respect of its publications.

ARTICLE 6

PUBLIC SERVICES AND UTILITIES

The Government shall assist the Committee in obtaining for its premises, the necessary public services and utilities.

ARTICLE 7

FLAG AND EMBLEM

The Committee shall be entitled to display its flag and emblem on its premises. The Secretary General shall be entitled to display the Committee's flag on the vehicles used by him.

ARTICLE 8

FACILITIES IN RESPECT OF COMMUNICATIONS

1. The Committee and its Secretariat shall enjoy in the territory of the Republic of India freedom of communication and no censorship shall be applied to the official correspondence of the Committee certified as such and bearing the official seal of the Committee.

2. The Committee shall have the right to use codes and to dispatch and receive its official correspondence by courier or in bags, which shall have the same immunities and privileges as couriers and bags of the specialized agencies of the United Nations.

ARTICLE 9

PRIVILEGES AND IMMUNITIES OF THE SECRETARIAT

1. Officials of the Secretariat shall:
 - a. be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
 - b. be exempt from taxation on the salaries and emoluments paid to them by the Committee on the same conditions as are enjoyed by the officials of the United Nations;
 - c. be immune from national service obligations;

- d. be immune, together with their spouses and relatives dependent on them from immigration restrictions and aliens registration;
- e. be accorded the same privileges in respect of exchange facilities as are accorded to officials of comparable rank of diplomatic missions;
- f. be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as officials of comparable rank of diplomatic missions;
- g. have the right on first arrival to import free of custom duties, taxes and other levies, furniture, other personal and household effects to establish residence in New Delhi and the right to export with similar privileges goods thus imported at the terminations of their duties with the Secretariat. The goods so imported shall not be sold in India except on condition agreed with the Government.

2. The Secretary General shall hold the rank and status of Ambassador. In addition to the privileges and immunities specified in paragraphs 1(a) to (g) of this article, he shall be accorded in respect of himself, his spouse and minor children, such other privileges and immunities as are accorded to the heads of diplomatic mission accredited to the Government.

3. The Deputy Secretaries General and Assistant Secretaries General and their spouses and minor children shall also be accorded privileges and immunities accorded to diplomatic envoys in accordance with International Law.

4. Officials who are nationals of, or permanent residents in India, and are locally recruited, shall not be accorded the privileges and immunities specified in subparagraphs (b) to (g) of paragraph 1 of this articles.

5. The Secretary General shall communicate the names of the Secretariat officials included in the aforesaid categories to the Government in accordance with the Statutory Rules of the Committee.

ARTICLE 10

PRIVILEGES AND IMMUNITIES OF REPRESENTATIVE OF THE PARTICIPATING STATES, ASSOCIATE PARTICIPATING STATES AND OBSERVERS

1. Representatives of the Participating and Associate Participating States, including Members, Alternative Members and experts (as referred to in Article 2 of the Revised Statutes of the Committee) as well as observers from non-participating States and International Organizations shall, during their stay in India for the purpose of attending sessions, other meetings and consultations of the Committee, enjoy the following:

- a. Immunity from personal arrest or detention and from seizure of their personal baggage and immunity from legal process in respect of words spoken or written and all acts done by them in their official capacity;
- b. Inviolability of all paper and documents;
- c. The right to receive papers or correspondence in sealed covers;
- d. Exemption in respect of themselves and their spouses from immigration restrictions, aliens registration or national service obligation;
- e. The same facilities in respect of currency or exchange restrictions as are accorded to temporary official missions;
- f. The same immunities and privileges in respect of their personal baggage as are accorded to diplomatic envoys;
- g. Such other privileges and immunities and facilities not inconsistent with the foregoing as the diplomatic envoys enjoy, except that they shall have no right to claim exemption from custom duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales-taxes.

Provided always that the immunities specified in the foregoing clauses can be waived in any individual case in regard to a Member, Alternate Member, expert or observer by the government of the respective Participating or Associate Participating State or by the Government of the Observer or by the concerned international organization.

2. The competent authorities in the Government shall take all necessary measures to facilitate their entry into and sojourn in the territory of Republic of India and shall place no impediment in the way of departure from the host country, of the persons referred to in paragraph 1 of this Article.

3. Visas, which may be required by persons referred to in paragraph 1 of this Article, shall be arranged and granted as promptly as possible.

4. It is understood that persons referred to in paragraph 1 of this Article shall not be exempt from the application of the internationally accepted rules governing quarantine and public health.

ARTICLE 11

PURPOSE OF PRIVILEGES AND IMMUNITIES

Privileges and immunities accorded in this Agreement are accorded in the interests of the Committee and not for the personal benefit of the individuals themselves.

ARTICLE 12

WAIVER OF PRIVILEGES AND IMMUNITIES

1. The Secretary General shall have the right and duty to waive the immunity of any official member of the Secretariat in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interest of the Committee.
2. The Committee may decide to waive its immunity explicitly from jurisdiction in any case where the immunity would impede the course of justice and can be waived without prejudice to the purposed for which the immunity is accorded.
3. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.

ARTICLE 13

COOPERATION BETWEEN THE COMMITTEE AND THE GOVERNMENT TO FACILITATE THE ADMINISTRATION OF JUSTICE

1. The Committee shall cooperate at all times with the appropriate authorities of the Government to facilitate the proper administration of justice, secure the observance of local laws and regulations and prevent any abuse of the privileges, immunities and facilities granted under this Agreement.
2. If the Government considers that there has been abuse of any privilege or immunity conferred by this Agreement, consultations shall be held between the Government and the Committee to determine whether any such abuse has occurred and if so, the Committee shall take necessary measures to remedy the situation and to ensure that no repetition occurs.

ARTICLE 14

IDENTITY CARDS

The Secretariat staff shall be provided by the Government with a special identity card certifying the fact that they are officers or staff members of the Committee, enjoying the privileges and immunities specified in this Agreement.

ARTICLE 15

INTERPRETATION

This Agreement shall be interpreted in the light of its primary objective of enabling the Committee at its Headquarters at New Delhi to fully and efficiently discharge its responsibilities and fulfill its purpose and functions.

ARTICLE 16

SETTLEMENT OF DISPUTES

1. The Committee shall, by agreement with the Government, make provision for appropriate modes of settlement of:
 - a. disputes arising out of contracts or other disputes of a private law character to which the Committee is a party;
 - b. disputes involving any official of the Committee, who by reason of his official position enjoys immunity, if immunity has not been waived by the Committee.
2. All differences arising out of the interpretation or application of the present Agreement shall be settled by mutual consultations between the parties unless in any case it is agreed by the parties to have recourse to another mode.

ARTICLE 17

FINAL CLAUSE

1. This Agreement shall enter into force on signature.
2. This Agreement may not be terminated by agreement between the Government and the Committee.

In witness whereof the respective representatives of the Government and the Committee have signed this Agreement.

Done in two originals each in English at New Delhi this 26th day of April, 2000.

For the Government of
The Republic of India
(Dr. Pemmaraju Sreenivasa
Rao)
Joint Secretary

For Asian African Legal
Consultative Committee
(Mr. Tang Chenyuan)
Secretary General