

**RESOLUTION 6.2**

**AMENDMENT TO 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:*

*Considering* that, in accordance with to Resolution 1.2, the Meeting of the Parties accepted the offer by the Government of the Principality of Monaco to host the Permanent Secretariat and agreed with the terms of reference of the Secretariat, as annexed to the same Resolution,

*Considering* also that paragraph 1 of the annex to the above-mentioned Resolution specifies that the Principality of Monaco will provide the Executive Secretary and give to the Permanent Secretariat the means to devote the necessary time to carrying out their task successfully,

*Recalling* Resolution 4.2, adopted at the Fourth Meeting of the Parties, that approves the Headquarters Agreement between the Government of H.S.H. the Prince of Monaco and the Permanent Secretariat of ACCOBAMS, an Agreement enforced by the Sovereign Ordinance No. 3.060 of 27 December 2010,

*Recalling* Resolution 5.6 which:

- highlights the need to adopt a procedure for the designation and appointment of the ACCOBAMS Executive Secretary and to amend the Headquarters Agreement accordingly,
- requests the Secretariat to prepare the draft amendments, in collaboration with the Government of the Principality of Monaco,
- requests the Secretariat to present them to the Bureau and to submit them for adoption to the Sixth Meeting of the Parties,

*Taking note* of the recommendation by the Bureau to adopt the Headquarters Agreement, as amended,

1. *Thanks* the Government of the Principality of Monaco for the continuous support granted to the ACCOBAMS Permanent Secretariat and for the amendment proposal of the Headquarters Agreement;
2. *Adopts* the proposed amended Headquarters Agreement which includes the financial rules, as annexed to the present Resolution;
3. *Mandates* the President of the Bureau and the Executive Secretary to sign the above-mentioned Headquarters Agreement on behalf of the Parties to ACCOBAMS and of the Permanent Secretariat, respectively;
4. *Mandates* the Executive Secretary, after the signature, to notify the Government of H.S.H. the Prince of Monaco that the requirements concerning the entry into force of the amended Headquarters Agreement have been met, as provided for in Article XVII, paragraph 1, of the said Agreement.

## ANNEX 1

### **Amendment to 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)*

The Government of H.S.H. the Prince of Monaco from one side,

and,

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 Permanent Secretariat" on the other;

Considering Article III 7 of the Agreement on the Conservation of Cetaceans of the Black Sea, the Mediterranean Sea and the Contiguous Atlantic area (ACCOBAMS), 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, par 2 of the Agreement above mentioned;

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 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 here above mentioned;

Recalling Resolution 4.2 adopted during the Fourth Meeting of Parties approving the Agreement between the Government of the Principality 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 related to its Headquarters and its privileges and immunities on the territory of the Principality of Monaco, enforced by the Sovereign Ordinance No. 3.060 of 27 December 2010;

Wishing to clarify the conditions which govern the establishment and the functioning of the Permanent Secretariat;

Agree to amend the Headquarters Agreement as follows:

#### **Article 1: Legal personality**

1. The Government of H.S.H. the Prince of Monaco shall recognize the legal personality of the Permanent Secretariat 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.

2. The President of the Bureau of the Agreement is qualified to represent the Agreement.

### **Article 2: Establishment of the Headquarters of the Permanent Secretariat – Premises**

1. The Headquarters of the Permanent Secretariat 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 its functioning 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 Permanent Secretariat are located at Jardin de l'UNESCO – Les Terrasses de Fontvieille – 98000 Monaco.
3. With the terms outlined in the [Appendix 1](#), 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 Permanent Secretariat's staff, of the functioning expenses of the said Secretariat, as well as expenses for heating, lighting, water supply, sewage disposal and garbage collection of the Permanent Secretariat facilities, the Permanent Secretariat 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 Permanent Secretariat 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 Permanent Secretariat shall be inviolable. The Monacan authorities may only enter it with the consent or at request of the representative of the Permanent Secretariat. This consent may be presumed in case of fire or other emergency requiring prompt protective action.

