

**Agreement
between
the International Commission for the
Protection
of the Danube River
and
the Republic of Austria
regarding the Headquarters of the
International Commission for the Protection
of the Danube River**

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AGREEMENT
BETWEEN
THE INTERNATIONAL COMMISSION FOR THE
PROTECTION
OF THE DANUBE RIVER
AND
THE REPUBLIC OF AUSTRIA
REGARDING THE HEADQUARTERS
OF THE INTERNATIONAL COMMISSION FOR THE
PROTECTION OF THE DANUBE RIVER

Preamble

HAVING REGARD to the Convention on Cooperation for the Protection and Sustainable Use of the Danube River (Danube River Protection Convention) of 29 June 1994 as well as to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Helsinki Convention) of 17 March 1992 created within the framework of the United Nations Economic Commission for Europe;

NOTING that the headquarters of the International Commission for the Protection of the Danube River are established in Vienna;

DESIRING to define the status, privileges and immunities of the International Commission for the Protection of the Danube River in the Republic of Austria and to enable it to fulfill its purposes and functions without interference;

CONSIDERING the assistance provided by the Republic of Austria for the establishment and operation of the Secretariat of the International Commission for the Protection of the Danube River;

the International Commission for the Protection of the Danube River and the Republic of Austria have agreed as follows:

Article 1

Definitions

For the purposes of this Agreement:

- (a) "Danube River Protection Convention" means the Convention on Cooperation for the Protection and Sustainable Use of the Danube River“ signed in Sofia on 29 June 1994;
- (b) "appropriate Austrian authorities" means such federal, state, municipal or other authorities in the Republic of Austria as may be appropriate in the context and in accordance with the laws and customs applicable in the Republic of Austria;
- (c) "Commission" means the International Commission for the Protection of the Danube River;

- (d) "Contracting Parties" means the Danube States and the European Community which have ratified the Danube River Protection Convention ;
- (e) "Secretariat" means the permanent body of the International Commission for the Protection of the Danube River established in accordance with Article 7 paragraph (1) of Annex IV of the Danube River Protection Convention;
- (f) "officials of the Commission" means the Executive Secretary, the technical staff and the support staff which are subject to the staff regulations adopted by the Commission, except those who are locally recruited and assigned to hourly rates;
- (g) "Representatives of Contracting Parties" means the President of the Commission as well as representatives of States, the European Community and other organizations of regional economic cooperation who take part in meetings of the Commission, conferences, expert meetings or seminars organized by the Commission in Austria, or who visit the seat of the Commission in an official capacity;
- (h) "archives" means all records, correspondence, documents, manuscripts, photographs, films and recordings belonging to or held by the Commission or by any physical or juridical persons nominated by the Commission to this effect;

- (i) "Government" means the Federal Government of the Republic of Austria.

Article 2

Juridical personality

The Republic of Austria recognizes the international juridical personality of the Commission, deriving from Article 10 of Annex IV of the Danube River Protection Convention, and its legal capacity within Austria, in particular its capacity:

- (a) to contract;
- (b) to acquire and dispose of immovable and movable property;
- (c) to institute or respond to legal proceedings; and
- (d) to take such other action as may be necessary or useful for its purposes and activities.

Article 3

Headquarters

- (1) The headquarters of the Commission shall be established in Vienna, the Republic of Austria providing convenient and appropriate premises. It can be removed from there only following a decision of the Commission. A temporary transfer of the headquarters to another place shall not constitute a removal of the permanent headquarters.
- (2) Any building in Vienna or in Austria outside Vienna which may be used in mutual agreement with the Government for meetings convened by the Commission shall be temporarily included in the headquarters area.
- (3) The appropriate Austrian authorities shall exercise their respective powers to ensure that the Commission shall not be dispossessed of all or any part of the headquarters area without its express consent.

Article 4

Inviolability of the headquarters

- (1) The headquarters of the Commission shall be inviolable. No officer or official of the Republic of Austria, or other person exercising any public authority within the Republic of Austria, shall enter the headquarters to perform any duties therein except with the consent of, and under conditions approved by, the Executive Secretary. In case of

fire or other catastrophe requiring immediate protective measures, however, the consent of the Executive Secretary can be assumed.

- (2) Except as otherwise provided in this Agreement and subject to the power of the Commission to make internal regulations, the laws of the Republic of Austria shall apply within the headquarters area.

