

PRIVILEGES
AND
IMMUNITIES

Treaty Series No. 9 (1999)

Headquarters Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the

North-East Atlantic Fisheries Commission

[London, 18 February 1999]

[The Agreement entered into force on 18 February 1999]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
February 1999*

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**HEADQUARTERS AGREEMENT BETWEEN THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
NORTH-EAST ATLANTIC FISHERIES COMMISSION**

The Government of the United Kingdom of Great Britain and Northern Ireland and the North-East Atlantic Fisheries Commission;

Desiring to define the status, privileges and immunities of the Commission and persons connected with it;

Have agreed as follows:

ARTICLE I

Use of terms

For the purpose of this Agreement:

- (a) "Commission" means the North-East Atlantic Fisheries Commission;
- (b) "the Government" means the Government of the United Kingdom of Great Britain and Northern Ireland;
- (c) "representatives" means representatives of members of the Commission and in each case means heads of delegations, alternates, advisers and experts;
- (d) "premises of the Commission" means the buildings or parts of buildings and the land ancillary thereto used for the official purposes of the Commission;
- (e) "official activities of the Commission" means those undertaken pursuant to the Convention on Future Multilateral Co-operation in North-East Atlantic Fisheries 1982;
- (f) "Staff member" means the Secretary and all persons appointed or recruited for fulltime employment with the Commission and subject to its staff regulations, other than persons in the domestic service of the Commission and persons recruited locally and assigned to hourly rates of pay;
- (g) "United Kingdom national" means a person who is a British Citizen, a British Dependent Territories Citizen, a British Overseas Citizen, or a British National (Overseas).

ARTICLE 2

Interpretation

This Agreement shall be interpreted in the light of the primary objective of enabling the Commission at its Headquarters in the United Kingdom fully and efficiently to discharge its responsibilities and fulfil its purposes and functions.

ARTICLE 3

Legal personality

The Commission shall have legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property and to institute legal proceedings.

ARTICLE 4

Inviolability of archives

(1) The archives of the Commission shall be inviolable. The term "archives" includes all records, correspondence, documents, manuscripts, photographs, films and recordings belonging to or held by the Commission and all information contained therein:

(2) The location of the archives shall be made known to the Government by the President who shall also inform the Government of any change in their location.

ARTICLE 5

Flag and emblem

The Commission shall be entitled to display its flag and emblem on the premises and means of transport of the Commission and of its Secretary.

ARTICLE 6

Exemption from taxes

(1) Within the scope of its official activities, the Commission and its property and income shall be exempt from all direct United Kingdom taxes including income tax, capital gains tax and corporation tax. The Commission shall be granted the like relief from nondomestic rates or any other local taxes or duties on the official premises of the Commission as is accorded to a diplomatic mission. Rates or any other local taxes or duties shall in the first instance be paid by the Government and the proportion which represents payments for specific services rendered shall be recovered by them from the Commission.

(2) The Commission shall be accorded a refund of value added tax paid on the purchase of new motor cars and, where it is readily identifiable, value added tax paid on the supply of goods or services of substantial value, necessary for the official activities of the Commission. In this connection it is envisaged that claims for refund will be made only in respect of goods or services supplied on a recurring basis or involving considerable quantities of goods or involving considerable expenditure such as the furnishing of the premises of the Commission. No refund shall be made in respect of any claim for goods or services where the value of the goods or services does not amount in aggregate to £500 sterling or more.

(3) The Commission shall be accorded a refund of insurance premium tax and air passenger duty necessarily paid in the exercise of its official activities.

ARTICLE 7

Exemption from customs and excise duties

(1) Goods imported or exported by the Commission and necessary for the exercise of its official activities shall be exempt from all United Kingdom customs and excise duties and other such charges (except mere payments for services) and from all United Kingdom prohibitions and restrictions on import and export.

(2) The Commission shall be accorded a refund of the duty (whether of customs or excise) and value added tax paid on the importation of hydrocarbon oils purchased by it and necessary for the exercise of its official activities.

ARTICLE 8

Exemption from taxes and duties

Exemption in respect of taxes or duties under Article 6 or Article 7 of this Agreement shall not be granted in respect of goods or services purchased or imported for the personal benefit of a staff member.

ARTICLE 9

Re-sale

Goods which have been acquired under Article 6 or imported under Article 7 of this Agreement shall not be given away, sold, hired out or otherwise disposed of unless the appropriate authorities have been notified in advance and any necessary duties and taxes paid.

ARTICLE 10

Funds, currency and securities

The Commission may receive, acquire, hold and dispose of freely any kind of funds, currencies or securities.

ARTICLE 11

Circulation of publications

The circulation of publications and other information material sent by or to the Commission shall not be restricted in any way.

ARTICLE 12

Representatives

(1) Representatives shall enjoy, while exercising their official functions and in the course of their journeys to and from the place of meeting, the following privileges and immunities:

(a) immunity from jurisdiction (even after the termination of their mission) in respect of acts, including words written or spoken, done by them in the exercise of their functions; this immunity shall not however apply in the case of a motor traffic offence committed by a representative nor in the case of damage caused by a motor vehicle belonging to or driven by him;

(b) inviolability for all their official papers and documents; and

(c) exemption from all measures restricting entry, from charges for visas and from registration formalities; and members of their families forming part of their household shall enjoy the same facilities.

(2) The privileges and immunities described in paragraph (1) of this Article shall not be accorded to any representative of the Government nor to any United Kingdom national.

