

No. 26155

**CAB INTERNATIONAL
and
MALAYSIA**

Agreement regarding the establishment in Malaysia of a regional office of CAB International (with related letter). Signed at Kuala Lumpur on 21 June 1988

Authentic text: English.

Registered by CAB International on 13 September 1988.

**CAB INTERNATIONAL
et
MALAISIE**

Accord relatif à la création en Malaisie d'un bureau régional des CAB (offices agricoles du Commonwealth) International (avec lettre connexe). Signé à Kuala Lumpur le 21 juin 1988

Texte authentique : anglais.

Enregistré par les OAC International le 13 septembre 1988.

AGREEMENT¹ BETWEEN CAB INTERNATIONAL AND THE GOVERNMENT OF MALAYSIA REGARDING THE ESTABLISHMENT IN MALAYSIA OF A REGIONAL OFFICE OF CAB INTERNATIONAL

PREAMBLE

Whereas CAB International is an Intergovernmental Organisation providing scientific and related services, information and training in agriculture and allied sciences, the headquarters of which are situated at Wallingford, United Kingdom, and

Whereas the Government of Malaysia hereinafter referred to as “the Government” is a member of CAB International, and

Whereas the Government and CAB International desire to cooperate in the establishment of a Regional Office in Malaysia, and

Whereas under its Constitution CAB International shall enjoy in the territory of each member government such privileges and immunities as may be necessary to enable it to fulfil its purpose and carry out the function entrusted to it, and

Whereas the Government is willing to grant such privileges and immunities,

Now therefore the Government and CAB International parties to this Agreement have agreed as follows:

Article I. DEFINITIONS

(a) “Regional Office” means the Regional Office of CAB International and includes any buildings and the land ancillary thereto as may be utilised for the purposes of the Regional Office.

(b) “Officers and staff of the Regional Office” means all personnel appointed to the Regional Office by CAB International.

(c) “Dependent” means spouse of staff member and their dependent children including step children and legally adopted children, being under the age of 21 years and unemployed and shall include children beyond the age of 21 if they are mentally or physically incapacitated.

(d) “Property” means all assets including funds, income and rights of CAB International and its Regional Office.

Article II. ESTABLISHMENT AND FUNCTIONS OF THE REGIONAL OFFICE

1. CAB International may establish a Regional Office in Kuala Lumpur.

2. The function of the Regional Office shall be to facilitate and provide coordination for the efficient conduct of the activities of CAB International in providing information, scientific and related services in agriculture to Malaysia and the other countries of the region.

¹ Came into force on 21 June 1988 by signature, in accordance with article X (b).

3. The Regional Office shall be headed by a Resident Representative and staffed by such other personnel as may be appointed by CAB International.

4. The Government shall afford every assistance to CAB International to secure appropriate office accommodation with necessary communication facilities and utilities for the establishment and operation of the Regional Office.

Article III. LEGAL STATUS AND FREEDOM OF ACTION

1. CAB International shall have legal personality and, in particular, shall have capacity:

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

2. CAB International shall have the independence and freedom of action belonging to an intergovernmental international organisation.

Article IV. INVIOABILITY OF THE REGIONAL OFFICE AND THE ARCHIVES

1. The premises of CAB International wherever located and by whomsoever held shall be inviolable and shall be under the control and authority of CAB International.

2. The archives, official documents and other materials of the Regional Office shall be inviolable and the term archives includes all records, correspondence, documents, manuscripts, photographs, films and recordings belonging to or held by CAB International.

Article V. PROPERTY OF CAB INTERNATIONAL

1. Within the scope of its official activities and in accordance with local laws and regulations, CAB International and its property shall be exempted from:

(a) Any form of direct taxation. CAB International however will not claim exemption for taxes which are in fact no more than charges for public utility services.

(b) All excise duties, customs duties and sales tax on vehicles or goods whose purchase, import or export by CAB International is necessary for its official use. Goods and articles imported under such exemption may not be disposed of in Malaysia except with the payment of the exempted taxes in accordance with the Laws of Malaysia. In the case of goods the import and export of which is allowed subject to compliance with certain formalities CAB International shall comply with those formalities before the goods can be imported or exported.