Article 5

Data facilities and archives

- (1) If the Commission sets up and operates research, documentation and other technical facilities of any kind, such facilities shall be subject to the appropriate safety arrangements applicable to facilities that may give rise to health and safety risks or may have adverse affects on property, which shall be determined in consultation with the appropriate Austrian authorities.
- (2) If required for their regular operation, such facilities may be set up and operated in Austria outside the headquarters area of the Commission with the consent of the Government.
- (3) The archives of the Commission shall be inviolable at any time and wherever they may be.

Article 6

Immunity from jurisdiction and other actions

- (1) The Commission shall enjoy immunity from jurisdiction of courts and other appropriate authorities as well as from enforcement, except in the following cases:
 - (a) to the extent that the Executive Secretary shall have expressly waived such immunity in a particular case;
 - (b) in the case of a civil action brought by a third party for damages resulting from an accident caused by a vehicle belonging to, or operated on behalf of, the Secretariat, or in respect of any infringement of regulations governing the keeping, operation and use of motor vehicles;
 - (c) in the case of attachment, pursuant to a decision of an authority or a court, of the salary, emolument or indemnity owed by the Secretariat to an official, unless the Executive Secretary informs the appropriate authorities within 14 days of the date on which it is notified of said decision that that it does not waive its immunity.
- (2) Without prejudice to paragraphs 1 and 3, the property and assets of the Commission, wherever situated, shall be immune from any form of seizure, confiscation, expropriation or sequestration.

- (3) The property and assets of the Commission shall also be immune from any form of administrative or provisional judicial restraint.

Article 7

Protection of the headquarters premises

The appropriate Austrian authorities shall exercise due diligence to ensure that the tranquillity of the headquarters is not disturbed by persons or groups of persons attempting unauthorized entry into the headquarters.

Article 8

Public services in the headquarters premises

The Republic of Austria shall take all appropriate measures to ensure that the headquarters are supplied with the necessary public services on equitable terms.

Article 9

Communications

- (1) The Republic of Austria shall ensure that the Commission is able to send and receive communications in connection with its official activities, by whatever means or in whatever form transmitted, without censorship or other interference.

- (2) The Commission shall enjoy in the Republic of Austria, for its official communications and the transfer of all its documents, the same treatment as accorded to comparable international organizations.

Article 10

Publications

- (1) The Government recognizes the right of the Commission to publish, without interference, by way of printed works and broadcasts or other mass media within the Republic of Austria in the fulfilment of its purposes.

- (2) It is, however, understood that the Commission shall respect any laws of the Republic of Austria, or any international conventions to which the Republic of Austria is a party, relating to copyrights.

Article 11

Exemption from customs and excise duties

- (1) The Commission and its property shall be exempt from all forms of taxation.
- (2) Indirect taxes included in the price of goods or services supplied to the Commission, including leasing and rental charges, shall be refunded to the Commission insofar as Austrian law makes provision to that effect for foreign diplomatic missions. It is understood, however, that the Commission will not claim exemption from taxes which are in fact no more than charges for public utility services.
- (3) All transactions to which the Commission is a party and all documents recording such legal transactions shall be exempt from all taxes, recording charges and court fees.
- (4) Goods, including motor vehicles and spare parts thereof, imported or exported by the Commission, required exclusively for its official activities, shall be exempt from customs duties and other taxes and charges provided these are not simply charges for public utility services, and from economic prohibitions and restrictions on imports and exports.
- (5) Goods imported in accordance with paragraph 4 from non-member states of the European Union shall not be ceded or transferred by the

Commission in the Republic of Austria within two years of their importation.

- (6) The goods mentioned in paragraph 4 may be disposed of within the period specified in paragraph 5 only for the benefit of international organization possessing comparable privileges.
- (7) The Commission shall be exempt from the obligation to pay employer's contributions to the Family Burden Equalization Fund or an instrument with equivalent objectives.

Article 12

Financial facilities

The Republic of Austria shall take all measures to ensure that the Commission may:

- (a) purchase and receive through authorized channels, hold and dispose of any currencies or securities;
- (b) open and operate bank accounts in any currency; and
- (c) transfer its funds, securities and currencies to, from or within the Republic of Austria.

Article 13

Social security

- (1) The Commission and the officials of the Commission shall be exempt from all compulsory contributions to any social security scheme in the Republic of Austria.
- (2) The officials of the Commission shall have the right to participate in any branch of the health, accident and pension insurance as well as in the unemployment insurance. This insurance shall have the same legal effect as a compulsory insurance.
- (3) The officials of the Commission may avail themselves of the right under paragraph 2 by submitting a written declaration within three months after entry into force of this Agreement or within three months after taking up their appointment with the Commission.
- (4) Insurance under paragraph 2 in the selected branch shall take effect with the date of taking up the appointment with the Commission, provided the declaration is submitted within seven days after entry into force of this Agreement or after the date of taking up the appointment, otherwise on the day following the day of submission of the declaration.
- (5) Insurance shall cease on the date on which the appointment with the Commission terminates.

