

# Agreement

## **between the Governments of the Kingdom of Denmark, the Republic of Estonia, the Republic of Finland, the Federal Republic of Germany, the Republic of Latvia, the Republic of Lithuania, the Republic of Poland, the Russian Federation and the Kingdom of Sweden on the Privileges and Immunities of the Baltic Marine Environment Protection Commission**

The Parties to this Agreement,

Having regard to the Convention on the Protection of the Marine Environment of the Baltic Sea Area, 1974 and the Convention on the Protection of the Marine Environment of the Baltic Sea Area, 1992;

Taking note that the Baltic Marine Environment Protection Commission has concluded an Agreement on the office and the Privileges and Immunities of the Commission with the Government of Finland on 5 May 1980;

Confirming that the aim of this Agreement is to facilitate and ensure the efficient functions of the Baltic Marine Environment Protection Commission in Helsinki;

Have agreed as follows:

### **Article 1**

#### **Definitions**

##### **For the purposes of this Agreement:**

- a) "Helsinki Convention" means the Convention on the Protection of the Marine Environment of the Baltic Sea Area, 1974 or the Convention on the Protection of the Marine Environment of the Baltic Sea Area, 1992, whichever is in force;
- b) "Commission" means the Baltic Marine Environment Protection Commission in Helsinki established pursuant to the Helsinki Convention;
- c) "Party to the Helsinki Convention" means a Contracting Party to the Helsinki Convention;
- d) "Host Agreement" means the Agreement between the Government of Finland and the Baltic Marine Environment Protection Commission on the Office and the Privileges and Immunities of the Commission;
- e) "Representatives" means representatives of the Parties to the Helsinki Convention and in each case means heads of delegations and members of the delegations;
- f) "Staff Member" means the Executive Secretary and any person employed permanently by the Commission and subject to its staff regulations and stationed in Finland;
- g) "Expert on mission" means a person other than a staff member appointed to carry out a specific task for or on behalf of the Commission;
- h) "Official functions" means activities carried out by the Commission in pursuance of its purpose as defined in the Helsinki Convention and includes its administrative activities;

i) "Archives" include all manuscripts, correspondence, documents, photographs, films, optical and magnetic recordings, data recordings, graphic presentations and computer programmes, belonging to or held by the Commission;

j) "Property" means anything that can be the subject of a right of ownership, including contractual rights and movable and immovable property.

## **Article 2**

### **Juridical Personality of the Commission**

The Commission shall have the juridical personality necessary for the realisation of its purposes, operations and activities. It shall, in particular, have the capacity to enter into contracts, to acquire and dispose of immovable and movable property, and to institute legal proceedings.

## **Article 3**

### **Immunity of the Commission from Execution**

All property and assets of the Commission, wherever located, shall be immune from any search, restraint, requisition, seizure, confiscation, expropriation, sequestration or execution, whether by executive, administrative or judicial action, except in respect of:

- a) a civil action for damage arising from an accident caused by a motor vehicle or other means of transport belonging to, or operated on behalf of the Commission, or in respect of a traffic offence involving such means of transport;
- b) a counter-claim directly connected with judicial proceedings initiated by the Commission.

## **Article 4**

### **Inviolability of Archives**

The archives of the Commission shall be inviolable wherever located.

## **Article 5**

### **Exemption from Taxes and Duties**

1. Within the scope of its official functions, the Commission and its property and income shall be exempt from all national direct and other taxes or duties not normally incorporated in the price of goods or services. However, it is understood that the Commission will not claim exemption from taxes which are in fact no more than charges for public utility services.

2. If the Commission, within the scope of its official functions, acquires goods or uses services of substantial value, and if the price of these goods or services includes taxes or duties, the Party shall, whenever possible, take appropriate measures to remit or reimburse the amount of such taxes or duties.

3. No exemption shall be accorded in respect of goods acquired by, or services provided to the Commission for the personal benefit of staff members, unless laws or other regulations of the Party concerned allow it.

