

No. 17956

**UNITED NATIONS
and
IRAQ**

Agreement relating to the headquarters of the United Nations Economic Commission for Western Asia (with declaration). Signed at Baghdad on 13 June 1979

Authentic texts: Arabic and English.

Registered ex officio on 31 August 1979.

**ORGANISATION DES NATIONS UNIES
et
IRAQ**

Accord relatif au siège de la Commission économique des Nations Unies pour l'Asie occidentale (avec déclaration). Signé à Bagdad le 13 juin 1979

Textes authentiques : arabe et anglais.

Enregistré d'office le 31 août 1979.

AGREEMENT¹ BETWEEN THE UNITED NATIONS AND THE GOVERNMENT OF THE REPUBLIC OF IRAQ RELATING TO THE HEADQUARTERS OF THE UNITED NATIONS ECONOMIC COMMISSION FOR WESTERN ASIA

The United Nations and the Government of the Republic of Iraq,

Desiring to conclude an agreement for the purpose of regulating questions arising as a result of the United Nations Economic Commission for Western Asia resolution No. 35 (S-II) of 22 August 1976,² endorsed by the Economic and Social Council in its resolution 2045 (LXI) of 27 October 1976,³ to establish the Headquarters of the Commission in Baghdad,

Whereas the Government of the Republic of Iraq agrees to grant the Commission all the necessary facilities to enable the Commission to perform its functions, including its scheduled programmes of work, projects and other activities,

Considering that the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946,⁴ to which Iraq is a party, applies by definition to the United Nations Economic Commission for Western Asia,

Desiring to conclude an agreement supplementing the Convention on the Privileges and Immunities of the United Nations in order to regulate matters not covered therein resultant from the establishment of the Headquarters of the United Nations Economic Commission for Western Asia in Baghdad,

Have agreed as follows:

Article 1. DEFINITIONS

In this Agreement,

(a) The expression "Commission" means the United Nations Economic Commission for Western Asia.

(b) The expression "Government" means the Government of the Republic of Iraq.

(c) The expression "Executive Secretary" means the Executive Secretary of the Commission or his authorized representative.

(d) The expression "Headquarters" means the headquarters site with the buildings or premises including any temporary premises occupied by the Commission in accordance with the provisions set forth from time to time in the supplementary agreements referred to in article 3, paragraph 2.

¹ Came into force on 31 August 1979, i.e., on the day following the date of the deposit with the Secretary-General of the United Nations of the instrument of ratification by the Government of Iraq, in accordance with article 13 (4). (The deposit of the instrument, including a declaration,* was effected on 30 August 1979.)

* A communication from the Secretary-General, in response to this declaration, was subsequently addressed to the Government of Iraq on 19 September 1979. (For the text of the declaration and communication, see p. 248 of this volume.)

² *Official Records of the Economic and Social Council, Sixty-first Session, Supplement No. 12A (E/5845)*, p. 8.

³ *Ibid.*, *Resumed Sixty-first Session, Supplement No. 1A (E/5889/add.1)*, p. 1.

⁴ United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1, p. 18).

(e) The expression "officials of the Commission" means the Executive Secretary and all members of the staff of the Commission, irrespective of nationality, with the exception of officials or employees who are locally recruited and assigned to hourly rates.

(f) The expression "Convention" means the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946.

Article 2. JUDICIAL PERSONALITY AND CAPACITY

The United Nations acting through the Commission shall have the capacity:

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

Article 3. HEADQUARTERS

1. The Headquarters shall be under the authority and control of the Commission.

2. The Government offers and the Commission accepts the use and occupation of the Headquarters according to the terms and conditions of the present Agreement and as provided for, from time to time, in supplementary agreements to be concluded when required between the Government and the Commission.

3. The Commission may lay down internal regulations to be observed throughout the Headquarters; such regulations shall determine the rules necessary for performing work therein.

4. The Headquarters shall be inviolable. Government officers and officials shall not enter the Headquarters to perform their official duties except upon the agreement of or at the request of the Executive Secretary and under conditions agreed to by him.

5. Judicial actions, including the impounding of private property, cannot be enforced in the Headquarters.

6. Without prejudice to the provisions of the Convention or of this Agreement, the Commission shall prevent the Headquarters from being used as a refuge by persons who are avoiding arrest under any law of Iraq or who are required by the Government for extradition to another country, or who are endeavouring to avoid service of legal process.

