No. 44959*

United Nations
and
Fiji

Agreement between the United Nations and the Government of the Republic of the Fiji Islands relating to the establishment in Fiji of the Pacific Operations Centre of the United Nations Economic and Social Commission for Asia and the Pacific. Bangkok, 12 May 2008

Entry into force: *12 May 2008 by signature, in accordance with article XII*

Authentic texts: *English*

Registration with the Secretariat of the United Nations: *ex officio, 12 May 2008*

Organisation des Nations Unies
et
Fidji

Accord entre l'Organisation des Nations Unies et le Gouvernement de la République des Fidji relatif à l'établissement aux Fidji du Centre des activités opérationnelles dans le Pacifique de la Commission économique et sociale des Nations Unies pour l'Asie et le Pacifique. Bangkok, 12 mai 2008

Entrée en vigueur : *12 mai 2008 par signature, conformément à l'article XII*

Textes authentiques : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *d'office, 12 mai 2008*

* *The text reproduced below is the original text of the agreement as submitted. For ease of reference, it was sequentially paginated. The final UNTS version of it is not yet available.*

Le texte reproduit ci-dessous est le texte authentique de l'accord tel que soumis pour enregistrement. Pour référence, il a été présenté sous forme de la pagination consécutive. La version finale RTNU n'est pas encore disponible.

[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT BETWEEN
THE UNITED NATIONS AND THE GOVERNMENT OF THE REPUBLIC OF THE FIJI ISLANDS
RELATING TO THE ESTABLISHMENT IN FIJI OF
THE PACIFIC OPERATIONS CENTRE
OF THE UNITED NATIONS ECONOMIC AND SOCIAL COMMISSION
FOR ASIA AND THE PACIFIC

The United Nations and the Government of the Republic of the Fiji Islands,

Considering that at its 60th Session the United Nations Economic and Social Commission for Asia and the Pacific, by resolution 60/6 of 28 April 2004 on the Revitalization of the UNESCAP Pacific Operations Centre (EPOC) decided to move the Pacific Operations Centre to the Republic of the Fiji Islands from the Republic of Vanuatu;

Desiring to conclude an agreement for the purpose of the establishment of a Pacific Operations Centre in the Republic of the Fiji Islands;

Whereas the Government of the Republic of the Fiji Islands agrees to ensure the availability of all the necessary facilities to enable the Pacific Operations Centre to perform its functions and any related activities;

Have agreed as follows:

ARTICLE I
Definitions

SECTION 1

In this Agreement, unless the context otherwise requires, the following terms have the following meanings:

[a] "The EPOC" means the United Nations ESCAP Pacific Operations Centre;

[b] "ESCAP" means the United Nations Economic and Social Commission for Asia and the Pacific;

[c] "The Government" means the Government of the Republic of the Fiji Islands;

[d] "Head" means the Head of the EPOC or his authorized representative;

[e] "Laws of Fiji" means the Constitution and Laws of the Republic of the Fiji Islands, and includes decrees, ordinances regulations and orders, issued by or under authority of the Government or its agencies;

[f] "Working Site" means the premises occupied by the EPOC, including any buildings and the land ancillary thereto as may be utilized for the purposes of the EPOC;

[g] "Archives of the EPOC" means all records, correspondence, documents and other materials belonging to or held by or on behalf of the EPOC;

[h] The expression "officials of the EPOC" means the Head and all members of his staff whether stationed in the Republic of the Fiji Islands or elsewhere and who are assigned to the Republic of the Fiji Islands for any period of time for the purpose of the EPOC, irrespective of nationality, with the exception of officials or employees who are both locally recruited and assigned to hourly rates;

[i] The expression "expert of the EPOC" means expert on missions for the United Nations as referred to in Section 22 of the Convention on the Privileges and Immunities of the United Nations;

[j] "Property" means all property including funds, assets and rights belonging to the EPOC or held or administered by it in furtherance of its constitutional functions;

[k] "General 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, to which the Republic of the Fiji Islands is a party;

[l] "Representatives of Governments" includes all delegates, deputy delegates, representatives, alternates, advisers, technical experts, and secretaries of delegates.

ARTICLE II
Juridical Personality and Capacity

SECTION 2

The United Nations acting through the EPOC shall have full juridical personality and in particular the full capacity:

[a] To contract;

[b] To acquire and dispose of immovable and movable property; and

[c] To institute legal proceedings.

ARTICLE III
Control of Working Site

SECTION 3

The Working Site shall be under the control and authority of the EPOC.