## **Article 6**

### **Funds, Currency and Securities**

The Commission may receive and hold any kind of funds, currency or securities and dispose of them freely for any of its official functions. It may hold accounts in any State to the extent required to meet its obligations.

## **Article 7**

### **Immunity of Staff Members**

1. The staff members shall, when travelling on official duty, be accorded:

- a) immunity from personal arrest or detention and from seizure of personal luggage;
- b) immunity from legal process in respect of words spoken or written or acts done in the performance of official functions for the Commission;
- c) inviolability of all papers and documents relating to the work for which he or she is engaged by the Commission;
- d) facilities in respect of currency or exchange regulations as necessary for the effective exercise of his or her functions.

No immunity from legal process shall apply in case of a motor traffic offence committed by a staff member, or in the case of damage caused by a motor vehicle belonging to or driven by such person.

2. The Commission may issue an Identity Card to persons travelling on official duty for the Commission. The document, which will not substitute ordinary travel documents, will be issued in accordance with the form set out in Annex A and will entitle the bearer to the treatment specified therein.

## **Article 8**

### **Tax Exemptions of Staff Members**

Salaries and emoluments paid by the Commission to staff members shall be exempt from income tax from the date upon which such staff members have begun to be liable for a tax imposed on their salaries by the Commission for the latter's benefit. Parties may take these salaries and emoluments into account for the purpose of assessing the amount of taxes to be applied to income from other sources. Parties are not required to grant exemption from income tax in respect of pensions and annuities paid to former staff members.

## Article 9

### Representatives of the Parties to the Helsinki Convention

Representatives of the Parties to the Helsinki Convention shall enjoy, while exercising their official functions and in the course of their journeys to and from meetings, held under the auspices of the Commission, the following privileges and immunities:

- a) immunity from any form of arrest or detention pending trial;
- b) immunity from legal process, even after the termination of their mission, in respect of acts, including words spoken or written, done by them in the exercise of their official functions; however, there shall be no immunity in the case of a traffic offence committed by a representative, or in the case of damage caused by a motor vehicle or other means of transport belonging to or driven by him or her;
- c) inviolability of all their official papers;
- d) the same facilities in respect of currency and exchange control as is accorded to diplomatic agents of foreign states on temporary official missions;
- e) the same facilities in respect of customs as regards their personal luggage as is accorded to diplomatic agents of foreign states on temporary official missions.

2. The provisions of paragraph (1) shall not apply in relations between a Party to the Helsinki Convention and its representatives. Further, the provisions of sub-paragraphs (a), (d) and (e) of paragraph (1) shall not apply in relations between a Party to the Helsinki Convention and its nationals or permanent residents.

## Article 10

### Experts on Mission for the Commission

1. Experts on Mission for the Commission shall enjoy, while exercising their official functions and in the course of their journeys to and from meetings, held under the auspices of the Commission, the following privileges and immunities:

- a) immunity from any form of arrest or detention pending trial;
- b) immunity from legal process, even after the termination of their mission, in respect of acts, including words spoken or written, done by them in the exercise of their official functions; however, there shall be no immunity in the case of a traffic offence committed by an expert, or in the case of damage caused by a motor vehicle or other means of transport belonging to or driven by him or her;
- c) inviolability for all their official papers;
- d) the same facilities in respect of currency and exchange control as is accorded to diplomatic agents of foreign states on temporary official missions;
- e) the same facilities in respect of customs as regards their personal luggage as is accorded to diplomatic agents of foreign states on temporary official missions.

2. The sub-paragraphs (a), (d) and (e) of paragraph (1) shall not apply in relations between a Party to the Helsinki Convention and experts of the same nationality as the Party concerned or having permanent residence in that country.

## Article 11

## **Waiver**

1. The privileges and immunities provided for in this Agreement are not granted for the personal benefit of individuals but for the efficient performance of the official functions of the Commission.

2. If, in the opinion of the authorities listed below, privileges and immunities are likely to impede the course of justice, and in all cases where they may be waived without prejudice to the purposes for which they have been accorded, these authorities have the right and duty to waive such privileges and immunities:

- a) the Parties in respect of their representatives;
- b) the Commission in respect of the Executive Secretary;
- c) the Executive Secretary in respect of staff members and experts on mission;
- d) the meeting of the Commission convened, if necessary in extraordinary session, in respect of the Commission.