### **Article 3: Immunities of the Permanent Secretariat**

1. Except as otherwise provided by the present Agreement, the Permanent Secretariat's official activities shall be carried out in compliance with Monacan law in the Principality of Monaco.
2. The Permanent Secretariat shall enjoy, on the territory of the Principality of Monaco, of the independence, and of the freedom of actions for the achievement of missions and activities entrusted by the ACCOBAMS and by the Meeting of the Parties, in conformity with the provisions of the present Agreement.
3. Within the limits of its official activities, the Permanent Secretariat and its movable property, wherever found, its premises and its assets shall enjoy immunity from jurisdiction, except insofar as the President of the ACCOBAMS Bureau or his representative expressly waives this immunity by notifying the Government of H.S.H the Prince of Monaco.

4. The property mentioned in Paragraph 3 of the present Article shall also be immune from all forms of search, requisition, confiscation and seizure, as well as from all other forms of administrative or legal restraint.
5. The immunities provided for in the present Article do not apply to property, premises and assets abandoned by the Permanent Secretariat.

#### **Article 4: Archives**

1. The Permanent Secretariat's archives shall be inviolable.
2. These archives shall include all correspondence, documents, manuscripts, photographs, computer databases, films and records belonging to or held by the Permanent Secretariat.

#### **Article 5: Flag and emblem**

The Permanent Secretariat shall have the right to display the flag and the emblem of ACCOBAMS in its premises and on its means of transport, its own or those used on its behalf.

#### **Article 6: Exemption from dues and taxes**

1. Within the limits of its official activities, the Permanent Secretariat, its assets, income, premises and other property shall be:
  - exempted from all direct taxes, it being understood however that the Permanent Secretariat 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 Permanent Secretariat 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 Permanent Secretariat 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 Permanent Secretariat for its needs, according to Article 6.1, 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 Permanent Secretariat, 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 Permanent Secretariat, 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 Permanent Secretariat 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 Permanent Secretariat 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 Permanent Secretariat's publications or any other information materials imported or exported by the Permanent Secretariat within the limits of its official activities shall not be subjected to any restriction.

### **Article 10: Representatives at and Observers 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 facilitate the entry and staying in the Principality of Monaco, 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 ACCOBAMS organs or to conferences and meetings convened by the Permanent Secretariat, 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 or are pursuing any activity not related to their Permanent Secretariat functions or missions.
  
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 Permanent Secretariat shall communicate to the Government of H.S.H the Prince of Monaco the names of the representatives before their arrival in the Principality of Monaco.

#### **Article 11: Staff Members of the Permanent Secretariat**

The Government of the Principality of Monaco takes in charge the Executive Secretary and a full time Assistant, according to the procedures set out in [Appendix 1](#).

#### **Article 12: Staff immunity**

1. The staff members shall be entitled of immunity from jurisdiction, even after termination their duties, for all acts, including their words and writings, undertaken by them in the exercise of their functions and within the limits of their mandate. This immunity shall not apply in the case of any breach of the rules of road traffic committed by a member of the Permanent Secretariat's staff, or of harm caused by an automobile vehicle belonging to or driven by a member of staff.
2. At times of international tension, the staff members shall be entitled of repatriation facilities granted to members of diplomatic missions.
3. Except for Monacan nationals and permanent resident in the Principality of Monaco, the staff shall enjoy:
  - a. exemption from any Monacan tax on salaries and emoluments paid for his/her activities for the Permanent Secretariat;
  - b. the regime set forth in article 10 as regards entry and staying in the Principality of Monaco.

#### **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 Permanent Secretariat can operate freely and that the persons on whom they are conferred are completely independent.
2. The President of the ACCOBAMS Bureau or, in the case of representatives of Member States, the Government of the State concerned, shall have the 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 Permanent Secretariat.

