

**AGREEMENT**

**BETWEEN**

**THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA**

**AND**

**THE FEDERAL REPUBLIC OF GERMANY**

**REGARDING THE HEADQUARTERS OF THE TRIBUNAL**

## CONTENTS

- Article 1 Use of terms
- Article 2 Juridical personality of the Tribunal
- Article 3 The Headquarters district
- Article 4 Law and authority in the Headquarters district
- Article 5 Inviolability of the Headquarters district
- Article 6 Vicinity of the Headquarters district
- Article 7 Protection of the Headquarters district
- Article 8 Immunity of the Tribunal, its property, assets and funds
- Article 9 Archives
- Article 10 Public services in the Headquarters district
- Article 11 Communications
- Article 12 Flag and emblem
- Article 13 Social security
- Article 14 Work permits for family members
- Article 15 Exemption from taxes, customs duties and import or export restrictions
- Article 16 Funds and freedom from currency restrictions
- Article 17 Privileges, immunities, facilities and prerogatives
- Article 18 Privileges and immunities for the Members and officials of the Tribunal
- Article 19 Privileges and exemptions with regard to taxes and duties for the Members and officials of the Tribunal
- Article 20 Experts appointed under article 289 of the Convention
- Article 21 Agents representing parties, counsel and advocates designated to appear before the Tribunal
- Article 22 Witnesses, experts and persons performing missions

Article 23 Nationals and permanent residents of the host country

Article 24 Waiver

Article 25 Laissez-passer, identity cards and notification

Article 26 Entry, transit and sojourn in the host country

Article 27 Maintenance of security and public order

Article 28 Responsibility, liability and insurance

Article 29 Cooperation with the competent authorities

Article 30 Exchange of Notes

Article 31 Supplementary agreements

Article 32 Relationship with the General Agreement

Article 33 Settlement of disputes

Article 34 Amendments

Article 35 Entry into force

Article 36 Registration

**AGREEMENT BETWEEN THE INTERNATIONAL TRIBUNAL FOR THE LAW OF  
THE SEA AND THE FEDERAL REPUBLIC OF GERMANY  
REGARDING THE HEADQUARTERS OF THE TRIBUNAL**

**THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA AND THE  
FEDERAL REPUBLIC OF GERMANY,**

HAVING REGARD to Annex VI to the United Nations Convention on the Law of the Sea which provides that the seat of the International Tribunal for the Law of the Sea shall be in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany,

HAVING REGARD to the legal personality of the Tribunal and to the provisions of the Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, adopted by the Meeting of States Parties to the United Nations Convention on the Law of the Sea on 23 May 1997,

RECOGNIZING that the Tribunal should enjoy such legal capacity, privileges and immunities as are necessary for the exercise of its functions,

RECALLING that the Statute of the Tribunal provides, in article 10, that the Members of the Tribunal, when engaged on the business of the Tribunal, shall enjoy diplomatic privileges and immunities,

HAVE AGREED AS FOLLOWS:

Article 1

Use of terms

For the purposes of this Agreement:

- (a) "Convention" means the United Nations Convention on the Law of the Sea, concluded at Montego Bay, Jamaica on 10 December 1982 and the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea, done at New York on 28 July 1994;
- (b) "Statute" means the Statute of the International Tribunal for the Law of the Sea, Annex VI to the Convention;
- (c) "Rules" means the Rules of the International Tribunal for the Law of the Sea;
- (d) "General Agreement" means the Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea adopted by the Meeting of States Parties to the Convention on 23 May 1997;

- (e) "States Parties" shall have the same meaning as that given in article 1 of the Convention;
- (f) "Tribunal" means the International Tribunal for the Law of the Sea;
- (g) "host country" means the Federal Republic of Germany;
- (h) "Government" means the Government of the Federal Republic of Germany;
- (i) "competent authorities" means such federal (*Bund*), *Land* (state), or local authorities in the Federal Republic of Germany as may be appropriate in the context and in accordance with the laws, regulations and customs of the Federal Republic of Germany, including the laws, regulations and customs of the *Land* (state) and local authorities involved;
- (j) "Member" means an elected member of the Tribunal, as referred to in article 2 of the Statute, or a person chosen under article 17 of the Statute for the purposes of a particular case, while such person is exercising his or her functions;
- (k) "officials of the Tribunal" means the members of the staff of the Registry of the Tribunal;
- (l) "expert" means a person called at the instance of a party to a dispute or at the instance of the Tribunal to present testimony in the form of expert opinions, based on special knowledge, skills, experience or training;
- (m) "expert appointed under article 289 of the Convention" means a person appointed in accordance with that article to sit with the Tribunal;
- (n) "Headquarters district" means the area defined in article 3 of this Agreement;
- (o) "international organization" means an intergovernmental organization.

## Article 2

### Juridical personality of the Tribunal

In accordance with its juridical personality the Tribunal has, in particular, the capacity:

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

### Article 3

#### The Headquarters district

1. The seat of the Tribunal shall be the Headquarters district, which shall comprise:
  - (a) the area with the buildings upon it of the permanent premises of the Tribunal on the site located on the street "Am Internationalen Seegerichtshof" in the Free and Hanseatic City of Hamburg as defined in the Agreement between the International Tribunal for the Law of the Sea and the Government of the Federal Republic of Germany on the Occupancy and Use of the Premises of the International Tribunal for the Law of the Sea in the Free and Hanseatic City of Hamburg (hereinafter "Additional Agreement"); and
  - (b) any other lands, buildings or part of buildings which may from time to time be included therein by supplementary agreement between the Tribunal and the Government.
2. The area with the buildings referred to in paragraph 1 (a), together with the installations, equipment, fittings and all other facilities therein which are required for the effective functioning of the Tribunal, shall be made available to it in accordance with the Additional Agreement.

