



AGREEMENT BETWEEN

THE INTER-GOVERNMENTAL STANDING

COMMITTEE ON SHIPPING

AND

THE GOVERNMENT OF THE REPUBLIC OF KENYA

REGARDING THE HEADQUARTERS OF

THE INTER-GOVERNMENTAL STANDING

COMMITTEE ON SHIPPING



- 1 -

**AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE
INTER-GOVERNMENTAL STANDING COMMITTEE ON SHIPPING REGARDING THE
HEADQUARTERS OF THE INTER-GOVERNMENTAL STANDING COMMITTEE ON SHIPPING**

The Government of the Republic of Kenya
and
The Inter-Governmental Standing Committee on Shipping

CONSIDERING that under the terms of paragraph 4 of Article 1% of the Agreement for the Establishment of The Inter-Governmental Standing Committee on Shipping of the 16th of July, 1987, a headquarters agreements shall be concluded;

DESIRING to conclude such an agreement to regulate the status of the headquarters and questions arising as a result thereof.

HAVE AGREED to the following:-

ARTICLE 1

Definitions

In this Agreement:

'The Government' means and hereinafter refers to the Government of the Republic of Kenya;

'ISCOS' means and hereinafter refers to the Inter-Governmental Standing Committee on Shipping;

'Appropriate Authorities' means such national, provincial, municipal or other authorities in Kenya as may be appropriate in the context and in accordance with the laws and customs applicable in Kenya;



- 2 -

'Secretary-General' means the Secretary General of ISCOS or any officer designated to act on his behalf;

'Senior Officials' of ISCOS means the Secretary General and all other professional personnel of the level equivalent to P1 and above, of the grading system of the United Nations and its specialized agencies;
and

"Headquarters' means and includes all permanent and temporary premises used or occupied by ISCOS.

ARTICLE II

The Headquarters

1. In order to enable ISCOS to carry out its activities in Kenya, the Government has allowed ISCOS to formally establish a Headquarters in Kenya from which ISCOS will operate.
2. All costs relating to the establishment and operation of the Headquarters office shall be borne by ISCOS. Nothing hereunder contained shall extend any exemption to the owner or lessor of any property rented by ISCOS or exempt ISCOS from the payment of charges which represent special services rendered or for public utility services.
3. The Headquarters may establish and operate research, documentation and any other technical facilities related to 'ISCOS functions. The facilities shall be subject to appropriate safeguards which, in the case of facilities which might create hazards to health or safety or interference with property, shall be agreed with the appropriate authorities of the Government.

...../3



- 3 -

ARTICLE III

Control and Protection of Headquarters

1. The Headquarters shall be inviolable and shall be under the control and authority of ISCOS as provided in this Agreement.
2. The appropriate authorities of the Government shall take whatever action that may be necessary to ensure that ISCOS shall not be dispossessed of all or any part of the Headquarters without the express consent of ISCOS.
3. (a) Officers or officials of the Government whether administrative, judicial, military or police, shall not enter the Headquarters to perform any official duties herein except with the consent of, and under conditions agreed by the Secretary General.

(b) ISCOS shall prevent the Headquarters from becoming a refuge for persons who are avoiding arrest under any law of the Republic of Kenya or who are required by the Government for extradition to another country or who are endeavouring to avoid service of legal process.
4. (a) The appropriate authorities of the Republic of Kenya shall exercise due diligence to ensure that the tranquility of the Headquarters is not disturbed by the un-authorized entry of groups of persons from outside or by disturbance in its immediate vicinity.

...../4



- 4 -

(b) If so requested by the Secretary-General the appropriate authorities or the Government shall provide a sufficient number of policemen for the preservation of Law and order in the Headquarters, and for the removal there-from of person as requested under the authority of the Secretary-General.

ARTICLE IV

Status of ISCOS

1. ISCOS as an Inter-Governmental organization shall have in Kenya the capacity in its own name to enter into contracts, to acquire and dispose of immovable to moveable property and to institute legal proceedings.
2. ISCOS, its property and assets, shall enjoy immune, from every form of legal process, except in as far as in any particular case it has expressly waived its immunity.
3. The property and assets of ISCOS shall be immune from search, requisition, confiscation expropriation and any other form of interference, whether by executive, administration, judicial or legislative action.
4. The archives of ISCOS, an in general all documents belonging to or held by it, wherever located shall be inviolable.