7. (a) The appropriate Iraqi authorities shall exercise due diligence to ensure that the tranquility of the Headquarters is not disturbed by the unauthorized entry of persons or groups of persons from outside or by disturbances in its immediate vicinity;

(b) If so requested by the Executive Secretary, the appropriate Iraqi authorities shall provide a sufficient number of police for the preservation of law and order in the Headquarters and for the removal therefrom of persons as requested under the authority of the Commission.

8. The competent Iraqi governmental authorities shall make every possible effort to secure, on fair conditions and upon the request of the Executive Secre-

tary, the public services needed by the Commission such as postal, telephone and telegraph services, power, water and fire protection services.

9. With due regard to article 5, paragraph 1, the Commission shall avail itself, in respect of the services maintained by the Government or by the agencies subject to governmental supervision, of the reduced tariffs, if any, granted to other Governments including their diplomatic missions and to the government offices.

10. In case of *force majeure*, resulting in a complete or partial interruption of the aforesaid services, the Commission shall for the performance of its functions be accorded the priority, if any, given to national public departments.

Article 4. FREEDOM OF ACCESS TO THE HEADQUARTERS

1. The competent Iraqi authorities shall not impede the transit to or from the Headquarters of persons holding official posts therein or of persons invited thereto in connexion with the official work and activities of the Commission upon their arrival in or departure from Iraq.

2. The Government undertakes, for this purpose, to allow the entry into and residence in Iraq of the persons listed hereunder during their assignment or during the performance of their duties for the Commission, without charging visa fees and without delay, as well as exemption from any requirements of exit visa formalities upon departure from Iraq of:

- (a) Representatives of the Members of the Commission to the conferences and meetings convened in the Headquarters country, including alternate representatives, advisers, experts and staff, as well as their spouses and dependent members of their families;
- (b) Commission officials and experts, as well as their spouses and dependent members of their families;
- (c) Officials of the United Nations or any of its specialized agencies or the International Atomic Energy Agency who are assigned to work for the Commission and those who have official duties with the Commission, as well as their spouses and dependent members of their families;
- (d) Persons on mission for the Commission but who are not officials of the Commission, as well as their spouses and dependent members of their families;
- (e) All persons invited to the Headquarters on official business.

3. Without prejudice to the special immunities which they may enjoy, persons referred to in paragraph 2 above may not be forced by the Iraqi authorities to leave Iraqi territory unless they abuse their recognized residence privileges by exercising an activity outside their official capacity with the Commission, and subject to the provisions mentioned hereunder:

- (a) No action to force the persons referred to in paragraph 2 above to leave Iraqi territory may be taken without the consent of the Minister for Foreign Affairs who shall consult with the Executive Secretary prior to giving the consent;
- (b) Persons enjoying diplomatic privileges and immunities under this Agreement may not be requested to leave Iraqi territory except in accordance with the practices and procedures applicable to diplomats accredited to the Government;

- (c) It is understood that persons referred to in paragraph 2 above shall not be exempt from the reasonable application of quarantine or other health regulations.

Article 5. COMMUNICATIONS FACILITIES

1. For postal, telephone, telegraph and telephoto communications the Government shall accord to the Commission a treatment equivalent to that accorded to all other Governments including their diplomatic missions, or to other intergovernmental organizations in regard to any priorities, tariffs and charges on mail, cablegrams, telephotos, telephone calls and other communications, as well as rates for news reported to the press and radio as may be accorded.

2. The Government shall secure the inviolability of the official correspondence of the Commission and shall not apply any censorship to such correspondence. Such inviolability shall extend, without limitation by reason of this enumeration to publications, still and moving pictures, films and sound recordings dispatched to or by the Commission.

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

4. (a) The United Nations is authorized to operate at the Headquarters of the Commission one point-to-point telecommunications circuit in a generally easterly direction and one point-to-point circuit in a generally western direction between the Headquarters and other United Nations radio stations.

(b) Subject to the necessary authorization from the General Assembly and with the agreement of the Government as may be included in a supplementary agreement, the United Nations may also establish and operate at the Headquarters of the Commission:

- (i) Its own short-wave sending and receiving radio broadcasting facilities (including emergency link equipment) which may be used on the same frequencies (within the tolerances prescribed for the broadcasting service by applicable Iraqi regulations) for radiograph, radiotelephone and similar services;
- (ii) such other radio facilities as may be specified by supplementary agreement between the United Nations and the appropriate Iraqi authorities.

(c) The United Nations shall make arrangements for the operation of the services referred to in this article with the International Telecommunication Union, the appropriate agencies of the Government and the appropriate agencies of other affected Governments with regard to all frequencies and similar matters.

(d) The facilities provided for in this article may, to the extent necessary for efficient operation, be established and operated outside the Headquarters of the Commission with the consent of the Government.

Article 6. PROPERTY, FUNDS AND ASSETS

The Government shall apply, *mutatis mutandis*, to the property, funds and assets of the Commission wherever they are and by whomsoever held the provi-

sions of the Convention on the Privileges and Immunities of the United Nations especially with regard to the following:

- (a) Immunity from legal process except where the Commission may have expressly waived immunity in a certain case, it being understood that this waiver shall not extend to any measure of execution of legal actions;
- (b) Immunity from inspection, confiscation, seizure or expropriation in any form of executive, administrative or legislative enforcement action;
- (c) Holding of funds and currencies of any kind and opening of accounts in any currency it desires;
- (d) Transfer of its funds and currencies with complete freedom inside Iraq and from Iraq to any other country and vice versa;
- (e) Exemption from all taxes and levies; it being understood, however, that the Commission shall not request exemption from taxes, which are, in fact, no more than charges for public utility services;
- (f) Exemption from customs charges as well as limitations and restrictions on the import or export of materials imported or exported by the Commission for its official business, subject to the Iraqi laws and regulations relating to security and public health, it being understood that tax-free imports cannot be sold in Iraqi territory except under conditions agreed to by the Government;
- (g) Exemption from all limitations and restrictions on the import or export of publications, still and moving pictures, films and sound recordings imported, exported or published by the Commission within the framework of its official activities.

Article 7. DIPLOMATIC FACILITIES, PRIVILEGES AND IMMUNITIES

1. Representatives of the Members of the Commission, participating in the conferences and meetings convened by it, shall enjoy during their residence in Iraq for the purpose of exercising their functions the diplomatic facilities, privileges and immunities granted to diplomats of comparable rank of foreign diplomatic missions accredited to the Government.

2. Without prejudice to the provisions of article 8, paragraphs 1 and 3, the Executive Secretary and the Deputy Executive Secretary shall enjoy during their residence in Iraq the facilities, privileges and immunities granted to heads of diplomatic missions accredited to the Government.

3. Without prejudice to the provisions of article 8, paragraphs 1 and 3, officials of the Commission at the P-4 level and above, regardless of their nationality, shall enjoy during their residence in Iraq and their service with the Commission the facilities, privileges and immunities granted by the Government to diplomats of comparable rank of the diplomatic missions accredited to the Government. Such facilities, privileges and immunities shall also be enjoyed by other categories of officials of the Commission as determined by the Executive Secretary in consultation with the Secretary-General of the United Nations and in agreement with the Government.

4. The facilities, privileges and immunities granted to the representatives of the Members of the Commission and to the officials mentioned in paragraphs 2 and 3 above shall extend to their spouses and dependent members of their families.

5. The immunities accorded by paragraphs 1, 2 and 3 of this article are granted in the interests of the Commission and not for the personal benefit of the individuals themselves. The immunities may be waived by the Member concerned in respect of its representatives and their families, by the Secretary-General of the United Nations in respect of the Executive Secretary and his deputy and members of their families, and by the Executive Secretary in respect of all other officials of the Commission and their families.

6. The Commission shall communicate to the Government in due time the names of persons referred to in this article.

Article 8. OFFICIALS AND EXPERTS OF THE COMMISSION

1. The officials of the Commission regardless of their nationality shall enjoy in the Iraqi territory the following privileges and immunities:

- (a) Immunity from legal process in respect of words spoken and written and all acts performed by them in their official capacity;
- (b) Immunity from personal detention and from seizure of their personal and official effects and baggage except in case of *in flagrante delicto* and in such cases, the competent Iraqi authorities shall immediately inform the Executive Secretary of the detention or the seizure;
- (c) Exemption from any direct tax on the salaries and all other remuneration paid to them by the United Nations;
- (d) With due regard to the provisions of paragraph 2 of this article, exemption from any military service obligations or any other obligatory service in Iraq;
- (e) Exemption, for themselves and for their spouses and dependent members of the families, from immigration restrictions or alien registration procedures;
- (f) Exemption for themselves for the purpose of official business from any restrictions on movements and travel inside Iraq and a similar exemption for themselves and for their spouses and dependent members of their families for recreation in accordance with arrangements agreed upon between the Executive Secretary and the Government;
- (g) In regard to foreign exchange, including holding accounts in foreign currencies, enjoyment of the same facilities as are accorded to members of diplomatic missions accredited to the Government;
- (h) Enjoyment, for themselves and for their spouses and dependent members of their families, of the same repatriation facilities granted to members of diplomatic missions accredited to the Government in time of international crisis;
- (i) If they have been previously residing abroad, the right to import their furniture, personal effects and all household appliances intended for personal use free of duty when they come to reside in Iraq, which privilege shall be valid for a period of one year from the date of arrival in Iraq;
- (j) The personal right to import, in accordance with the relevant regulations of the Iraqi import system, a car free of duty once every three years in accordance with the established diplomatic practice in Iraq during his or her assignment.

- 2. Iraqi officials of the Commission shall not be exempt from the military service obligations or any other obligatory service in Iraq. However, those who, by virtue of their functions, are put on a nominal list drawn up by the Executive Secretary and approved by the competent Iraqi authorities, shall, in the event of mobilization, be given special assignments in accordance with Iraqi legislation. Also such authorities shall grant, upon the request of the Commission and in the event of other Iraqi officials of the Commission being called up for national service, the waivers which might be necessary to avoid the interruption of a basic service.

3. These privileges and immunities are granted in the interests of the Commission and not for the personal benefit of the officials themselves. The Executive Secretary shall waive the immunity granted to any official whenever, in his opinion, such immunity would impede the course of justice and can be waived without prejudice to the interests of the Commission.

4. All officials of the Commission shall be provided with a special identity card certifying that they are officials of the Commission enjoying the privileges and immunities specified in this Agreement.

5. The Government shall not impede in any manner the recruitment by the Commission of local staff necessary for its proper functioning. To that end, the Government shall facilitate such recruitment in accordance with arrangements to be made with the Executive Secretary. The terms and conditions of employment for locally recruited personnel shall be in accordance with the relevant United Nations Regulations and Rules.

6. Experts, other than the officials referred to in paragraph 1 above, shall enjoy the facilities, privileges and immunities mentioned hereunder while exercising their functions or duties assigned to them by the Commission or in the course of their travel to take up these functions or perform these duties inasmuch as such facilities, privileges and immunities are necessary for the performance of their duties:

- (a) Immunity from personal detention and from seizure of personal and official effects and baggage except in cases of *in flagrante delicto* and, in such cases, the competent Iraqi authorities shall immediately inform the Executive Secretary of the detention or the seizure;
- (b) Immunity from legal process in respect of words spoken and written and all acts performed by them in their official capacity, which immunity shall continue notwithstanding the fact that the persons concerned may have ceased to exercise their functions with the Commission or their missions for the Commission may have terminated;
- (c) Exemption from any direct tax on the salaries and other emoluments paid to them by the Commission;
- (d) The same facilities in respect of foreign exchange as officials of foreign Governments on a temporary official mission.

7. These facilities, privileges and immunities are granted to experts in the interests of the Commission and not for their own personal benefit. The Executive Secretary shall waive the immunity granted to an expert whenever, in his opinion, such immunity would impede the course of justice and can be waived without prejudice to the interests of the Commission.

8. The Commission shall in due time communicate to the Government the names of persons to whom this article refers.

*Article 9. CO-OPERATION WITH THE APPROPRIATE
IRAQI AUTHORITIES*

The Commission shall co-operate at all times with the appropriate authorities to facilitate the proper administration of justice, secure the observance of police regulations and avoid the occurrence of any abuse in connexion with the facilities, privileges and immunities mentioned in this Agreement.

Article 10. LAISSEZ-PASSER

1. The Government shall recognize and accept the United Nations laissez-passer issued to officials of the Commission as a valid travel document equivalent to a passport.

2. In accordance with the provisions of section 26 of the Convention on Privileges and Immunities of the United Nations, the Government shall recognize and accept the United Nations certificate issued to experts and other persons travelling on the business of the United Nations. The Government further agrees to issue any required visas on such certificates.

Article 11. PREMISES FOR RESIDENCES

The Government undertakes to assist the Commission as far as possible in obtaining premises for use as residences of officials and experts of the Commission. If required, the Executive Secretary and the Government may conclude supplementary arrangements to implement this article.

Article 12. SETTLEMENT OF DISPUTES

1. The Executive Secretary shall take the measures necessary for ensuring the proper settlement of:

- (a) Disputes resulting from contracts, or all disputes relating to individual rights to which the Commission is a party;
- (b) Disputes to which an official of the Commission is a party, provided that he enjoys immunity by reason of his official post and such immunity has not been waived by the Executive Secretary.

2. Any dispute between the Government and the Commission concerning the interpretation or implementation of this Agreement which is not settled by direct negotiations or other mutually accepted method shall be referred for final decision to a tribunal of three arbitrators, one to be named by the Minister for Foreign Affairs of the Government, one to be named by the Executive Secretary and the third to be chosen by the two, or, if they should fail to agree upon a third, then by the President of the International Court of Justice. The decision of the tribunal shall be final.

Article 13. FINAL PROVISIONS

1. Without prejudice to the Commission's performance of its functions in a normal and unrestricted manner, the Government may take every precautionary measure to preserve national security, after consultations with the Executive Secretary.

2. The provisions of this Agreement shall be considered supplementary to the provisions of the Convention on the Privileges and Immunities of the United Nations. When a provision of this Agreement and a provision of the Convention deal with the same subject, both provisions shall be considered complementary whenever possible; both of them shall be applied and neither shall restrict the force of the other.

3. Consultations with respect to amendments to this Agreement shall be entered into at the request of either party and such amendments shall be made by mutual consent.

4. This Agreement shall enter into force as from the day following the date of the deposit with the Secretary-General of the United Nations of the instrument of ratification by the Government.

DONE at Baghdad, on June 13th 1979, in duplicate in the Arabic and English languages, both texts being equally authentic.

For the Economic Commission
for Western Asia:

[Signed]

MOHAMED SAID AL-ATTAR

For the Government
of the Republic of Iraq:

[Signed]

Dr. RIYADH M. S. AL-QAYSI

DECLARATION MADE
UPON RATIFICATIONIRAQ¹DÉCLARATION FAITE
LORS DE LA RATIFICATIONIRAQ¹

[ARABIC TEXT — TEXTE ARABE]

ان هذا القبول لا يعتبر بائى حال من الأحوال
اعترافا بإسرائيل أو الدخول معها بائى إتفاق .

[TRANSLATION]

This acceptance shall in no event be regarded as implying recognition of Israel or the entry into any agreement with Israel.

[TRADUCTION]

Cette acceptation ne doit en aucun cas être interprétée comme une reconnaissance d'Israël ou la participation à aucun accord conclu avec Israël.

¹ The following communication from the Secretary-General, in response to the declaration, was subsequently addressed to the Government of Iraq on 19 September 1979:

“Due note has been taken of the above declaration. It is assumed that the latter was intended to record the general policy of the Government of Iraq, already expressed in relation to a number of multilateral treaties deposited with the United Nations, and that it does not purport to exclude or modify the legal effect of the provisions of the Agreement as negotiated and concluded between the United Nations and the Government of Iraq. The Secretary-General wishes to recall in this regard that all Members of the United Nations, not members of ECWA, have equal rights with regard to participation in meetings of the Commission in application of its terms of reference and of relevant decisions of the Commission.”

¹ La communication suivante du Secrétaire général, en réponse à cette déclaration, a été ultérieurement adressée au Gouvernement iraquien le 19 septembre 1979 :

[TRADUCTION — TRANSLATION]
Bonne note a été prise de la déclaration susmentionnée. Il est présumé que son objet est de consigner la politique générale du Gouvernement iraquien, telle qu'elle a déjà été précédemment exprimée à l'occasion de formalités relatives à divers traités multilatéraux déposés auprès de l'Organisation des Nations Unies et qu'elle n'a pas pour but d'empêcher ou de modifier l'effet juridique des dispositions de l'Accord, tel qu'il a été négocié et conclu entre l'Organisation des Nations Unies et le Gouvernement iraquien. Le Secrétaire général tient à rappeler à ce sujet que tous les Membres de l'Organisation des Nations Unies qui ne sont pas membres de la CEAO ont des droits égaux en ce qui concerne leur participation aux réunions de la Commission, conformément au mandat et aux décisions pertinentes de la Commission.