
The Agreement
was previously
published in draft as
Miscellaneous No. 17
(1975), Cmnd. 6071



INTERNATIONAL
WHALING
COMMISSION

Treaty Series No. 108 (1975)

Headquarters Agreement
between the Government of the
United Kingdom of Great Britain and
Northern Ireland and the
International Whaling Commission

London, 21 August 1975

[The Agreement entered into force on 21 August 1975]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
November 1975*

LONDON
HER MAJESTY'S STATIONERY OFFICE

22p net

Cmnd. 6278

**HEADQUARTERS AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND
THE INTERNATIONAL WHALING COMMISSION**

The Government of the United Kingdom of Great Britain and Northern Ireland and the International Whaling Commission;

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

Have agreed as follows:

ARTICLE 1

Use of terms

For the purpose of this Agreement:

- (a) "Commission" means the International Whaling Commission;
- (b) "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 and alternates;
- (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" includes its administrative activities and those undertaken pursuant to the International Convention for the Regulation of Whaling, 1946,⁽¹⁾ or any succeeding convention; and
- (f) "staff member" means the Secretary, the Executive Officer and all persons appointed or recruited for full-time employment with the Commission and subject to its staff regulations, other than experts and persons recruited locally or assigned to hourly rates of pay.

ARTICLE 2

Interpretation

(1) 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.

(2) The headings to the Articles of this Agreement are for reference only and are not part of the Articles.

⁽¹⁾ Treaty Series No. 5 (1949), Cmd. 7604.

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

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 to all information contained therein.

The location of the archives shall be made known to the Government by the Secretary 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 taxes. Direct taxes include income tax, capital gains tax, corporation tax and municipal rates levied on the premises of the Commission with the exception of the proportion which, as in the case of diplomatic missions, represents payments for specific services rendered. Municipal rates 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 car tax and value added tax paid on the purchase of new motor cars of United Kingdom manufacture, 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 the aggregate to £100 sterling or more.

ARTICLE 7

Exemption from customs duties

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

(2) The Commission shall be accorded a refund of the customs duty 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 which may be purchased or imported for the personal benefit of a staff member of the Commission.

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 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;
- (c) exemption for themselves and their spouses from all measures restricting entry, from charges for visas and from registration formalities; and
- (d) the same facilities in the matter of currency and exchange control as are accorded to a diplomatic agent in the United Kingdom of the State which they represent, it being understood that where diplomatic relations with that State do not exist or have been broken off the facilities accorded shall be no less than those given to a diplomatic agent of any third State inside or outside the Scheduled Territories, as appropriate.

(2) The provisions of the preceding paragraph shall be applicable irrespective of the relations existing between the Governments which the persons referred to represent and the Government of the United Kingdom and are without prejudice to any special immunities to which such persons may be entitled.

(3) The privileges and immunities described in paragraph (1) of this Article shall not be accorded to any representative of the Government or to any citizen of the United Kingdom and Colonies.

(4) 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 shall waive the immunity of its representative where the immunity would impede the course of justice and where it can be waived without prejudicing the purposes for which it was accorded.

ARTICLE 13

Senior officers

In addition to the privileges and immunities provided for in Articles 14 and 16 of this Agreement, and provided they are not citizens of the United Kingdom and Colonies or permanently resident in the United Kingdom, the Secretary and the Executive Officer:

- (a) shall, at the time of first taking up their post in the United Kingdom, be exempt from customs duties and other customs 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 three months of their first entry into the United Kingdom, but in exceptional circumstances an extension of this period may be granted. This 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; and

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- (b) shall be accorded the treatment in matters of exchange control which is accorded to a diplomatic agent in the United Kingdom of the State in which they were resident for exchange control purposes when appointed to their posts with the Commission.

ARTICLE 14

Staff members

Staff members:

- (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 citizen of the United Kingdom and Colonies;
- (c) shall enjoy inviolability for all their official papers and documents; and
- (d) shall enjoy exemption from all measures restricting immigration, from charges for visas and from registration formalities; and members of their families forming part of their households shall enjoy the same facilities.

ARTICLE 15

Experts

Experts (other than staff members) in the exercise of their functions in connection with the Commission or in carrying out missions for the Commission shall enjoy the following to the extent that they are necessary for the carrying out of their functions, including during journeys made in carrying out their functions and in the course of such missions:

- (a) even after they have ceased to be employed by the Commission, immunity from jurisdiction in respect of acts done by them in the exercise of their functions, including words written or spoken, except in the case of a motor traffic offence committed by an expert or in the case of damage caused by a motor vehicle belonging to or driven by him; and
- (b) inviolability for all their official papers and documents.

ARTICLE 16

Income tax

(1) The staff members of the Commission shall be subject to a tax imposed by the Commission for its benefit 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 17

Object of privileges and immunities. Waiver

(1) The privileges and immunities accorded in this Agreement to staff members and experts 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 18

Co-operation

The Commission shall co-operate at all times with the appropriate authorities in order to prevent any abuse of the privileges and immunities and facilities provided for in this Agreement.

ARTICLE 19

Submission of certain disputes to an international arbitration tribunal

The Commission shall, at the instance of the Government, submit to an international arbitration tribunal any dispute involving a staff member or expert of the Commission, and in which the person concerned can claim immunity from jurisdiction under this Agreement and that immunity has not been waived.

ARTICLE 20

Notification of appointment. Cards

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

(2) The Government shall issue to all staff members and experts 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 21

Modification

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

ARTICLE 22

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 agreed method shall be referred for final decision to a panel of three arbitrators. One of those arbitrators shall be chosen by Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs, one shall be chosen by the Secretary and the third, who shall be the Chairman of the Tribunal, shall be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the third within one year of their own appointment, the third arbitrator, at the request of the Government or of the Commission, shall be chosen by the President of the International Court of Justice.

ARTICLE 23

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, 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 21st day of August 1975.

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

E. ROWLANDS

For the International Whaling Commission:

R. STACEY