

RESOLUTION 4.2

APPROVAL OF THE HEADQUARTERS AGREEMENT WITH THE HOST COUNTRY

The Meeting of the Parties to the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic area:

Recalling Article IV of ACCOBAMS, providing for establishment of the Secretariat of the Agreement,

Desiring to clarify the international juridical personality of the Secretariat of the Agreement,

Expressing all the gratitude to the Government of H.S.H the Prince of Monaco for the support provided since the adoption of ACCOBAMS and in particular for the offer to host the Secretariat of the Agreement which was accepted on 28 February 2002 by the First Meeting of the Parties (Resolution 1.2),

Thanking also the Government of H.S.H the Prince of Monaco for having accepted to cover the expenses for the Executive Secretary and for a full time staff member of the Secretariat,

Recalling that the financial arrangements between the Government of H.S.H the Prince of Monaco and the Secretariat of ACCOBAMS are specified in Annex 2 to the present Resolution,

1. *Approves* the Headquarters Agreement between the Government of H.S.H the Prince of Monaco and the Secretariat of ACCOBAMS, which is Annex 1 to the present Resolution, as well as the Financial Arrangements between the Government of H.S.H the Prince of Monaco and the Secretariat of ACCOBAMS, which is Annex 2 to the present Resolution;
2. *Mandates* the Chair of the ACCOBAMS Bureau and the Executive Secretary to sign the above mentioned Headquarters Agreement on behalf of the Parties to ACCOBAMS;
3. *Mandates* the Executive Secretary, after the signature, to notify to the Government of H.S.H the Prince of Monaco that the requirements concerning the coming into force of the Headquarters Agreement have been met, as provided for in Article XVII, paragraph 1, of the said Agreement.

ANNEX 1

Headquarters Agreement between the Government of H.S.H the Prince of Monaco and the Permanent Secretariat of the Agreement on the Conservation of Cetaceans of the Black Sea, the Mediterranean Sea and the Contiguous Atlantic Area

(Original: French)

On the one side, the Government of H.S.H the Prince of Monaco and, on the other, the Permanent Secretariat of the Agreement on the Conservation of Cetaceans of the Black Sea, the Mediterranean Sea and the Contiguous Atlantic Area, hereafter called the "Organisation";

Considering Article III 7 of the Agreement on the Conservation of Cetaceans of the Black Sea, the Mediterranean Sea and the Contiguous Atlantic Area, signed in Monaco on 24 November 1996 and entered into force on 1 June 2001, which provides that the Meeting of Parties at its first session would establish a Secretariat to carry out the secretarial functions enumerated in Article IV 2 of the Agreement on the Conservation of Cetaceans of the Black Sea, the Mediterranean Sea and the Contiguous Atlantic Area;

Considering that the Headquarters of the Agreement on the Conservation of Cetaceans of the Black Sea, the Mediterranean Sea and the Contiguous Atlantic Area is established in Monaco in accordance with the offer made by the Government of H.S.H the Prince of Monaco to host a Permanent Secretariat and the acceptance of the said offer by the Meeting of Parties in its Resolution 1.2 of 28 February 2002 of the First Meeting of Parties to the Agreement on the Conservation of Cetaceans of the Black Sea, the Mediterranean Sea and the Contiguous Atlantic Area;

Wishing to determine the conditions which govern the establishment of this Headquarters and to define the privileges and immunities granted to the Organisation and its staff in the Principality of Monaco;

Agree on the following:

Article 1: Legal personality

The Government of H.S.H the Prince of Monaco shall recognize the legal personality of the Organisation and, for the purposes of carrying out its statutory responsibilities, its capacity:

- to contract,
- to acquire and dispose of movable and immovable property,
- to be a party to legal proceedings.

Article 2: Establishment of the Headquarters of the Organisation – Premises

1. The Headquarters of the Organisation shall include the premises it occupies or may occupy for the needs of its activity, with the exception of its staff's residential premises. These premises have been graciously granted by the Government of H.S.H the Prince of Monaco for the requirements of the functioning of the Organisation for a period of (99 years) starting from the date when the present Agreement enters into force.
2. At present the premises occupied by the Organisation are located at Jardin de l'UNESCO – Les Terrasses de Fontvieille – 98000 Monaco.
3. The Government of H.S.H the Prince of Monaco, besides taking charge of the usual expenses of the owner, agrees to take charge, with the exception of expenses caused by negligence or omission on the part of the Organisation's staff, of the Secretariat's functioning expenses, as well as expenses for heating, lighting, water supply, sewage

disposal and garbage collection facilities of the Organisation the Organisation itself taking charge of those other expenses of internal maintenance that are usually borne by a tenant.