#### **Article 14: Cooperation**

1. The Permanent Secretariat 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 President 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 Executive Secretary of the ACCOBAMS 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 and shall indicate if this person is a Monacan national or a permanent resident in the Principality of Monaco.
3. During the first quarter of each year, the Executive Secretary shall provide the Government of H.S.H. the Prince of Monaco with an updated list of all members of staff, stating if these persons are Monacan nationals or are permanently resident in the Principality of Monaco.
4. 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 of the Permanent Secretariat. 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 Permanent Secretariat 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 Permanent Secretariat 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 Permanent Secretariat, 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 President of the ACCOBAMS Bureau;

- c. an arbitrator designated by mutual agreement by the Government of H.S.H. the Prince of Monaco and the President of the ACCOBAMS Bureau, 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 President of the ACCOBAMS Bureau, 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 Permanent Secretariat. In deciding to modify or to terminate the present Agreement, the Permanent Secretariat 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 Permanent Secretariat acting in compliance with a decision taken by the Meeting of Parties, with previous notice of two years.
4. Should the Headquarters of the ACCOBAMS Permanent Secretariat 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 Permanent Secretariat's property in the Principality of Monaco.
5. In case provided for in paragraph 3 and 4, the date of the Agreement termination will be confirmed by an exchange of notes between the Government of H.S.H. the Prince of Monaco and the Permanent Secretariat.



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

Signed in Monaco on the twenty-second of November two thousand sixteen.

For the Government  
of His Serein Highness  
the Prince of Monaco,

The Minister of State,

H.E. M. Serge TELLE

For the ACCOBAMS Bureau,  
The President

H.E.M. Xavier STICKER

For the Permanent Secretariat of the ACCOBAMS,

The Executive Secretary,

Mrs. Florence DESCROIX-COMANDUCCI

## Appendix 1

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

1. The Government of the Principality of Monaco provides the Permanent Secretariat with an annual grant, which will be paid in two equal instalments at the beginning and in the middle of the civil year, and which use will allow the Permanent Secretariat to take in charge the following expenses:
  - heating, lighting, water supply, waste water discharge and garbage collection,
  - maintenance of the premises,
  - rent and maintenance costs of a photocopier,
  - telephone and internet costs and subscription,
  - computer stock with maintenance,
  - office equipment and maintenance,
  - staff cost according to the conditions defined under items 3, 4 and 5 hereunder.
2. The Host Country takes directly care of:
  - rent of the premises and their maintenance costs,
  - lease hold expenses,
  - cost for the rent, maintenance, insurance and related taxes for two governmental apartments, located in France, for staff housing.
3. The Government of Monaco takes in charge the Executive Secretary and a full time Assistant.
4. The staff expenses of the Executive Secretary, are covered by the Host Country through reimbursement of relevant expenditures incurred by the Permanent Secretariat, within the limit of a gross annual remuneration equivalent to the one provided to the civil servants classified as Department Head of the 3rd group of the Monacan Civil Service. This ceiling amount shall be communicated to the Executive Secretary by the Government of the Principality of Monaco before each budget year.
5. The Assistant is recruited by the Executive Secretary. Staff expenses, along with welfare cost, are covered by the Host Country through reimbursement of relevant expenditures incurred by the Permanent Secretariat, within the limit of a gross annual remuneration equivalent to the one provided to the civil servants classified in the scale of Attaché, Principal Attaché and Highly Qualified Attaché of the Monacan Civil Service. This ceiling amount shall be communicated to the Executive Secretary by the Government of the Principality of Monaco before each budget year.
6. The Executive Secretary shall be entitled upon entry on duty, of an allowance of maximum 5 000 € linked to the inflation rate and covered by the Host Country, to cover the possible moving expenses.
7. The Permanent Secretariat has recourse to suitable local banking services to conduct day-to-day transactions.
8. In support to its request for the following year budget allowance, the Permanent Secretariat will provide a detailed provisional budget of expenditures, for which the support is requested, together with the latest closed accounts listing the related items and signed-off by the fund management controller.