- (6) Throughout the duration of the insurance, the officials of the Commission shall be responsible for the payment of the entire contributions to the Wiener Gebietskrankenkasse.
- (7) The declarations required to be made by the officials of the Commission under paragraph 3 shall be transmitted by the Secretariat to the Wiener Gebietskrankenkasse. The Secretariat shall upon request provide the Wiener Gebietskrankenkasse with the information necessary for the implementation of the insurance.

Article 14

Transit and residence

- (1) The Republic of Austria shall take all necessary measures to facilitate the entry into, and sojourn in, the Republic of Austria of the persons listed below, shall allow them to leave the Republic of Austria without interference and shall ensure that they can travel unimpeded to or from the headquarters, affording them any necessary protection when so travelling:
 - (a) the Representatives of Contracting Parties;
 - (b) the Executive Secretary, his spouse and the dependent members of his family forming part of his household;

- (c) the Representatives of States or organizations invited by the Commission; and
 - (d) the officials of the Commission, their spouses and the dependent members of their families forming part of their household.
- (2) Visas which may be required by persons referred to in paragraph 1 shall be granted free of charge and as promptly as possible.
- (3) No activity performed by any person referred to in paragraph 1 in his or her official capacity with respect to the Commission shall constitute a reason for preventing his or her entry into, or his or her departure from, the Republic of Austria.
- (4) The Republic of Austria shall be entitled to require reasonable evidence to establish that persons claiming the rights granted by this Article fall within the categories described in paragraph 1, and to require compliance in a reasonable manner with quarantine and health regulations.

Article 15

Permanent missions

- (1) Permanent Missions accredited to the Commission in Vienna shall enjoy the same privileges and immunities as are accorded to diplomatic missions in the Republic of Austria.
- (2) Members of permanent missions accredited to the Commission in Vienna shall shall enjoy the same privileges and immunities as the Government accords to members, having comparable rank, of diplomatic missions accredited to the Republic of Austria.
- (3) Having regard to Article 38 (1) of the 1961 Vienna Convention on Diplomatic Relations and to the practice of the Republic of Austria, members of permanent missions who are Austrian nationals or resident in Austria shall be accorded only immunity from legal process of every kind in respect of words spoken or written and all acts done by them in their capacity as members of such permanent missions.
- (4) In conformity with Article 42 of the 1961 Vienna Convention on Diplomatic Relations and the practice of the Republic of Austria, members of permanent missions referred to in paragraph 2, who are enjoying the same privileges and immunities as are accorded to members having comparable rank of diplomatic missions accredited to the Republic of Austria, shall not practice for personal profit any professional or commercial activity within the Republic of Austria.

- (5) The Commissions shall communicate to the Government a list of persons within the scope of this Article and shall revise such list from time to time as may be necessary.

Article 16

Officials of the Commission

- (1) Officials of the Commission shall enjoy, within and with respect to the Republic of Austria, the following privileges and immunities:
- (a) immunity from jurisdiction in respect of words spoken or written and all acts performed by them in their official capacity; this immunity shall continue to apply even after the persons concerned have ceased to be officials of the Commission;
 - (b) immunity from seizure of their official baggage;
 - (c) inviolability of all official documents, data and other material;
 - (d) exemption from taxation in respect of the salaries, emoluments, indemnities and pensions paid to them by the Commission in connection with their service with it;
 - (e) exemption from inheritance and gift taxes, except with respect to immovable property located in the Republic of Austria, insofar

as such arise solely from the fact that the officials of the Commission reside or maintain their usual domicile in Austria;

- (f) exemption from any form of taxation on income derived from sources outside the Republic of Austria;
- (g) exemption from immigration restrictions and from registration formalities for themselves, their spouses and the dependent members of their family living in the same household;
- (h) freedom to acquire or maintain within the Republic of Austria foreign securities, foreign currency accounts, other movable and, under the same conditions as Austrian nationals, immovable property, and upon termination of their employment with the Commission, the right to transfer out of the Republic of Austria, without interference, their funds, in the same currency and up to the same amounts as they had brought into the Republic of Austria;
- (i) the same protection and repatriation facilities with respect to themselves, their spouses and the dependent members of their family living in the same household as are accorded in time of international crises to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to the Republic of Austria;

- (j) the right to import for personal use, free of duty and other taxes or charges, provided these are not simply charges for public utility services, and exempt from economic import prohibitions and restrictions on imports and exports:
 - (i) their furniture and effects in one or more separate consignments; and
 - (ii) one automobile every four years.