### Article 4

#### Law and authority in the Headquarters district

1. The Headquarters district shall be under the control and authority of the Tribunal, in accordance with this Agreement.
2. The Tribunal shall have the power to make regulations operative throughout the Headquarters district for the purpose of establishing therein the conditions in all respects necessary for the full execution of its functions. The Tribunal shall promptly inform the competent authorities of regulations thus enacted in accordance with this paragraph. No law or regulation of the host country which is inconsistent with a regulation of the Tribunal authorized by this paragraph shall, to the extent of such inconsistency, be applicable within the Headquarters district.
3. Any dispute between the Tribunal and the host country as to whether a regulation of the Tribunal is authorized by paragraph 2, or as to whether a law or regulation of the host country is inconsistent with any regulation of the Tribunal authorized by paragraph 2, shall be promptly settled by the procedure set out in article 33. Pending such settlement, the regulation of the Tribunal shall apply and the law or regulation of the host country shall not apply in the Headquarters district to the extent that the Tribunal claims it to be inconsistent with the regulation of the Tribunal.
4. Except as otherwise provided in this Agreement or in the General Agreement, and subject to the provisions of paragraph 2, the laws and regulations of the host country shall apply in the Headquarters district.

5. Except as otherwise provided in this Agreement or in the General Agreement, the courts or other competent authorities of the host country shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place in the Headquarters district.

6. The courts or other competent authorities, when dealing with cases arising out of or relating to acts done or transactions taking place in the Headquarters district, shall take into account the regulations enacted by the Tribunal under this article.

## Article 5

### Inviolability of the Headquarters district

1. The Headquarters district shall be inviolable. No officer or official of the host country or other person exercising any public authority within the host country shall enter the Headquarters district to discharge any official duty except upon the express consent of or at the request of the Registrar of the Tribunal and in accordance with conditions approved by the President of the Tribunal.

2. Judicial actions and the service or execution of legal process, including the seizure of private property, cannot be enforced in the Headquarters district except with the consent of and in accordance with conditions approved by the President of the Tribunal.

3. In case of fire or other emergency requiring prompt protective action, or in the event that the competent authorities have reasonable cause to believe that such an emergency has occurred or is about to occur in the Headquarters district, the consent of the Registrar of the Tribunal to any necessary entry of the Headquarters district shall be presumed if the Registrar cannot be reached in time.

4. Subject to paragraphs 1 and 3, the competent authorities shall take the necessary action to protect the premises of the Tribunal against fire or other emergency.

5. Without prejudice to the Convention, this Agreement and the General Agreement, the Tribunal shall not allow the Headquarters district to become a refuge from justice for persons against whom a penal judgment had been made or who are pursued *flagrante delicto*, or against whom a warrant of arrest or an order of extradition, expulsion or deportation has been issued by the competent authorities.

6. Subject to paragraphs 1 and 2, nothing in this article shall preclude the official delivery by the postal service to the Headquarters district of letters and documents.

7. The Tribunal may expel or exclude persons from the Headquarters district either for violation of its regulations adopted under article 4 or for any other reason.

## Article 6

### Vicinity of the Headquarters district

1. The competent authorities shall take all reasonable measures to ensure that the amenities of the Headquarters district are not impaired and that the use for which the Headquarters district is intended is not obstructed by the use made of the land and buildings in the vicinity of the Headquarters district.
2. The Tribunal shall ensure that the Headquarters district is not used for purposes other than those for which it is intended and shall take all reasonable measures to ensure that the land and buildings in its vicinity are not unreasonably obstructed.

## Article 7

### Protection of the Headquarters district

1. The competent authorities shall take whatever measures may be necessary to ensure that the Tribunal shall not be dispossessed of all or any part of the Headquarters district without the express consent of the Tribunal.
2. The Government shall protect the premises of the Tribunal against unauthorized entry or damage of any kind and take appropriate measures to prevent any disturbance of the peace or impairment of the dignity and proper functioning of the Tribunal due to disturbances of public security or order in the Headquarters district or the immediate vicinity thereof.
3. The competent authorities shall provide the police or security forces necessary for the preservation of law and order in the Headquarters district and the removal therefrom of persons, if so requested by the Registrar of the Tribunal.

## Article 8

### Immunity of the Tribunal, its property, assets and funds

1. The Tribunal shall enjoy immunity from legal process, except insofar as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.
2. The property, assets and funds of the Tribunal, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, seizure, expropriation or any other form of interference, whether by executive, administrative, judicial or legislative enforcement action.
3. The property and assets of the Tribunal shall be exempt from restrictions, regulations, controls and moratoria of any nature.
4. The Tribunal shall have insurance coverage against third-party risks in respect of vehicles owned or operated by it, pursuant to the laws and regulations of the host country.



## Article 9

### Archives

The archives of the Tribunal, and all documents belonging to it or held by it, shall be inviolable at all times and wherever they may be located in the host country. The location of the archives and any documents shall be made known to the competent authorities if it is at a place other than in the Headquarters district.