4. Without prejudice to the conditions of the present Agreement, the Organisation shall not allow its Headquarters to be used as a refuge for persons who are wanted for a crime or for a flagrant offence, or are subjected to a legal warrant, a criminal conviction, an expulsion order or a decision to be deported or extradited issued by the Monacan authorities.
5. The Headquarters of the Organisation shall be inviolable. The Monacan authorities may only enter it with the consent or at request of the representative of the Organisation. This consent may be presumed in case of fire or other emergency requiring prompt protective action.

Article 3: Immunities of the Organisation

1. Except as otherwise provided by the present Agreement, the Organisation's official activities shall be carried out in compliance with Monacan law in the Principality of Monaco.
2. Within the limits of its official activities, the Organisation and its movable property, wherever found, its premises and its assets shall enjoy immunity from jurisdiction, except insofar as the Chair of the ACCOBAMS Bureau or his representative expressly waives this immunity by notifying the Government of H.S.H the Prince of Monaco.
3. The property mentioned in Paragraph 2 of the present Article shall be immune from all forms of search, requisition, confiscation and seizure, as well as from all other forms of administrative or legal restraint.
4. The immunities provided for in the present Article do not apply to property, premises and assets abandoned by the Organisation.

Article 4: Archives

The Organisation's archives shall be inviolable.

These archives shall include all correspondence, documents, manuscripts, photographs, computer databases, films and records belonging to or held by the Organisation.

Article 5: Flag and emblem

The Organisation shall have the right to display its flag and its emblem in its premises and on its means of transport or those used on its behalf.

Article 6: Exemption from dues and taxes

1. Within the limits of its official activities, the Organisation, its assets, income, premises and other property shall be:
 - exempted from all direct taxes, it being understood however that the Organisation shall not ask to be exempted from the taxes that in fact only constitute payment of services provided;
 - exempted from import or export taxes and dues, interdictions and restrictions on imports or exports as regards goods or articles imported or exported by the Organisation for its operating requirements, it being however understood that, on Monacan or French territory, the goods or articles imported in accordance with this exemption can only be ceded or lent freely or for money under the conditions previously agreed by the competent Monacan or French authorities.

The above exemptions shall in no way be interpreted as preventing the adoption by the Monacan authorities of appropriate security measures.

2. The Organisation shall pay, as provided for in ordinary law, those indirect taxes that are included into the price of the goods sold or the services provided. However, the taxes relating to major purchases or operations carried out by the Organisation for the requirements defined in the preceding paragraph, shall be reimbursed according to modalities to be decided by mutual agreement between the Government of H.S.H the Prince of Monaco and the Organisation, with the exception of alcohol and tobacco products.

Article 7: Currency and exchange rate

1. Without being subjected to any monitoring, regulation or financial moratorium, the Organisation, within the context of its official activities, can freely:
 - receive, acquire, hold or cede funds, currency and valuables of all kinds and hold bank or other accounts in any currency whatsoever;
 - transfer its funds, currency and valuables within the territory of Monaco and from the Principality of Monaco to another State, or vice-versa.
2. In exercising the rights granted to it in accordance with the present Article, the Organisation takes account of any representation made by the Government of H.S.H the Prince of Monaco insofar as it deems that it can act on it without prejudice to its interests.

Article 8: Communications

Insofar as it is compatible with the provisions of the international conventions, regulations and arrangements to which the Principality of Monaco is a Party, the Organisation shall enjoy, for its official communications of whatsoever kind, treatment that is at least as favourable as that granted to the diplomatic missions in the Principality of Monaco as regards any communications priority.

Article 9: Publications

Importing and exporting the Organisation's publications or any other information materials imported or exported by the Organisation within the limits of its official activities shall not be subjected to any restriction.

Article 10: Representatives at and participants to ACCOBAMS meetings

1. The Government of H.S.H the Prince of Monaco commits itself, unless some reason of public order prevents it, to authorizing the entry and staying in the Principality of Monaco, without visa charges and without delay, for the duration of their functions or missions, of representatives of member States and observers from correspondent States who have been invited to participate to the meetings of the Organisation organs or to conferences and meetings convened by it, as well as of experts or personalities called upon for consultation.
2. The persons referred to in Paragraph 1 of the present Article shall not, for the entire duration of their functions or missions, be obliged by the Monacan authorities to leave the territory of Monaco, unless they have abused the privileges of staying they were granted and are pursuing any activity not related to their Organisation functions or missions. The Government of H.S.H the Prince of Monaco should, however, exercise its right to expel these persons only after having first consulted Chair of the ACCOBAMS Bureau or his representative.
3. The persons referred to in Paragraph 1 of the present Article shall not be exempted from the application of quarantine and public health regulations where appropriate.