...../5



- 5 -

ARTICLE V

Importation of Materials or Equipment

1. The Government shall allow the importation free of duty and sales tax, or purchase from bond, of materials and equipment, including motor vehicles from the official use of ISCOS in Kenya provided they are finance from outside Kenya.
2. If the materials and equipment, including motor vehicles, are sold in Kenya, duty and sales tax will be payable at the appropriate rates at the time of sale, unless the goods concerned are sold to a person or organization similarly privileged and imported or purchase prior to clearance through customs.

ARTICLE VI

Exemption of ISCOS from Taxes

1. The Government shall accord exemption from all taxes including income taxes in respect of ISCOS assets, revenues and income derived from external sources. Any local business or investments shall, however, be subject to tax.

ARTICLE VII

Senior Officials

1. Senior officials of ISCOS other than Kenyan nationals or Residents of Kenya shall enjoy in Kenya the following privileges and immunities:-

...../6



- 6 -

- (a) exemption from all taxes in respect of salaries, emoluments and indemnities from external funds paid to them by ISCOS in relation to their employment;
- (b) exemption from payment of all taxes on capital and revenue of all capital payments due by a revision fund or an institution of social welfare; the same shall apply to all payments which might be made as benefits in respect of sickness, accident and long term disability provided such payment are made with funds from out-side Kenya;
- (c) the right to import, free of any customs duty, sales tax or other fiscal charges, personal or household effects, including two motor vehicles within the first three months after taking up their posts with ISCOS. If any of the said items are sold in Kenya, the appropriate duty and sales tax shall be paid unless the items are sold or transferred to a similar privileged person or organization;
- (d) consideration for the issue of Entry (Work) Permits, dependants Passes-Gratis or exemption thereof to a limited number of internationally recruited qualified professional. These will include their spouses and children under the age of 18 years;
- (e) exemption from national service obligations;

...../7



- 7 -

- (f) permit them or their dependants, permission to maintain External Accounts and to bring to Kenya reasonable amounts of foreign currency for personal use, to withdraw and repatriate such amounts from Kenya under external account facilities in accordance with the prevailing foreign exchange regulations of Kenya;
 - (g) the same repatriation facilities to be availed the expatriate employees including their spouses and children under the age of 18 years in times of international crisis as accorded to the officials of comparable International Organizations.
2. Officials of the United Nations or specialized agencies of the United Nations performing functions in connection with ISCOS shall respectively enjoy the privileges and immunities provided for under the Convention and privileges and immunities of the United Nations and Convention on privileges and immunities of the specialized agencies.
 3. All Officials of ISCOS shall be provided with a special identity card certifying that they are such officials enjoying the privileges and immunities specified in the Agreement.
 4. The privileges and immunities accorded to paragraph I of this Article are granted in the interest of ISCOS and not for personal benefit of the individuals themselves.

...../8



- 8 -

The Secretary-General shall have the right and duty to waive the immunity of any official of ISCOS who is not an official of the United Nations or of a specialized agency of the United Nations in cases where, in his opinion, such immunity would impede the course of justice and can be waived without prejudice to the interest of ISCOS.

5. ISCOS shall co-operate at all times with the appropriate authorities of the Government to facilitate the proper administration and prevent the occurrence of any abuse in connection with the privileges and immunities and facilities mentioned in this Article.

ARTICLE VIII

List of Senior officials

The Government and ISCOS will agree to the list of all personnel referred to in article VII of this Agreement and stationed at the Headquarters Office. ISCOS shall also provide annually a list of all its employees to the Ministry of Foreign Affairs and International Co-operation. All changes later accruing shall be communicated to the same Ministry.

...../9



- 9 -

ARTICLE IX

Access and Residence

1. The Competent authorities of the Government shall facilitate the following persons' entry into, sojourn in, transit and exit from the territory of the Republic of Kenya when such entry, sojourn, transit or exit is necessary for the proper performance of their functions.
 - (a) members of the Council of Ministers and their families;
 - (b) members of the Committee of Representatives and their families;
 - (c) officials of ISCOS and their families;
 - (d) persons, other than officials of ISCOS, performing missions for ISCOS, and their spouses;
 - (e) other persons invited to the Headquarters on official business; the Secretary-General shall communicate the names of such persons to the Government;
 - (f) participants in meetings seminars and other gatherings organized by ISCOS and
 - (g) trainees who are not nationals of the Republic of Kenya.
2. This Article shall not imply exemption from the obligation to produce reasonable evidence to establish the authenticity of persons claiming the right under this section.
3. The Government shall retain the right to refuse the free entry of any person if in the opinion of the Government such entry shall be against the interest of the Government.

...../10



- 10 -

ARTICLE X

Persons of Unsatisfactory Conduct

The government shall retain the right to request the recall of any person whose conduct is deemed to be unsatisfactory. In the exercise of the rights, the Government has no obligation to give any reason or explanation thereof.

ARTICLE XI

Co-operation of ISCOS with the Government

ISCOS shall co-operate at all times with the appropriate authorities of the Government to facilitate the proper administration of justice, secure the observance of Police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Agreement.

ARTICLE XII

Complimentary with the Establishment Agreement

The provisions of the Agreement for the Establishment of ISCOS and of this Agreement shall where they relate to the same subject matter, be treated wherever possible as complementary, so that the provisions of both shall be applicable and neither shall narrow the effect of the other; but in the case of absolute conflict, the provisions of this Agreement shall prevail.

...../11



- 11 -

ARTICLE XIII

Agreement's Primary Purpose

1. This Agreement shall be interpreted in the light of its primary purpose of enabling ISCOS fully and efficiently to discharge its responsibilities and fulfil its objectives.
2. Nothing in the Agreement shall be constructed or interpreted in a manner that will be inimical to the interests of the Government, exempt any one from personal responsibility committed by him or her, or permit any officials of ISCOS and activities to interfere in the internal affairs of the Government.

ARTICLE XIV

Settlement of Disputes

1. Any dispute or difference arising out of the interpretation or application of this Agreement shall be settled by negotiations between the parties.
2. If the parties fail to reach agreement, the dispute shall at the request of either party, be submitted for decision to a tribunal of three arbitrators, one to be nominated by each party and the third to be appointed by the two so nominated.
3. The arbitral tribunal shall settle the dispute in accordance with the rules of arbitration of the Arbitration Act (Chapter 49) of the Law of Kenya as amended from time to time and shall decide on the apportionment of the cost of the arbitration. The Arbitration shall take place in Kenya.

...../12



- 12 -

4. The parties shall comply with any decision given by the arbitral tribunal.

ARTICLE XV

Commencement of Agreement

This Agreement and any amendments there to shall enter into force on the date of its signature by both parties and shall remain valid until it is terminated in accordance with Article XVI.

ARTICLE XVI

Termination of Agreement

1. Either party may at any time give notice to the other of its decision to terminate this Agreement. In such case this Agreement shall terminate twelve (12) months after the date when the notice has been received by the other party unless the notice to terminate is withdrawn by Agreement before the expiry of this period.
2. In the event that land and/or buildings or any property is granted by the Government to ISCOS ex-gratia, upon the expiry of the above period of notice such land shall revert to, and ownership of such buildings or property shall pass to the Government upon payment of fair and reasonable compensation to ISCOS for buildings and other structures created by ISCOS on the land. Any dispute concerning the amount of compensation payable hereunder to ISCOS which is not settled by negotiation or any other agreed mode of settlement shall be referred for final decision to a tribunal of three arbitrators in accordance with article XIV above.

...../13



- 13 -

ARTICLE XVII

Liquidation of ISCOS

In the event that ISCOS is dissolved:-

1. This Agreement shall cease to be in force except for such provisions as may be applicable in connection with the orderly termination of the operations of ISCOS at its headquarters in Kenya and the disposal of its property therein.
2. All its assets shall be identified and valued by an independent body selected by agreement between the two parties. If after three months the two parties have not agreed on such selection, the independent body shall be chosen by the Executive Secretary of the United Nations Economic Commission for Africa.
3. The assets so identified and valued shall be liquidated and the proceeds thereof shall be used to settle all liabilities of ISCOS if any; any remainder shall be distributed equitably among the Government parties thereto.

...../14