## Article 10

### Public services in the Headquarters district

1. At the request of a duly authorized official of the Tribunal, the competent authorities shall do their utmost to ensure or assist, as appropriate, the provision on equitable terms of the public services needed by the Tribunal such as postal, telephone, telegraph, fax communications and on-line services, electricity, water, gas, sewerage, waste collection, fire protection, local transportation and cleaning of public streets.
2. In the event of interruption or threatened interruption of any such services, the competent authorities shall consider the needs of the Tribunal as being of equal importance with the needs of the essential agencies and organs of the Government and of the constitutional organs of the Free and Hanseatic City of Hamburg and will take steps accordingly to ensure that the work of the Tribunal is not impaired.
3. Upon request of the competent authorities, the Registrar of the Tribunal shall make suitable arrangements to enable duly authorized representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the Headquarters district under conditions which shall not unreasonably disturb the carrying out of the functions of the Tribunal. Underground constructions may be undertaken by the competent authorities within the Headquarters district only after consultation with the Registrar of the Tribunal and under conditions which shall not disturb the carrying out of the functions of the Tribunal.
4. In cases where gas, electricity or water are supplied by the competent authorities or where the prices thereof are under their control, the Tribunal shall be supplied at rates which shall not exceed the lowest comparable rates accorded to the federal or local governmental or administrative authorities.

## Article 11

### Communications

1. The Tribunal shall enjoy, as far as compatible with the international treaties, regulations and arrangements to which the host country is a party, for its official communications treatment not less favourable than that accorded by the host country to federal and local

authorities or to international organizations and diplomatic missions, in the matter of priorities and rates for mail, cables, telegrams, radiograms, telex, facsimile, telephotos, television, telephone and other forms of communications as well as rates for information to press and radio.

2. The competent authorities shall ensure the inviolability of all communications and correspondence directed to the Tribunal, its Members or officials in the Headquarters district, as well as all outgoing communications and correspondence of the Tribunal and its Members or officials, by whatever means or in whatever form transmitted. Such inviolability shall extend, without limitation by reason of this enumeration, to publications, still and moving pictures, films and sound or videotape recordings.

3. The Tribunal shall have the right to use codes and cipher and to dispatch and receive correspondence and other materials or communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

4. If so requested by a duly authorized official of the Tribunal, the competent authorities shall provide for the official purposes of the Tribunal appropriate radio and other telecommunications facilities. These facilities may be specified by supplementary agreement between the Tribunal and the competent authorities.

5. Subject to the necessary authorization by the Meeting of States Parties and with the agreement of the Government as may be included in a supplementary agreement, the Tribunal may also establish and operate at the Headquarters district:

(a) its own short-wave sending and receiving radio broadcasting facilities (including emergency link equipment) which may be used on the same frequencies (within the tolerance prescribed for the broadcasting service by applicable regulations of the host country) for radiograph, radiotelephone and similar services;

(b) such other radio facilities as may be specified by supplementary agreement between the Tribunal and the competent authorities.

6. The Tribunal shall have the right to publish and broadcast freely and without restriction within the host country for purposes in conformity with the Convention and the Statute.

## Article 12

### Flag and emblem

The Tribunal shall be entitled to display its flag and emblem in the Headquarters district and on vehicles used for official purposes.

## Article 13

### Social security

1. Due to the fact that officials of the Tribunal are subject to regulations consistent with the United Nations Staff Regulations and Rules, including Article VI thereof, which establishes a comprehensive social security scheme, the Tribunal, the Registrar and other officials of the Tribunal, irrespective of nationality, shall be exempt from the laws of the host country on mandatory coverage by and compulsory contributions to the social security schemes of the host country during their employment with the Tribunal. This shall also apply insofar as another system of social security operated by the Tribunal or a system joined by the Tribunal provides for corresponding benefits.
2. The provisions of paragraph 1 shall not preclude voluntary participation by the Members and officials of the Tribunal in any social security scheme in the host country to the extent that such voluntary participation is permitted by the laws of the host country.

## Article 14

### Work permits for family members

Work permits for taking up gainful employment are granted to family members of Members, who have their residence or are normally staying in the host country, and of officials of the Tribunal. Family members within the meaning of the first sentence include the spouse as well as the children forming part of the household who are under 21 years of age or economically dependent.

## Article 15

### Exemption from taxes, customs duties and import or export restrictions

1. The Tribunal, its assets, income and other property, and its operations and transactions shall be exempt from all direct taxes in the host country. It is understood, however, that the Tribunal shall not claim exemption from taxes which are no more than charges for public utility services. The motor vehicles belonging to or operated by the Tribunal shall, upon notification, be exempted from motor vehicle tax.
2. The Tribunal shall be exempt from all customs duties, import turnover taxes, prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Tribunal for its official use. Goods imported or purchased under such an exemption shall not be sold or otherwise disposed of in the territory of the host country, except under conditions agreed with the competent authorities. The Tribunal shall also be exempt from all customs duties, import turnover taxes, prohibitions and restrictions on imports and exports in respect of its publications.

3. The Tribunal shall be exempt from all indirect taxes including insurance tax as well as value added tax/turnover tax (*Umsatzsteuer*) and excise duties which form part of the price of important purchases intended for the official use of the Tribunal. However, exemption from mineral oil tax included in the price of petrol, diesel and heating oil and value added tax/turnover tax (*Umsatzsteuer*) shall take the form of a refund of these taxes to the Tribunal under the conditions to be agreed upon between the Tribunal and the Government. It is understood, however, that the Tribunal shall not claim exemption from taxes and duties which are no more than charges for public utility services. Goods purchased under an exemption or reimbursement shall not be sold or otherwise disposed of, except in accordance with the conditions agreed upon between the Tribunal and the Government.

## Article 16

### Funds and freedom from currency restrictions

1. Without being restricted by financial controls, regulations or moratoria of any kind, whilst carrying out its activities:

- (a) the Tribunal may receive and hold funds, gold, securities or currency of any kind and operate accounts in any currency;
- (b) the Tribunal shall be free to transfer its funds, gold, securities or currency from one country to another or within any country and to convert any currency held by it into any other currency;
- (c) the Tribunal may receive, hold, negotiate, transfer, convert or otherwise deal with bonds and other financial securities.

2. In exercising its rights under paragraph 1, the Tribunal shall pay due regard to any representations made by the competent authorities insofar as it is considered that effect can be given to such representations without detriment to the interests of the Tribunal.

## Article 17

### Privileges, immunities, facilities and prerogatives

The privileges, immunities, facilities and prerogatives of the individuals referred to in articles 18 to 22 are granted in the interests of the administration of justice by the Tribunal in order to safeguard the independent performance of their official functions and not for the personal benefit of the individuals themselves.

## Article 18

### Privileges and immunities for the Members and officials of the Tribunal

1. Subject to the provisions of this Agreement and without prejudice to the provisions of article 19, the privileges and immunities to be accorded to the Members and officials of the Tribunal within the territory of the host country shall be consistent with those accorded to diplomatic agents in accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961 and shall in particular be as follows:

- (a) the Members and the Registrar of the Tribunal, or any official acting as Registrar during his or her absence from duty, shall enjoy the same privileges, immunities, facilities and prerogatives as are accorded by the host country to the heads of diplomatic missions accredited to the host country;
- (b) the officials of the Tribunal of P-5 level and above shall enjoy the same privileges, immunities, facilities and prerogatives as are accorded by the host country to members of comparable rank of the diplomatic staff of missions established in the host country;
- (c) the other officials of the Tribunal shall enjoy the same privileges, immunities and facilities as are accorded by the host country to members of comparable rank of diplomatic missions established in the host country;
- (d) the spouses and dependent relatives forming part of the household of the Members, the Registrar of the Tribunal and the other officials of the Tribunal shall receive the same treatment as is accorded by the host country to spouses and dependent relatives forming part of the household of members of comparable rank of diplomatic missions established in the host country.

2. The Members shall enjoy the treatment provided for in this article even after expiry of their terms of office, if they continue to exercise their functions.

3. In order to secure complete freedom of speech and complete independence in the discharge of their duties, the Members and officials of the Tribunal shall continue to enjoy immunity from legal process in respect of words spoken and written and all acts done by them in the discharge of their duties even when they are no longer engaged in the business of the Tribunal.

4. Members and officials of the Tribunal shall be given, together with their spouses and dependent relatives forming part of their household, the same repatriation facilities in time of international crises as diplomatic agents are given under the Vienna Convention on Diplomatic Relations of 18 April 1961 and international law.

5. The Members and officials of the Tribunal shall have insurance coverage against third-party risks in respect of vehicles owned or operated by them pursuant to the laws and regulations of the host country.

6. The Government undertakes to issue visas and residence permits, where required, to household employees of Members, of the Registrar or other officials of the Tribunal as speedily as possible; no work permit will be required in such cases.

7. The Members and officials of the Tribunal, together with their spouses and dependent relatives forming part of their households, shall be exempt from national service obligations and alien registration.
8. The officials of the Tribunal shall be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable rank forming part of diplomatic missions established in the host country.
9. The names of the Members, the Registrar and the Deputy Registrar of the Tribunal shall be included in the Diplomatic list.
10. The provisions of this article shall be applicable irrespective of the relations existing between the Government of the country of which such an individual is a national and the host country.

#### Article 19

##### Privileges and exemptions with regard to taxes and duties for the Members and officials of the Tribunal

The Members and officials of the Tribunal shall enjoy the following privileges and exemptions with regard to taxes, duties and customs duties within the territory of the host country:

- (a) the Members and the Registrar of the Tribunal, or any official acting as Registrar during his or her absence from duty, shall enjoy the same privileges and exemptions as are accorded by the host country to the heads of diplomatic missions accredited to the host country;
- (b) the officials of the Tribunal of P-5 level and above shall enjoy the same privileges and exemptions as are accorded by the host country to members of comparable rank of the diplomatic staff of missions established in the host country;
- (c) the Members and the officials of the Tribunal, irrespective of their ranking, shall enjoy exemption from taxation on the salaries and emoluments paid to them by the Tribunal;
- (d) the spouses and dependent relatives forming part of the household of a Member or the Registrar of the Tribunal or of officials of the Tribunal of P-5 level and above, shall enjoy the same privileges and exemptions as are accorded to spouses and dependent relatives forming part of the household of diplomatic agents of comparable rank of diplomatic missions established in the host country;
- (e) the officials of the Tribunal shall have the right to import free of duty their furniture and effects at the time of first taking up their post in the host country.

#### Article 20

Experts appointed under  
article 289 of the Convention

The privileges, immunities, facilities and prerogatives accorded to Members, their spouses and dependent relatives forming part of their household and domestic staff, in accordance with articles 18 and 19, shall apply *mutatis mutandis* to experts appointed under article 289 of the Convention in the discharge of their duties and to their spouses and dependent relatives forming part of their household and domestic staff while such experts are exercising their functions. The provisions of article 18, paragraph 3, shall apply *mutatis mutandis* to experts appointed under article 289 of the Convention even when they are no longer engaged in the business of the Tribunal.