4. During their assignments, and during their movements on Monacan territory, the persons referred to in Paragraph 1 of the present Article shall enjoy:
- personal immunity from arrest or detention or seizure of their personal luggage, except in cases of flagrant offence;
 - inviolability of all their official papers, documents and materials;
 - the right to use codes and to send and receive correspondence and other papers and documents by post or in sealed bags.

In order to help the Government of H.S.H the Prince of Monaco to implement the provisions of the present Article, the Organisation shall communicate to the Government of H.S.H the Prince of Monaco the names of the representatives four weeks before their arrival in the Principality of Monaco.

Article 11: Staff Members

The Organisation's staff shall include the permanent and non-permanent members in charge of the scientific, technical or administrative functions.

Article 12: Staff immunity

1. Except for Monacan nationals, people permanently resident in the Principality of Monaco and employees in charge of administrative functions, the staff shall enjoy:
 - immunity from jurisdiction, even after its functions have ended, for all acts, including words and writings, undertaken in the exercise of its functions and within the limits of its mandate. This immunity shall not apply in the case of any breach of the rules of road traffic committed by a member of the Organisation's staff, or of harm caused by an automobile vehicle belonging to or driven by a member of staff;
 - exemption from any tax on salaries and emoluments paid for his/her activities for the Organisation;
 - the regime set forth in Article 10 as regards entry and staying in the Principality of Monaco;
 - if the person previously lived abroad, the right to import duty free furniture and personal effects owned by or in the possession of that person or which have already been ordered and are intended for his/her personal use or household establishment, when first settling in, with the exception of automobile vehicles, alcohol and tobacco products;
 - a special staying permit issued by the Government of H.S.H the Prince of Monaco;
 - at times of international tension, repatriation facilities granted to members of diplomatic missions.
2. Additionally, staff members in charge of administrative functions shall enjoy the regime of temporary duty free import for their automobile vehicles.

Article 13: Object and waiver of privileges and immunities

1. The privileges and immunities provided for by the present Agreement shall not be established with a view to giving personal advantages to those enjoying them, but solely to ensure that, in all circumstances, the Organisation can operate freely and that the persons on whom they are conferred are completely independent.
2. The Chair of the ACCOBAMS Bureau or his representative or, in the case of representatives of member States, the Government of the State concerned, shall, have the right and duty to waive these immunities when they deem that they prevent the normal carrying out of justice and that it is possible to dispense with them without prejudicing the interests of the Organisation.

Article 14: Cooperation

1. The Organisation shall fully cooperate in all circumstances with the Government of H.S.H the Prince of Monaco in order to prevent any abuse of the privileges, immunities and facilities provided for by the present Agreement.
2. The provisions of the present Agreement shall in no way affect the right of the Government of H.S.H the Prince of Monaco to take the measures it could deem useful for the security of the Principality of Monaco and the protection of public order.

Article 15: Notification of appointments

1. The Chair of the ACCOBAMS Bureau or his representative shall notify the Government of H.S.H the Prince of Monaco of the appointment of the Executive Secretary and the date on which the Executive Secretary begins or end his/her functions.
2. The Chair of the ACCOBAMS Bureau or his representative shall notify the Government of H.S.H the Prince of Monaco when a member of the staff other than the Executive Secretary begins or end his/her functions.
3. An advance notice of four weeks shall be required for the arrival and final departure of the persons mentioned in 1 and 2.
4. The Chair of the ACCOBAMS Bureau or his representative shall communicate twice a year to the Government of H.S.H the Prince of Monaco a list of all members of staff. The Organisation shall state if these persons are Monacan nationals or are permanently resident in the Principality of Monaco.
5. The Government of H.S.H the Prince of Monaco shall deliver to all the members of staff as promptly as possible after notification of their appointment a "special" card carrying the picture identification of the occupant and identifying him/her as a member of staff, according to the case This card shall be accepted by the Monacan authorities as proof of identity and of appointment. When the member of staff ends his/her functions, the Organisation shall send the concerned person's "special" card back to the Government of H.S.H the Prince of Monaco.