## **Article 12**

### **Facilitation of Procedures**

Upon the invitation issued by the Executive Secretary on behalf of the Commission the Parties to the Agreement shall take all appropriate measures to facilitate the entry of representatives, staff members and experts on missions, free of charge and without delay, to the meetings of the Commission or its subsidiary bodies called to be held in their countries.

## **Article 13**

### **Settlement of Disputes**

Disputes arising between the Parties related to the application and interpretation of this Agreement shall be solved through diplomatic channels.

## **Article 14**

### **Relationship to the Host Agreement**

In the event of a possible conflict between a provision of this Agreement and a provision of the Host Agreement, the provision of the Host Agreement shall prevail.

## **Article 15**

### **Signature, Ratification, Acceptance, Approval and Accession**

1. This Agreement shall be open for signature by all States Parties to the Helsinki Convention. The Agreement shall be subject to ratification, acceptance or approval.

2. After the Agreement has entered into force in accordance with Article 16, paragraph 1, any State Party to the Helsinki Convention may accede to it.

3. Instruments of ratification, acceptance, approval or accession shall be deposited with the Government of Finland.

## Article 16

### Entry into Force and Duration of the Agreement

1. This Agreement shall enter into force 30 days after the date of the deposit of the third instrument of ratification, acceptance or approval.
2. For a State Party ratifying, accepting or approving it subsequently, or acceding to it, this Agreement shall enter into force 30 days after the date of the deposit of its instrument of ratification, acceptance, approval or accession.
3. This Agreement shall cease to be in force if the Helsinki Convention ceases to be in force.

## Article 17

### Withdrawal

At any time after two years from the date on which this Agreement has entered into force for a Party, that Party may withdraw from the Agreement by giving written notice to the Depositary. The withdrawal shall take effect upon the expiry of one year from the date of receipt of the notice by the Depositary or on such later date as may be specified in the notice of withdrawal.

## Article 18

### Depositary

The Government of Finland, acting as the Depositary, shall:

- a) notify all Parties and the Executive Secretary of the Commission of:
  - (i) the signatures;
  - (ii) the deposit of any instrument of ratification, acceptance, approval or accession;
  - (iii) any date of entry into force of this Agreement;
  - (iv) any notification of withdrawal and the date on which such withdrawal takes effect;
  - (v) any other act or notification relating to this Agreement.
- b) transmit certified copies of this Agreement to the Parties to the Helsinki Convention and to the Executive Secretary of the Commission.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement.

DONE at Helsinki, this 2nd day of February 1998 in a single authentic copy in the English language which shall be deposited with the Government of Finland.

**ANNEX A**

Surname:

First Name:

Date of Birth:

National of:

Holder of passport no. \_\_\_\_\_, issued on \_\_\_\_\_ by \_\_\_\_\_.

It is hereby certified, in accordance with Article 7 of the Agreement on the Privileges and Immunities of the Baltic Marine Environment Protection Commission of 2 February 1998 that the person identified in the present document is conducting official business for the Baltic Marine Environment Protection Commission during the period from \_\_\_\_\_ to \_\_\_\_\_ in the following States which are Contracting Parties to the Convention of the Protection of the Marine Environment of the Baltic Sea Area of 22 March 1974<sup>1</sup>:

The Baltic Marine Environment Protection Commission hereby requests all whom it may concern that the person identified herein

- be allowed to pass without delay or hindrance,
- in case of need be accorded all necessary lawful assistance and protection.

This document does not replace travel documents required for entry or exit.

Issued in \_\_\_\_\_ on \_\_\_\_\_ by \_\_\_\_\_ .

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

<sup>1</sup> The date will be replaced by 9 April 1992 when the Convention of the Protection of the Marine Environment of the Baltic Sea Area, 1992, comes into force and replaces the Convention of 1974