2. The exemption in respect of taxes or customs duties under this Article shall not be granted in respect of goods and services supplied for the personal benefit of staff members of CAB International.

3. The exemptions referred to above shall not apply to such levies, duties and taxes payable under the laws of Malaysia by persons who are citizens or residents of Malaysia employed by the Regional Office.

Article VI. FINANCIAL FACILITIES

1. The Regional Office may operate bank accounts, both internal and external, subject to compliance with the rules which are stipulated by the Controller of Foreign Exchange.

Article VII. ACCESS AND RESIDENCE

1. The Government shall grant visas, entry and work permits and take all measures to facilitate the entry into, residence in, and departure from Malaysia of the officers and staff members of the Regional Office.

2. The provisions of this Article in relation to entry, residence and departure shall apply to the spouses and dependent children of the staff member of the Regional Office, to the officers and staff of CAB International including experts and consultants performing assignments for CAB International and other persons invited by CAB International to the Regional Office on official business.

3. The provisions of this Article shall not apply to citizens or residents of Malaysia.

Article VIII. PRIVILEGES AND IMMUNITIES

1. Officers and staff of the Regional Office except those who are citizens or residents of Malaysia shall enjoy the following privileges and immunities:

(a) Exemption from any form of direct taxation on or in respect of the salaries and emoluments paid to them by CAB International.

(b) Exemption from direct taxation on income derived from sources outside Malaysia.

(c) In the event of the death of an officer or member of staff of the Regional Office or his spouse or dependent child then living with him, the Government shall impose no impediment to the export of movable property of the deceased, with the exception of any property acquired in the country the export of which is prohibited at the time of his death. Estate, succession and inheritance duties or taxes shall not be levied on movable property the presence of which in Malaysia is due solely to the presence of the deceased as an officer or staff of the Regional Office or as a member of his family.

(d) They may bring into Malaysia through authorised channels for their personal use a reasonable amount of foreign exchange and may take out of Malaysia in accordance with the Malaysian Exchange Control regulations up to the same amount, in the same currency as they brought into Malaysia, together with the balance of such amount as may have been earned in Malaysia, in relation to their official duties with the Regional Office.

(e) The same protection and repatriation facilities with respect to themselves as are normally accorded to diplomatic envoys in time of international crises.

(f) The privileges to import on first appointment to the Regional Office free of customs duty or sales tax in respect of their bona fide personal effects including one motor vehicle only for personal use, and essential basic household equipment brought into Malaysia for their own use within six months after first taking up their posts in Malaysia provided that prior to the arrival of the articles, a detailed list thereof submitted to the Resident Representative and certified by him as being bona

fide personal effects and essential basic household equipment is furnished to the Director-General of Customs.

Any personal effects or household equipment in respect of which the aforesaid exemptions are given if disposed of in Malaysia during or at the end of the period of the officer's mission in Malaysia, shall be subject to the normal customs duties, sales tax or other charge at the rate and value in force at the date of the disposal. Provided further that the exemption from tax shall be given only once notwithstanding that the staff member's assignment may be extended beyond the original period of his assignment.

2. Persons who are invited by CAB International to the Regional Office on official business and who are not citizens or residents of Malaysia shall be accorded the privileges and immunities stated in paragraph 1 above to the extent that are necessary for the carrying out of their official functions.

3. Officers and staff of the Regional Office shall be exempt from national service obligations in Malaysia. This exemption shall not apply to citizens or residents of Malaysia.

4. The aforesaid privileges and immunities accorded to officers and staff of the Regional Office shall also be extended to their spouses and dependent children.

5. In addition to the immunities and privileges specified in this Article, the Resident Representative, including any official appointed by CAB International to act on his behalf during his absence from duty, who is not a citizen or resident of Malaysia, shall be accorded the privileges and immunities, exemptions and facilities accorded to heads of mission.

6. The Regional Office shall from time to time communicate to the Government the names of those officers and staff to whom the provisions of this Article and Article VII shall apply.

7. The Government shall issue to all staff members except those who are citizens or residents of Malaysia on notification of their appointment a card bearing a photograph of the holder and identifying him as a staff member. The card shall be accepted as evidence of identity and appointment.

8. The privileges, immunities, exemptions and facilities accorded in this Agreement are granted in the interest of CAB International and not for the personal benefit of the individuals themselves. CAB International shall waive the immunity accorded to any person if, in its opinion, such immunity would impede the course of justice and the waiver would not prejudice the purposes for which the immunities are accorded.

9. CAB International shall take every measure to ensure that the privileges, immunities, exemptions and facilities conferred by this Agreement are not abused and for this purpose shall establish such rules and regulations as it may deem necessary and expedient. There shall be consultation between the Government and CAB International should the Government consider that an abuse has occurred.

Article IX. SETTLEMENT OF DISPUTES

1. Any dispute between the Government and CAB International concerning the interpretation or application of this Agreement or any supplementary agreements, or any question affecting the Regional Office or the relationship between the Government and CAB International, which is not settled by negotiation or other

agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators, one to be appointed by the Government, one to be appointed by CAB International, and the third, who shall be chairman of the tribunal, to be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the third, the Government and CAB International shall request the President of the International Court of Justice to choose the third arbitrator. A majority vote of the arbitrators shall be sufficient to reach decision which shall be final and binding. The third arbitrator shall be empowered to settle all questions of procedure in any case where there is disagreement with respect thereto.

Article X. GENERAL

(a) With regard to any or all matters connected with the Regional Office, its property and its personnel not determined by this Agreement, CAB International will be accorded by the Government the same treatment as it accords to other intergovernmental international organisations in Malaysia.

(b) This Agreement shall come into force upon signature by the parties thereto and may be terminated by agreement between CAB International and the Government.

(c) In the event of the transfer or closure of the Regional Office this Agreement shall continue to be in force for the period reasonably required for the settlement of the affairs of the Regional Office and the disposal of its property and shall cease to be in force thereafter.

DONE at Kuala Lumpur on 21st June 1988.

For CAB International:

[Signed]

Mr. DON MENTZ

Director-General
CAB International

For the Government of Malaysia:

[Signed]

Hon. DATO' AHMAD BADRI BIN
MOHAMED BASIR
Secretary-General
Ministry of Agriculture
Malaysia

[RELATED LETTER]

CAB INTERNATIONAL

21 June 1988

Dear Dato' Ahmad

Agreement between CAB International and the Government of Malaysia regarding the Establishment in Malaysia of a Regional Office of CAB International

In the course of the negotiations on the above Agreement which took place between representatives of the Government of Malaysia and CAB International on 26 January 1988, and subsequently by exchange of telexes, certain clarifications of the Articles of Agreement were agreed upon.

This letter records the agreed clarifications as follows:

1. *Article V Property of CAB International*

It is understood that the exemptions will include "restrictions on import and export of living organisms, subject to agreement in all cases with the appropriate quarantine officers of the Government of Malaysia".

2. *Articles V and VIII Privileges and Immunities read with Article X(a)*

It is understood that with reference to Articles V and VIII, CAB International would enjoy immunity from legal suit in Malaysia for actions taken under the Agreement and its officers and staff shall enjoy immunity from legal process in Malaysia in respect of official acts performed under the Agreement, except where it is agreed between the Government of Malaysia and CAB International that such acts constitute wilful misconduct. The purpose of this understanding is to ensure that CAB International and its staff achieve adequate professional indemnity coverage in Malaysia for official acts performed under the Agreement.

Your confirmation of these clarifications will be greatly appreciated.

Yours sincerely,

[Signed]

DON MENTZ

Director General
CAB International

Confirmed:

[Signed]

DATO' AHMAD BADRI BIN
MOHAMED BASIR
Secretary General
Ministry of Agriculture

21 June 1988

The Honourable Dato' Ahmad Badri bin Mohamed Basir
Secretary General
Ministry of Agriculture
Kuala Lumpur, Malaysia