Article 21

Agents representing parties, counsel and advocates  
designated to appear before the Tribunal

1. Agents representing parties to proceedings before the Tribunal as well as counsel and advocates appearing before it shall, without prejudice to paragraph 2, be accorded the privileges, immunities and facilities necessary for the independent exercise of their duties during their journey to and from the Headquarters district, and while exercising their functions. They shall be accorded:

- (a) immunity from any form of personal arrest, search or detention and from seizure of their personal baggage;
- (b) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the host country. An inspection in such a case shall be conducted in the presence of the agent, counsel or advocate concerned;
- (c) immunity from legal process of every kind in respect of words spoken and written and all acts done by them while discharging their duties as representatives of parties before the Tribunal, which immunity shall continue even after they have ceased to exercise their functions;
- (d) inviolability of documents and papers;
- (e) the right to receive papers or correspondence by courier or in sealed bags;
- (f) exemption in respect of themselves and their spouses from immigration restrictions or alien registration;
- (g) the same facilities in respect of their personal baggage and in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;

(h) the same repatriation facilities in time of international crises as are accorded to diplomatic agents under the Vienna Convention on Diplomatic Relations of 18 April 1961 and international law.

2. The representatives of States and States Parties who may be agents, counsel or advocates appearing before the Tribunal shall, notwithstanding anything to the contrary in paragraph 1, enjoy the privileges, immunities, facilities and prerogatives which, in accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961 and international law, are accorded to diplomatic agents.

3. For the purposes of paragraph 1, parties to proceedings before the Tribunal shall include States other than States Parties, entities other than States, the International Seabed Authority, natural and juridical persons and sponsoring States or entities representing parties to proceedings in accordance with article 190 of the Convention.

4. The provisions of paragraphs 1 and 2 shall be applicable irrespective of the relations existing between the Government of which such an individual is a national and the host country.

5. Upon receipt of notification from parties to proceedings before the Tribunal as to the appointment of an agent, counsel or advocate, a certification of the status of such representative shall be provided under the signature of the Registrar of the Tribunal and limited to a period reasonably required for the proceedings.

6. The Registrar of the Tribunal shall notify the competent authorities of the appointment of agents, counsel or advocates of parties, indicating the prospective period for which their presence in and travel within the host country will be required.

7. The competent authorities shall accord the privileges, immunities, facilities and prerogatives to agents, counsel and advocates provided in this article upon production of the certification referred to in paragraph 5.

## Article 22

### Witnesses, experts and persons performing missions

1. Witnesses, experts and persons performing missions by order of the Tribunal shall be accorded the privileges, immunities and facilities necessary for the independent exercise of their functions, while on mission and during their journey to and from the Headquarters district. In particular, they shall be accorded the privileges, immunities and facilities accorded to agents, counsel and advocates under article 21, paragraph 1, subparagraphs (a) to (h), provided that a witness, expert or person performing missions who is a diplomatic agent of a State or a State Party shall be accorded the same treatment accorded to agents, counsel or advocates who are diplomatic agents under article 21, paragraph 2.

2. The federal (*Bund*), *Land* (state) or local authorities of the host country shall not impose any impediment to the transit to and from the Headquarters district of persons invited to the



Headquarters district by the Tribunal on official business. The competent authorities shall afford any necessary protection to such persons while in transit to or from the Headquarters district. Such persons shall *mutatis mutandis* enjoy the privileges, immunities and facilities accorded to persons performing official missions for the Tribunal in accordance with this article.

3. The provisions of this article shall be applicable irrespective of the relations existing between the Government of which such an individual is a national and the host country.

### Article 23

#### Nationals and permanent residents of the host country

Persons referred to in articles 18 to 22 shall not enjoy the privileges and immunities provided therein if they are German nationals or have their permanent residence in Germany, with the exception of:

- (a) the exemption from social security provisions provided that they are subject to the social security law of their home State or they participate in a voluntary insurance scheme with adequate benefits;
- b) the exemption from taxation on the salaries and emoluments paid to them by the Tribunal; and
- (c) the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties, which immunity shall continue even after the persons have ceased to exercise their functions.

### Article 24

#### Waiver

1. A State which is a party to proceedings before the Tribunal not only has the right but is under a duty to waive the immunity of agents, counsel and advocates representing or designated by it and of witnesses, experts and persons performing missions referred to in article 22 who are diplomatic agents of the State concerned, in any case where in the opinion of the State concerned the immunity would impede the course of justice and can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

2. The right and the duty to waive the immunity of agents, counsel and advocates, representing or designated by an entity other than a State shall lie with the Tribunal, after hearing the individual concerned, where, in its opinion, the immunity is not directly related to or incidental to the performance of official functions and would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

3. The right and the duty to waive the immunity of witnesses, experts and persons performing missions referred to in article 22, who are not diplomatic agents, shall lie with the Tribunal, after hearing the individual concerned, where, in its opinion, the immunity is not directly related to or incidental to the performance of official functions and would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

4. The right and the duty to waive the immunity of the Registrar, or the Deputy Registrar or any other official of the Tribunal, when acting as Registrar, or experts appointed under article 289 of the Convention, and members of their households shall lie with the Tribunal, after hearing the individual concerned, where, in its opinion, the immunity is not directly related to or incidental to the performance of official functions and would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

5. The right and the duty to waive the immunity of other officials of the Tribunal and members of their households shall lie with the Registrar of the Tribunal, with the approval of the President of the Tribunal, and after hearing the individual concerned, where, in the Registrar's opinion, the immunity is not directly related to or incidental to the performance of official functions and would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

## Article 25

### Laissez-passer, identity cards and notification

1. The Government shall recognise and accept the United Nations laissez-passer issued to Members, officials of the Tribunal and experts appointed under article 289 of the Convention as a valid travel document.

2. Persons referred to in articles 18 to 22 who do not present a United Nations laissez-passer shall be immune from immigration restrictions provided that they produce either a valid travel document with an entry visa and evidence of their official capacity or a valid travel document and the competent authorities are notified of their arrival by the Tribunal.

3. The Registrar of the Tribunal shall, on behalf of the Tribunal, furnish persons referred to in articles 20 to 22 with an identity card stating the name, date and place of birth and the number of passport or number of national identity card and bearing a photograph and signature of the person concerned. This identity card shall serve to identify the holder and his official capacity in relation to the Tribunal, to the competent authorities. In the case of a stateless person, the travel documents issued by a State will for the purpose of this paragraph be treated as a passport or a national identity card.

4. The Registrar of the Tribunal shall notify the competent authorities when any person mentioned in article 18 takes up or relinquishes duties, and shall periodically send the competent authorities a list of all such persons with information as to the name, date and

place of birth, nationality, home address, functions with the Tribunal and the anticipated duration of service.

5. The Registrar of the Tribunal shall notify the competent authorities of the nomination of agents, counsel and advocates referred to in article 21. When attendance before the Tribunal by a person referred to in article 21 or article 22 is required, the Registrar of the Tribunal shall notify the competent authorities immediately. This information shall state the name, date and place of birth and home address of the person concerned as well as the functions of the person before the Tribunal and the anticipated duration of the functions.

## Article 26

### Entry, transit and sojourn in the host country

1. The competent authorities shall take all necessary measures to facilitate the entry into and sojourn in the host country, and shall place no impediment in the way of departure from the host country, of the persons referred to in articles 18 to 22 and also ensure them the necessary protection. The competent authorities shall ensure that no impediment is placed in the way of their transit to or from the Headquarters seat and shall afford them the necessary protection.

2. Paragraph 1 shall not apply in the case of general interruptions of transportation, and shall not impair the effectiveness of generally applicable laws relating to the operation of means of transportation.

3. Visas which may be required by persons referred to in articles 18 to 22 shall be granted without charge and as promptly as possible.

4. Applications for visas (where required) from the Members and the Registrar of the Tribunal should be dealt with as speedily as possible. All other holders of United Nations laissez-passer should receive the same facilities when their applications for visas are accompanied by a certificate stating that they are travelling on the business of the Tribunal. In addition, all holders of United Nations laissez-passer should be granted facilities for speedy travel.

5. Similar facilities to those specified in paragraph 4 should be accorded to witnesses, experts and other persons who, though not the holders of United Nations laissez-passer, have a certificate stating that they are travelling on the business of the Tribunal.

6. No activity performed by any person referred to in articles 18 to 22 in an official capacity with respect to the Tribunal shall constitute a reason for preventing the entry into or departure from the territory of the host country of the person or for requiring the person to leave the territory of the host country.

7. It is understood that the persons referred to in articles 18 to 22 are not exempt from any reasonable application of the internationally accepted rules governing quarantine and public health.

## Article 27

### Maintenance of security and public order

1. Nothing in this Agreement shall affect the right of the host country to take, with the approval of the President of the Tribunal, the precautions necessary for its security or for the maintenance of public order.
2. If the host country considers it necessary to apply paragraph 1, it shall approach the Tribunal as rapidly as circumstances allow in order to determine by mutual agreement the measures necessary to protect the Tribunal.

## Article 28

### Responsibility, liability and insurance

1. The host country shall not incur, by reason of the location of the seat of the Tribunal within its territory, any international responsibility for acts or omissions of the Tribunal or of its officials acting or abstaining from acting within the scope of their functions other than the international responsibility which the host country would incur as a State Party.
2. Without prejudice to its immunities under this Agreement or the General Agreement, the Tribunal shall carry insurance to cover liability for any injury or damage arising from the activities of the Tribunal in the host country or from its use of the Headquarters district or buildings erected thereon or vehicles owned or operated by it that may be suffered by persons other than officials of the Tribunal, or by the Government. To this end, the competent authorities shall secure for the Tribunal, at reasonable rates, insurance coverage permitting claims to be submitted directly to the insurer by parties suffering injury or damage. Such claims and liability shall, without prejudice to the privileges and immunities of the Tribunal, be governed by the laws of the host country.

## Article 29

### Cooperation with the competent authorities

1. The Tribunal shall cooperate at all times with the competent authorities to facilitate to the extent possible the proper administration of justice, secure the observance of police regulations and prevent any abuse of the privileges, immunities and facilities accorded to officials of the Tribunal referred to in article 18, paragraph 1, subparagraphs (c) and (d), and the persons referred to in articles 19 to 22.
2. If the Government considers that there has been an abuse of privilege or immunity conferred by this Agreement, consultations will be held between the competent authorities and the President of the Tribunal to determine whether any such abuse has occurred and, if so, to attempt to ensure that no repetition occurs. If such consultations fail to achieve a result satisfactory to the Government and to the Tribunal, either party may submit the question as to

whether such an abuse has occurred for resolution in accordance with the provisions on settlement of disputes under article 33.

3. The Government may only require persons referred to in articles 18 to 22, other than Members, the Registrar or the Deputy Registrar or any other official of the Tribunal when acting as Registrar or representatives of States Parties, to leave the country on account of any activities performed by them which are an abuse of the right of residence in the host country and are not directly related to, or incidental to the performance of, official functions, with the approval of the Minister for Foreign Affairs of the Federal Republic of Germany, after consultation with the Registrar in the case of officials of the Tribunal, and the President of the Tribunal in the case of the other persons herein referred to. Representatives of States Parties other than agents, representing such States Parties in proceedings before the Tribunal may only be required to leave the country in accordance with the diplomatic procedure applicable to diplomatic agents accredited to the host country.