- (2) Unless otherwise provided by Austrian law, the officials of the Commission, their spouses and their dependent children living in the same household, to whom the Agreement applies, shall be excluded from benefits from the Family Burden Equalization Fund or an instrument of equivalent objectives.

Article 17

The Executive Secretary of the Commission

In addition to the privileges and immunities specified in Article 16, the Executive Secretary of the Commission, provided he is not Austrian national or is not permanently resident of the Republic of Austria, shall be accorded the privileges and immunities, exemptions and facilities as are accorded to heads of diplomatic missions or members of such missions having comparable rank.

Article 18

Representatives of Contracting Parties and Observer States

- (1) Representatives of Contracting Parties and Observer States shall enjoy with respect to the Republic of Austria the following privileges and immunities:
 - (a) immunity from jurisdiction in respect of all words spoken or written, and all acts performed by them in the exercise of their duties;
 - (b) inviolability of all their official documents, data and other material;
 - (c) immunity from seizure of their personal and official baggage;
 - (d) the same protection and repatriation facilities as are accorded in times of international crises to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to the Republic of Austria.
- (2) Where the incidence of any form of taxation depends upon residence, periods during which the persons referred to in paragraph 1 may be present in the Republic of Austria for the discharge of their duties shall not be considered as periods of residence. In particular, such persons shall be exempt from taxation on their salaries and

emoluments received from the Commission during such periods of duty.

Article 19

Notification of appointments, identity cards

- (1) The Commission shall communicate to the appropriate Austrian authorities a list of its officials and shall revise such list from time to time as may be necessary.
- (2) The Republic of Austria shall issue to the officials of the Commission, their spouses and the dependent members of their family living in the same household in accordance with Austrian law an identity card bearing the photograph of the holder. This card shall serve to identify the holder vis-à-vis the appropriate Austrian authorities.

Article 20

Austrian nationals and permanent residents of the Republic of Austria

Notwithstanding the provisions of Article 17, officials of the Commission and Representatives of States, who are Austrian nationals or permanent residents of the Republic of Austria, shall enjoy only the privileges and immunities specified in Article 13, in Article 16 paragraph 1 sub-paragraphs a, b, c and d as well as in Article 18 paragraph 1 subparagraphs a, b and c.

Article 21

Purpose of privileges and immunities

- (1) The privileges and immunities provided for in this Agreement are not designed to give to officials of the Commission personal advantage. They are granted solely to ensure that the Commission is able to perform its official activities unimpeded at all times and that the persons to whom they are accorded have complete independence.
- (2) The Executive Secretary shall waive immunity where he considers that such immunity would impede the normal course of justice and that it can be waived without prejudicing the interests of the Commission.

Article 22

Settlement of disputes

- (1) Any dispute between the Republic of Austria and the Commission concerning the interpretation or application of this Agreement or any question affecting the headquarters or relations between the Commission and the Republic of Austria shall be settled by negotiation between the two Contracting Parties.

- (2) If a dispute cannot be settled in such a way or by other agreed mode of settlement within 12 months, the dispute shall be referred for final decision to a tribunal of three arbitrators; one to be chosen by the Executive Secretary, one to be chosen by the Federal Minister for Foreign Affairs of the Republic of Austria, and the third, who shall be chairman of the tribunal, to be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the third within six months of their appointment, he shall be chosen by the President of the International Court of Justice at the request of the Republic of Austria or the Commission.

Article 23

Entry into force

This Agreement shall enter into force on the first day of the second month following the date on which the Republic of Austria has notified the Commission that the necessary procedure for the entry into force of the Agreement has been completed.

Article 24

Duration of the Agreement

This Agreement shall cease to be in force after six month:

- (a) as soon as one of the Parties to this Agreement notifies the other in writing of its wish to terminate the application of the Agreement;
- (b) if the headquarters of the Commission are removed from the territory of the Republic of Austria; except for such provisions of the Agreement as may be applicable in connection with the orderly termination of the operation of the Commission at its headquarters in the Republic of Austria and the disposal of its property therein.

Done at Vienna, on December 2000 in the English and German languages, in two originals, both texts being equally authentic.

On behalf of the International
Commission for the Protection
of the Danube River:

On behalf of the
Republic of Austria: