

No. 21615

**UNITED NATIONS
and
JAMAICA**

Agreement relating to the establishment in Jamaica of a United Nations Office of the Special Representative of the Secretary-General for the Law of the Sea for the servicing of the Preparatory Commission of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea. Signed at New York on 7 March 1983

Authentic text: English.

Registered ex officio on 7 March 1983.

**ORGANISATION DES NATIONS UNIES
et
JAMAÏQUE**

Accord relatif à la création à la Jamaïque d'un bureau du Représentant spécial du Secrétaire général de l'Organisation des Nations Unies pour le droit de la mer en vue d'assurer le service de la Commission préparatoire de l'Autorité internationale des fonds marins et du Tribunal international du droit de la mer. Signé à New York le 7 mars 1983

Texte authentique : anglais.

Enregistré d'office le 7 mars 1983.

AGREEMENT¹ BETWEEN THE UNITED NATIONS AND THE GOVERNMENT OF JAMAICA RELATING TO THE ESTABLISHMENT IN JAMAICA OF A UNITED NATIONS OFFICE OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL FOR THE LAW OF THE SEA FOR THE SERVICING OF THE PREPARATORY COMMISSION OF THE INTERNATIONAL SEA-BED AUTHORITY AND THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

The United Nations and the Government of Jamaica,

Desiring to conclude an agreement for the purpose of regulating questions arising as a result of General Assembly resolution 37/66 of 3 December 1982,² *inter alia* authorizing the Secretary-General to station an adequate number of secretariat staff in Jamaica for the purpose of servicing the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea,

Whereas the Government of Jamaica agrees to ensure the availability of all the necessary facilities to enable the Kingston Office to perform its functions, including its scheduled programmes of work and any related 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 1946,³ to which Jamaica is a party, applies by definition to the United Nations Office of the Special Representative of the Secretary-General for the Law of the Sea in Kingston,

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 resulting from the establishment in Kingston of a United Nations Office of the Special Representative of the Secretary-General for the Law of the Sea,

Have agreed as follows:

Article 1. DEFINITIONS

In this Agreement,

(a) The expression "Office" means the Kingston Office of the Special Representative of the Secretary-General for the Law of the Sea;

(b) The expression "Preparatory Commission" means the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea referred to in resolution I of annex I of the Final Act of the Third United Nations Conference on the Law of the Sea;

(c) The expression "Government" means the Government of Jamaica;

(d) The expression "Special Representative" means the Special Representative of the Secretary-General for the Law of the Sea or his authorized representative;

(e) The expression "Headquarters" means the office or the premises occupied by the Office as well as any other offices or premises occupied by the Office in accord-

¹ Came into force on 7 March 1983 by signature, in accordance with article 12 (4).

² United Nations, *Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 51 (A/37/66)*, p. 26.

³ United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1, p. 18).

ance with the provisions set forth from time to time in the supplementary agreements;

(f) The expression "officials of the Office" means the Special Representative and all members of his staff whether stationed in Jamaica or elsewhere and who are assigned to Jamaica for any period of time for the purposes of the Office, irrespective of nationality, with the exception of officials or employees who are locally recruited and assigned to hourly rates;

(g) 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. JURIDICAL PERSONALITY AND CAPACITY

The United Nations acting through the Office 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 Office as provided in this Agreement.

2. Except as otherwise provided in this Agreement or in the Convention, and subject to any regulations enacted under paragraph 4 hereof, the laws of Jamaica shall apply in the Headquarters.

3. Except as otherwise provided in this Agreement or in the Convention, the courts or other appropriate organs of Jamaica shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place in the Headquarters.

4. The Office shall have the power to make regulations operative throughout the Headquarters for the purpose of establishing therein the conditions in all respects necessary for the full execution of its functions. No law of Jamaica which is inconsistent with a regulation of the Office authorized by this paragraph shall, to the extent of such inconsistency, be applicable within the Headquarters. Any dispute between the Office and Jamaica as to whether a regulation of the Office is authorized by this paragraph, or as to whether a law of Jamaica is inconsistent with any regulation of the Office authorized by this paragraph, shall be promptly settled by the procedure set out in article 11. Pending such settlement, the regulation of the Office shall apply and the law of Jamaica shall be inapplicable in the Headquarters to the extent that the Office claims it to be inconsistent with the regulation of the Office.

5. The Headquarters shall be inviolable. Government offices and officials shall not enter the Headquarters to perform their official duties except upon the agreement of or at the request of the Special Representative and under conditions agreed to by him.

6. Judicial actions, including the impounding of private property, cannot be enforced in the Headquarters except with the consent and under the conditions approved by the Special Representative.

7. Without prejudice to the provisions of the Convention or of this Agreement, the Office shall prevent the Headquarters from being used as a refuge by persons who are avoiding arrest under any law of Jamaica or who are required by the

Government for extradition to another country, or who are endeavouring to avoid service of legal process.

8. (a) The appropriate Jamaican 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 Special Representative, the appropriate Jamaican 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 Office.

9. The competent Jamaican governmental authorities shall secure, on fair conditions and upon the request of the Special Representative, the public services needed by the Office such as postal, telephone and telegraph services, power, water and fire protection services.

10. With due regard to article 5, paragraph 1, the Office 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.

11. In case of *force majeure*, resulting in a complete or partial interruption of the aforesaid services, the Office 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 Jamaican authorities shall not impede the transit to or from the Headquarters of persons holding official posts therein or of persons invited thereto in connection with the official work and activities of the Office upon their arrival in or departure from Jamaica.

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

- (a) Representatives of the members of the Preparatory Commission and of observers, as provided for in operative paragraph 2 of resolution I of annex I of the Final Act of the Third United Nations Conference on the Law of the Sea, including alternate representatives, advisers, experts and staff, as well as their spouses and dependent members of their families;
- (b) Officials of the Office 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 Office, as well as their spouses and dependent members of their families;
- (d) Persons on mission for the Office but who are not officials of the Office, 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 Jamaican authorities to leave Jamaican territory unless they abuse their recognized residence privileges by

exercising an activity outside their official capacity with the Office, and subject to the provisions mentioned hereunder:

- (a) No action to force the persons referred to in paragraph 2 above to leave Jamaican territory may be taken without the consent of the Minister for Foreign Affairs who shall consult with the appropriate member or observer state in the case of a representative of a member or an observer (or a member of his family) or with the Special Representative in the case of any other person referred to in paragraph 2 of this article, prior to giving such consent;
- (b) Persons enjoying diplomatic privileges and immunities under this Agreement may not be requested to leave Jamaican 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. COMMUNICATION FACILITIES

1. For postal, telephone, telegraph, radio, television and telephoto communications the Government shall accord to the Office 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, cablegram, 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 communications and correspondence of the Office and shall not apply any censorship to such communications and correspondence. Such inviolability shall extend, without limitation by reason of this enumeration to publications, still and moving pictures, films and sound or videotape recordings dispatched to or by the Office.

3. The Office 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 Office 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 Office:

- (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 tolerance prescribed for the broadcasting service by applicable Jamaican 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 Jamaican 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 Office 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 Office wherever they are and by whomsoever held the provisions of the Convention especially with regard to the following:

- (a) Immunity from legal process except where the Office 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 search, 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 Jamaica and from Jamaica to any other country and vice-versa;
- (e) Exemption from all taxes and levies; it being understood, however, that the Office 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 Office for its official business, subject to the Jamaican laws and regulations relating to security and public health, it being understood that tax-free imports cannot be sold in Jamaican 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, sound and television recordings imported, exported or published by the Office within the framework of its official activities.

Article 7. DIPLOMATIC FACILITIES, PRIVILEGES AND IMMUNITIES

1. Representatives of the members and observers of the Preparatory Commission referred to in Article 4,2(a) above, participating in the conferences and meetings convened by it, shall enjoy during their residence in Jamaica 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 Special Representative or his authorized representative shall enjoy during their residence in Jamaica 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 Office at the P-4 level and above, regardless of their nationality, shall enjoy during their residence in Jamaica and their service with the Office the facilities, privileges and immunities granted by the Government to diplomats of comparable rank of the diplomatic missions accredited to the Government. Such facilities, privi-

leges and immunities shall also be enjoyed by other categories of officials of the Office as determined by the Special Representative 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 Preparatory 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 Office 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 Special Representative and his deputy and members of their families and by the Special Representative in respect of all other officials of the Office and their families.

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

Article 8. OFFICIALS AND EXPERTS OF THE OFFICE

1. The officials of the Office regardless of their nationality shall enjoy in Jamaican 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 *flagrante delicto*, and, in such cases, the competent Jamaican authorities shall immediately inform the Special Representative 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 Jamaica;
- (e) Exemption, for themselves and for their spouses and dependent members of [their] 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 Jamaica 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 Special Representative 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 as are accorded 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 Jamaica, which privilege shall be valid for a period of one year from the date of arrival in Jamaica;

- (j) The personal right to import, in accordance with the relevant regulations of the Jamaican import system, a car free of duty once every three years in accordance with the established diplomatic practice in Jamaica during his or her assignment.

2. Jamaican officials of the Office shall not be exempt from military service obligations or any other obligatory service in Jamaica. However, those who, by virtue of their functions, are put on a nominal list drawn up by the Special Representative and approved by the competent Jamaican authorities, shall, in the event of mobilization, be given special assignments in accordance with Jamaican legislation. Also such authorities shall grant, upon the request of the Office and in the event of other Jamaican officials of the Office 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 Office and not for the personal benefit of the officials themselves. The Special Representative 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 Office.

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

5. 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 Office 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 *flagrante delicto* and, in such cases, the competent Jamaican authorities shall immediately inform the Special Representative 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 Office or their missions for the Office may have terminated;
- (c) Exemption from any direct tax on the salaries and other emoluments paid to them by the Office;
- (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 Office and not for their own personal benefit. The Special Representative 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 the prejudice to the interests of the Office.

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

Article 9. CO-OPERATION WITH THE APPROPRIATE JAMAICAN AUTHORITIES

The Office 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 connection 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 Office as a valid travel document equivalent to a passport.

2. In accordance with the provisions of section 26 of the Convention, 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 agrees to issue any required visas on such certificates.

Article 11. SETTLEMENT OF DISPUTES

1. The Special Representative 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 Office is a party;
- (b) Disputes to which an official of the Office is a party, provided that he enjoys immunity by reason of his official post and such immunity has not been waived by the Special Representative.

2. Any dispute between the Government and the Office 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 Government, one to be named by the Secretary-General of the United Nations 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 12. FINAL PROVISIONS

1. Without prejudice to the performance by the Office of its functions in a normal and unrestricted manner, the Government may take every precautionary measure to preserve national security, after consultations with the Special Representative.

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 upon signature.

DONE at New York, on the seventh day of March 1983 in two original copies, one of which will be deposited with the United Nations and the other with the Government of Jamaica.

For the United Nations:

BERNARDO ZULETA
Special Representative of the Secretary-
General for the Law of the Sea

For the Government
of Jamaica:

K. O. RATTRAY
Ambassador Extraordinary
and Plenipotentiary