## Article 30

### Exchange of Notes

The Exchange of Notes of 14th December 2004 between the Tribunal and the Government with regard to this Agreement forms an integral part thereof.

## Article 31

### Supplementary agreements

The Tribunal and the Government may conclude supplementary agreements to this Agreement insofar as this is deemed desirable.

## Article 32

### Relationship with the General Agreement

The provisions of this Agreement shall be complementary to the provisions of the General Agreement. Insofar as any provision of this Agreement and any provision of the General Agreement relate to the same subject-matter, the two provisions shall, wherever possible, be treated as complementary, so that both provisions shall be applicable and neither shall limit the effect of the other; but in case of conflict, the provisions of this Agreement shall prevail.

## Article 33

### Settlement of disputes

1. The Tribunal shall make suitable provision for the satisfactory settlement of:

- (a) disputes arising out of contracts and other disputes of a private law character to which the Tribunal is a party;
- (b) disputes involving any person within the scope of article 29, paragraph 3, who by reason of his or her official position enjoys immunity, if immunity has not been waived in accordance with article 24.

2. Any dispute between the Tribunal and the Government arising out of or concerning the interpretation or application of this Agreement or of any supplementary agreement, or any question affecting the Headquarters district or the relationship between the Tribunal and the Government which is not settled by consultation, negotiation or other agreed mode of settlement, shall be referred, at the request of either party to the dispute, for a final and binding decision to a panel of three arbitrators, one to be chosen by the Tribunal, one to be chosen by the Government, and the third, who shall be the Chairman of the panel, to be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the appointment of the third member within three months following the appointment of the first two arbitrators, the Chairman shall be chosen by the Secretary-General of the United Nations within one month of the making of a request by the Tribunal or the Government. If either party to this Agreement has failed to make its appointment of an arbitrator within two months of the appointment of an arbitrator by the other party, the Secretary-General of the United Nations shall, at the request of either party, make such appointment within one month of such a request.

#### Article 34

##### Amendments

The provisions of this Agreement may only be amended by agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany.

#### Article 35

##### Entry into force

This Agreement shall enter into force on the first day of the month following the date of receipt of the last of the notifications by which the Tribunal and the Federal Republic of Germany have informed each other of the completion of their respective formal requirements for the entry into force of this Agreement.

#### Article 36

##### Registration

Registration of this Agreement with the Secretariat of the United Nations, in accordance with Article 102 of the Charter of the United Nations, shall be initiated by the Government immediately following its entry into force. The Tribunal shall be informed of registration, and

of the United Nations registration number, as soon as this has been confirmed by the Secretariat.

DONE at Berlin on 14th December 2004 in duplicate in the English, German and French languages, all language texts being equally authentic.

For the  
International Tribunal for the Law of the Sea

For the  
Federal Republic of Germany

**INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA  
TRIBUNAL INTERNATIONAL DU DROIT DE LA MER**



Dolliver Nelson  
The President

14 December 2004

Excellency,

I have the honour to acknowledge receipt of your Note of 14 December 2004 in which you confirm the understandings concerning the interpretation of certain provisions of the Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany regarding the Headquarters of the Tribunal which reads as follows:

"I have the honour to refer, on the occasion of the signing of the Agreement between the Federal Republic of Germany and the International Tribunal for the Law of the Sea regarding the Headquarters of the Tribunal (hereinafter referred to as "the Agreement"), to the discussions held between the representatives of the Government of the Federal Republic of Germany and the representatives of the International Tribunal for the Law of the Sea concerning the interpretation of certain provisions of the Agreement and to confirm the following understandings:

1. It is the understanding of the Parties that the regulations to be issued by the Tribunal under article 4, paragraph 2, of the Agreement will be those necessary for the conduct of its operations and activities in the execution of its mandate and to establish conditions necessary for the exercise of its functions and fulfilment of its purposes.

2. It is the understanding of the Parties that officials of the Tribunal whose membership in the German statutory health insurance scheme ended on account of employment with the Tribunal may join the German statutory health insurance scheme by analogous application of article 9, paragraph 1, number 5 of the Social Code, Book V, if they take up employment in the Federal Republic of Germany within two months of their employment with the Tribunal coming to an end. The health insurance fund is to be notified accordingly by the person concerned within three months of such employment being taken up.

Mr Jürgen Chrobog  
State Secretary  
Foreign Office  
Berlin



3. It is the understanding of the Parties that the privileges and exemptions with regard to value added tax/turnover tax (*Umsatzsteuer*) in the Federal Republic of Germany granted to the Members and to the officials of the Tribunal in accordance with article 19, subparagraphs (a) and (b), of the Agreement shall be accorded on the basis of the most favourable treatment under the currently applicable ordinance concerning the reimbursement of value added tax/turnover tax (*Umsatzsteuer*) to permanent diplomatic missions and career consular posts as well as to their non-German members.

It is the understanding of the Parties that the Federal Finance Office shall, on request, reimburse the Tribunal for the amount of value added tax/turnover tax (*Umsatzsteuer*) paid in respect of supplies and services purchased from a taxable person for the official use of the Tribunal provided that the tax due exceeds €25 per invoice in the aggregate and the tax has been separately identified in the invoice. If the reimbursed value added tax/turnover tax (*Umsatzsteuer*) is subsequently reduced as a result of a review of the price originally paid for the supplies and services in question, the Tribunal shall inform the Federal Finance Office of such a reduction in price and shall subsequently return the balance of the tax previously reimbursed.

Likewise the Federal Finance Office shall, on request, also reimburse the Tribunal for the mineral oil tax for petrol, diesel and heating oil included in the price of purchases intended for the official use of the Tribunal provided that the tax exceeds €25 per invoice in the aggregate.

If goods purchased in the European Union or imported from outside the European Union by the Tribunal for its official use, for which the Tribunal was granted exemption from value added tax/turnover tax (*Umsatzsteuer*) or import turnover tax (*Einfuhrumsatzsteuer*), are sold, given away or otherwise disposed of to taxable persons who have the full right of deduction, international organizations entitled to tax exemption, or to other entities entitled to tax exempt status, no value added tax/turnover tax (*Umsatzsteuer*) shall be paid. If goods referred to above are sold, given away or otherwise disposed of to persons and entities other than those referred to above, the part of the value added tax/turnover tax (*Umsatzsteuer*) which corresponds to the sales price or the current market value of such goods, as appropriate, shall be payable to the Federal Finance Office. The amount of the tax due shall be determined on the basis of the tax rate applicable on the actual date of the transaction in question. The goods imported exempt from customs duties shall not be sold or otherwise disposed of in the Federal Republic of Germany except with the consent of the Government and subject to the payment of the applicable customs duties.

4. It is the understanding of the Parties that in well-founded individual cases, the Federal Republic of Germany shall, on request, grant to officials of P-4 level whose functions justify it the same privileges, immunities and facilities as are accorded to officials of P-5 level and above in accordance with article 18, paragraph 1 (b) and article 19, subparagraph (b) of the Agreement. Requests on the matter shall be submitted by the Registrar of the Tribunal to the Federal Foreign Office.

5. It is the understanding of the Parties that the Members shall be exempt from German law on mandatory coverage in the field of Social Security by virtue of their diplomatic status under article 10 of the Statute of the Tribunal as well as article 18 of the Agreement. With regard to Members who are German nationals or have their permanent residence in Germany this shall only apply insofar as the conditions of article 23, subparagraph (a), of the Agreement are fulfilled.

6. With reference to article 19 of the Agreement, it is the understanding of the Parties that:

(a) for the purposes of German taxation law, the tax exemption referred to in article 19, subparagraph (c), shall not be granted for pensions and annuities paid by the Tribunal to former Members or officials of the Tribunal. In this respect, the same treatment shall be granted as is accorded to the United Nations institutions established in the host country. This shall be without prejudice to any Agreement for the avoidance of double taxation between the host country and the country of nationality or residence of the persons referred to;

(b) the Tribunal shall notify the Government of the names and addresses of residence in the host country of the officials of the Tribunal who are not accorded the privileges and exemptions of diplomatic agents;

(c) where the incidence of any form of taxation depends upon residence, periods during which Members or officials of the Tribunal are present in the host country for the discharge of their functions shall not be considered as periods of residence if such Members or officials are accorded diplomatic privileges, immunities and facilities.

7. It is the understanding of the Parties that following retirement from active service with the Tribunal, after a number of years of service in Hamburg, officials of the Tribunal and members of their

families forming part of their households (spouses, unmarried children under the age of 21 and other relatives dependent on them) shall, upon application, be issued with a residence permit, insofar as they are in a position to support themselves, including payment of health insurance and long term care insurance (Kranken- und Pflegeversicherung) contributions, in accordance with applicable German legislation.

8. It is the understanding of the Parties that pursuant to article 25, paragraph 2, of the Agreement:

(a) the Government shall inform the Tribunal of the competent authorities referred to therein;

(b) on presentation of a valid travel document, the persons referred to in article 25, paragraph 2, will receive a visa at the border, if required, and travel to the seat of the Tribunal will be facilitated. The Tribunal will only make use of this procedure in case of urgency or unforeseen circumstances and will provide information on these circumstances.

9. It is the understanding of the Parties that restrictions regarding entry into, sojourn in, or departure from the territory of the host country shall not apply to persons referred to in articles 18 to 22 of the Agreement who enjoy diplomatic immunity or similar legal status. Restrictions regarding entry into, sojourn in, or departure from the territory of the host country may apply to persons referred to in articles 21 and 22 of the Agreement who do not enjoy diplomatic immunity or similar legal status if the person in question has been convicted of or is charged with a serious criminal offence as referred to in the law of the host country relating to aliens. The name of any such person to whom such restrictions are intended to be applied shall be communicated to the Tribunal and such person shall be provided safe conduct at the request of the Tribunal.

10. It is the understanding of the Parties that if the Government enters into any agreement with an international organization containing terms and conditions more favourable than those extended to the Tribunal under the Agreement, either Party may ask for consultations as to whether such terms and conditions could be extended to the Tribunal.

11. This Exchange of Notes is concluded in the English, French and German languages, all language texts being equally authentic.

Should the International Tribunal for the Law of the Sea agree to the understandings contained in paragraphs 1 to 11 above, Your Excellency is requested to confirm the acceptance of these

understandings by the Tribunal. This Exchange of Notes shall form then an integral part of the Agreement in accordance with article 30 thereof.”

I confirm that the understandings set out in your Note correspond to those of the International Tribunal for the Law of the Sea. I agree that this Exchange of Notes shall form an integral part of the Agreement in accordance with article 30 thereof.

Please accept, Excellency, the assurances of my highest consideration.