(3) Privileges and immunities are accorded to representatives in order to ensure complete independence in the exercise of their functions in connection with the Commission. A Government may waive the immunity of its representatives where the immunity would impede the course of justice and where it can be waived without prejudicing the purposes for which it was accorded.

(4) The provisions of this Article shall be without prejudice to any privileges and immunities to which a representative may be entitled under any other international agreement t.

ARTICLE 13

Staff members

Staff members of the Commission:

(a) shall have (even after they have left the service of the Commission) immunity from jurisdiction in respect of acts done by them in the exercise of their functions, including words written or spoken; this immunity shall not however apply in the case of a motor traffic offence committed by a staff member nor in the case of damage caused by a motor vehicle belonging to or driven by him;

(b) shall be exempt from any obligations in respect of military service; and members of their families forming part of their households shall enjoy the same exemption; provided that this exemption shall not apply to any person who is a British Citizen, a British Dependent Territories Citizen, a British Overseas Citizen or a British National (Overseas);

(c) shall enjoy inviolability for all their official papers and documents;

(d) shall enjoy exemption from all measures restricting immigration, from charges for visas and from registration formalities for the purpose of immigration control; and members of their families forming part of their households shall enjoy the same facilities; and

(e) unless they are United Kingdom nationals or permanently resident in the United Kingdom, shall, at the time of first taking up their post in the United Kingdom, be exempt from duties (whether of customs or excise) and other such charges (except mere payments for services) in respect of import of their furniture and personal effects (including one motor car each) in their ownership or possession or already ordered by them and intended for their personal use or for their establishment. Such goods shall normally be imported within six months of their first entry into the United Kingdom, but in exceptional circumstances an extension of this period may be granted. The privilege shall be subject to the conditions governing the disposal of goods imported into the United Kingdom free of duty and to the general restrictions applied in the United Kingdom to all imports.

ARTICLE 14

Income tax

(1) The staff members of the Commission shall be subject to a tax imposed by, and for the benefit of, the Commission on salaries and emoluments paid by the Commission. From the date on which this tax is applied such salaries and emoluments shall be exempt from United Kingdom income tax, but the Government shall retain the right to take these salaries and emoluments into account for the purpose of assessing the amount of taxation to be applied to income from other sources.

(2) In the event that the Commission operates a system for the payment of pensions and annuities to its former staff members, the provisions of paragraph (1) of this Article shall not apply to such pensions and annuities.

ARTICLE 15

Social security

Staff members who are not a United Kingdom national or permanently resident in the United Kingdom shall with respect to services rendered for the Commission be exempt from the provisions of any social security scheme established by the law of the United Kingdom provided that those staff are participating in a social security scheme established by the Commission or in another such scheme.

ARTICLE 16

Object of privileges and immunities. Waiver

(1) The privileges and immunities accorded in this Agreement to staff members are provided solely to ensure in all circumstances the unimpeded functioning of the Commission and the complete independence of the persons to whom they are accorded.

(2) The Secretary has the right and the duty to waive such immunities (other than his own) when he considers that such immunities are preventing the carrying out of justice and when it is possible to dispense with them without prejudicing the interests of the Commission. In respect of the Secretary, the Commission may waive his immunities.

ARTICLE 17

Co-operation

The Commission shall co-operate at all times with the appropriate United Kingdom authorities in order to prevent any abuse of the privileges and immunities and facilities provided for in this Agreement. The right of the Government to take all precautionary measures in the interests of security shall not be prejudiced by any provision in this Agreement.

ARTICLE 18

Notification of appointments. Identity cards

(1) The Commission shall inform the Government when a staff member takes up or relinquishes his post. Furthermore the Commission shall from time to time send to the Government a list of all staff members. In each case the Commission shall indicate whether a staff member is a United Kingdom national or permanently resident in the United Kingdom.

(2) The Government shall issue to all staff members on notification of their appointment, a card bearing the photograph of the holder and identifying him as a staff member. This card shall be accepted by the appropriate authorities as evidence of identity and appointment. The Commission shall return the card to the Government when the holder relinquishes his duties.

ARTICLE 19

Modification

At the request either of the Government or of the Commission consultations shall take place respecting the implementation or modification of this Agreement. Any understanding or modification may be given effect by an Exchange of Letters between a representative of the Government and the Secretary after approval by the Commission.

ARTICLE 20

Disputes

Any dispute between the Government and the Commission concerning the interpretation or application of this Agreement or any question affecting the relations between the Government and the Commission which is not settled by negotiation or by some other method shall, at the instance of either, be referred for final decision to a panel of three arbitrators. One of these arbitrators shall be chosen by Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs. One shall be chosen by the President of the Commission and the third, who shall be Chairman of the Tribunal, shall be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the third within 90 days of their own appointment or should either party fail to appoint an arbitrator within 90 days of being requested to do so by the other, either the Government or the Commission may request the President of the International Court of Justice to make the relevant designation.

ARTICLE 21

Entry into force and termination

(1) This Agreement shall enter into force on signature.

(2) This Agreement may be terminated by agreement between the Government and the Commission. In the event of the Headquarters of the Commission being moved from the territory of the United Kingdom or in the event of the Commission ceasing to exist, this Agreement shall, after the period reasonably required for such transfer and the disposal of the property of the Commission in the United Kingdom, cease to be in force.

In witness whereof the respective representatives have signed this Agreement.

Done in duplicate at London, this eighteenth day of February 1999.

For the Government of the United
Kingdom of Great Britain and Northern Ireland:

For the North-East Atlantic Fisheries Commission:

JOYCE QUIN

OLE TOUGAARD