Article 16: Settlement of Disputes

Any dispute between the Government of H.S.H the Prince of Monaco and the Organisation about the interpretation or the implementation of the present Agreement or any question affecting the relations between the Government of H.S.H the Prince of Monaco and the Organisation, when not settled by consultation or negotiation or a method acceptable to both parties, shall be submitted for final decision without appeal to a Committee of three arbitrators composed of:

- a) an arbitrator designated by the Government of H.S.H the Prince of Monaco;
- b) an arbitrator designated by the Organisation;
- c) an arbitrator designated by mutual agreement by the Government of H.S.H the Prince of Monaco and the Organisation, or, when there is disagreement, by the Chair of the International Court of Justice.

Article 17: Entry into force and termination

1. The present Agreement shall enter into force after mutual notification in writing, by the Government of H.S.H the Sovereign Prince and by the Organisation, that their respective requirements concerning the entry into force of the present Agreement have been met.

2. The present Agreement can be modified or terminated on the common decision by the Government of H.S.H the Prince of Monaco and by the Organisation. In deciding to modify or to terminate the present Agreement, the Organisation can only act in compliance with a decision taken by the Meeting of Parties.
3. Should negotiations not lead on to an understanding within one year, the present Agreement may be denounced by the Government of H.S.H the Prince of Monaco or by the Organisation acting in compliance with a decision taken by the Meeting of Parties, with previous notice of two years.
4. Should the Headquarters of the Organisation cease to be located in the Principality of Monaco, the present Agreement shall cease to apply at the end of a reasonable period necessary for the transfer and the cession of the Organisation's property in the Principality of Monaco. In either case, the date of the end of the Agreement is confirmed by an exchange of notes between the Government of H.S.H the Prince of Monaco and the Organisation.

IN WITNESS WHEREOF, the undersigned, being duly authorised to do so, have signed the present Agreement, in two copies, in French language.

For the Principality of Monaco

For ACCOBAMS

H.E. M. Michel ROGER
Government Minister

M. Cyril GOMEZ
Chair of the ACCOBAMS Bureau

For the Permanent Secretariat of ACCOBAMS:

Marie-Christine GRILLO-COMPULSIONE
Executive Secretary of ACCOBAMS

ANNEX 2

Financial arrangements between the Government of H.S.H the Prince of Monaco and the Secretariat of ACCOBAMS

The Agreement Secretariat will be governed by the following terms of reference:

1. The Agreement Secretariat will be made up of an Executive Secretary and a full time Secretary provided by the Host Country.
2. Staff expenses, along with welfare cost, (Executive Secretary and Assistant) are the responsibility of the Host Country. Staff expenses will be limited to the pay scale for the department head of the 3rd group in the Monacan Civil Service for the Executive Secretary, and that in the scale for shorthand typists in the Monacan Civil Service for the Assistant.
3. Secondment of staff members by Governments of the Parties will be encouraged, provided this is subject to mutually acceptable arrangements between the Host Country and the Government concerned.
4. The Executive Secretary of the Agreement will report to the Executive Secretary of the CMS on his/her relations with UNEP and with other international organisations. She will report to the Parties, especially at the Meeting of the Parties, and to the competent bodies of the Agreement, on his/her work program.
5. The Executive Secretary will report to the competent bodies of the CMS on the implementation of the Agreement and other matters of common interest. He will also ensure followed-up contact with the CMS Secretariat and the CMS Agreements Secretariats Unit, with which he will have regular meetings.
6. The Agreement's Permanent Secretariat will have recourse to suitable local banking services to conduct day-to-day transactions.
7. The Host Country will facilitate the financial execution of the Agreement's budget, in particular authorizing tax-free expenses.
8. The Host Country will provide facilities and office equipment for the day-to-day functioning of the Secretariat.
9. Operating costs of the Agreement Secretariat: the Host Country will take in charge the following expenses :
 - rents for the premises (with cellar) and their tenant's maintenance costs,
 - lease hold expenses,
 - telephone costs and subscription
 - rent and maintenance costs of a photocopier,
 - internet subscription,
 - computer stock with maintenance,
 - office equipment and maintenance,
 - upkeep and heating of the premises,
 - cleaning of the premises, and cleaning products,
 - water consumption and electricity,
 - rent and maintenance cost of the archiving place,
 - rent and maintenance cost of 2 flats for the accommodation of the employees,
 - insurance premises,
 - local taxes.