SECTION 4

[a] The Working Site shall be inviolable. Government officers and officials shall not enter the Working Site to perform their official duties except upon the agreement or at the request of the Head of the EPOC;

[b] Without prejudice to the provisions of the General Convention or of this Agreement, the EPOC shall prevent the Working Site from being used as a refuge by persons who are required by the Government for extradition to another country, or who are endeavouring to avoid service of legal process or judicial proceedings;

[c] The archives of the EPOC and in general all documents belonging to or held by the EPOC shall be inviolable.

SECTION 5

[a] The appropriate authorities of the Republic of the Fiji Islands shall exercise due diligence to ensure that the tranquility of the Working Site is not disturbed by any person attempting unauthorized entry or creating disturbance in the immediate vicinity of the Working Site;

[b] If so requested by the United Nations or the Head of the EPOC, the appropriate authorities of the Republic of the Fiji Islands shall provide a sufficient number of police for the preservation of law and order in the Working Site, and for the removal therefrom of offenders.

ARTICLE IV
Property, Funds and Assets

SECTION 6

The EPOC shall in respect of its property, wherever located and by whomsoever held, enjoy immunity from every form of legal process except insofar as in any particular case the United Nations has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

SECTION 7

The Working Site and the property of the EPOC, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

SECTION 8

The assets, income and other property of the EPOC shall be exempt:

[a] From any form of direct taxation. The EPOC, however, will not claim exemption from taxes, which are, in fact, no more than charges for public utility services;

[b] From customs duties and from prohibitions and restrictions on imports and exports in respect of articles imported or exported by the EPOC for its official use, on the understanding that articles imported under such immunity shall not be sold within the country except in accordance with conditions to be mutually agreed upon;

[c] From customs duties and prohibitions and restrictions in respect of the import and export of its publications.

SECTION 9

The EPOC shall be exempt from excise duties, sales, and luxury taxes and all other indirect taxes when it is making important purchases for official use by the EPOC of property on which such duties or taxes are normally chargeable. However, EPOC will not, as a general rule, claim exemption from excise duties, and from taxes on the sale of movable and immovable property which form part of the price to be paid, and cannot be identified separately from the sales price.

SECTION 10

Notwithstanding financial controls, regulations or moratoria of any kind, the United Nations acting through the EPOC may in the Republic of the Fiji Islands, freely:

[i] Purchase, hold and dispose of any funds, currencies, financial instruments and securities, operate accounts in any currency, engage in financial transactions and conclude financial contracts; and,

[ii] Transfer its funds, currencies, financial instruments, securities, to or from the Republic of the Fiji Islands, from or to any other country or within the Republic of the Fiji Islands and convert any currency held by it into any other currency.

ARTICLE V
Communications

SECTION 11

[a] For postal, telephone, telegraph, internet or e-mail communications etc., the Government shall accord to the EPOC 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;

[b] The Government shall secure the inviolability of the official communications of the EPOC, whatever the means of communications employed, and shall not apply any censorship to such communications;

[c] The EPOC shall have the right to use codes and to despatch and receive official communications, whatever the means of communications employed.

SECTION 12

The United Nations may install and operate in the Republic of the Fiji Islands point-to-point telecommunication facilities and other communication and transmission facilities as may be necessary to facilitate communications with the EPOC both from within and outside the Republic of the Fiji Islands.

ARTICLE VI
Representatives of Governments

SECTION 13

Representatives of Governments participating in the work of the EPOC or in any conferences which may be convened by the United Nations at the Working Site shall be entitled in the Republic of the Fiji Islands while exercising their official functions and during their journey to and from the Working Site, to the same privileges and immunities as are specified in Article IV of the General Convention.

ARTICLE VII
Access and Residence

SECTION 14

[a] The appropriate authorities of the Republic of the Fiji Islands shall not interfere with the transit to or from Headquarters of persons holding official posts therein or of persons invited thereto in connection with the official work and activities of the EPOC upon their arrival, in or departure from, the Republic of the Fiji Islands.

[b] The Government undertakes, for this purpose, to allow the entry into and residence in the Republic of the Fiji Islands of the persons listed hereunder during their assignment or during the performance of their duties for the EPOC, without charging visa fees and without delay:

[i] Representatives of Members of ESCAP participating in the work of EPOC, including alternate representatives, advisers, experts and staff;

[ii] EPOC officials and experts, as well as their spouses and dependent members of their families;

ARTICLE VIII
Privileges and Immunities of Officials, Experts and other Persons Performing Functions of the EPOC

SECTION 15

1. Officials of the EPOC shall enjoy within and with respect to the Republic of the Fiji Islands the privileges and immunities specified in Articles V and VII of the General Convention. In particular, they shall enjoy the following privileges and immunities:

[a] Immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

[b] Immunity from personal arrest and detention and from seizure of their personal baggage and official effects;

[c] Exemption from taxation on the salaries and emoluments paid to them by the United Nations;

[d] Immunity, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;

[e] Immunity from national service obligations;

[f] The right to import, free of duty, their furniture, appliances and other effects including one automobile, within a period not exceeding six [6] months after taking up their posts in the Republic of the Fiji Islands, and thereafter at five [5] years intervals in accordance with arrangements agreed upon with the Government. If the previously imported articles and effects [including automobiles] are to be sold, conveyed or transferred prior to the five [5] year interval period, payment of duties proportionate to the unspent portion of the five [5] year period will be required.

2. Experts of the EPOC shall enjoy within and with respect to the Republic of the Fiji Islands the privileges and immunities specified in Articles VI and VII of the General Convention.

SECTION 16

Other persons performing functions in connection with the work of the EPOC shall enjoy such privileges and immunities, facilities and courtesies as are necessary for the independent exercise of their functions.

SECTION 17

In addition to the immunities and privileges specified in Section 15, the Head of the EPOC shall be accorded in respect of himself, his spouse and dependent children, diplomatic facilities customarily accorded by the Government to other Heads of UN Organizations, present in the country.

SECTION 18

[a] The privileges and immunities accorded by this Article are granted in the interests of the EPOC and not for the personal benefit of the individuals themselves. The Secretary-General of the United Nations shall have the right and the duty to waive the immunity of any official, in any case where, in his opinion, such immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations or the EPOC;

[b] The EPOC shall co-operate at all times with the appropriate authorities of the Republic of the Fiji Islands to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this article;

[c] The EPOC and its officials shall co-operate at all times with the appropriate authorities of the Republic of the Fiji Islands to facilitate the proper administration of justice, secure the observance of police regulations, and prevent the occurrence of any abuses in connection with the privileges and immunities conferred by the Agreement. The Head shall upon request consult with the appropriate authorities of the Republic of the Fiji Islands. If such consultations fail to achieve a result satisfactory to both parties, the matter shall be determined in accordance with the procedure set out in Article XI.

ARTICLE IX
Laissez-Passer

SECTION 19

The Government shall recognize and accept the United Nations laissez-passer issued to officials of the EPOC as a valid travel document equivalent to a passport. Applications for visas from holders of United Nations laissez-passer shall be dealt with as speedily as possible.

ARTICLE X
Public Services and Division of Responsibilities Concerning Installation and Maintenance of Working Site

SECTION 20

The Government shall ensure that the premises of the EPOC are supplied with the necessary public utilities and services, and that such public utilities and services are supplied on equitable terms. In case of any interruption or threatened

interruption of any of such services the Government shall take appropriate steps to ensure that the operations of the EPOC are not prejudiced.

ARTICLE XI
Settlement of Disputes

SECTION 21

The Head 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 EPOC is a party;

[b] Disputes to which an official of EPOC is a party, provided that he/she enjoys immunity by reason of his/her official position, if such immunity has not been waived by the Secretary-General.

SECTION 22

Any dispute between the Government and the United Nations concerning the interpretation or implementation of this Agreement which is not settled by direct negotiations or other mutually accepted methods shall be resolved according to the procedures set out in Section 30 of the General Convention.

ARTICLE XII
Final Clauses

SECTION 23

This Agreement shall enter into force on the date of its signature.

SECTION 24

[a] The provisions of the General Convention and of this Agreement shall, where they relate to the same subject matter, be treated wherever possible as complementary, so that the provisions of both shall be applicable and neither shall narrow the effect of the other; but in any case of absolute conflict, the provisions of this Agreement shall prevail;

[b] Consultations with respect to modifications of this Agreement shall be entered into at the request of the Government or of the United Nations. Any such modification shall be made in writing by mutual consent.

[c] This Agreement shall be interpreted in the light of its primary purpose to enable the EPOC fully and efficiently to discharge its responsibilities and to fulfil its objectives;

[d] Wherever this Agreement imposes obligations on the appropriate authorities of the Republic of the Fiji Islands the ultimate responsibility for the fulfilment of such obligations shall rest with the Government;

[e] This Agreement and any supplementary agreement entered into between the Government and the United Nations within the scope of its terms of reference shall cease to be in force six months after either of the Parties shall have given notice in writing to the other except as regards provisions which may apply to the normal cessation of the activities of the EPOC within the Republic of the Fiji Islands and the disposal of its property.

IN WITNESS WHEREOF:

The respective representatives duly authorized thereto have signed this Agreement in duplicate in the English language.

DONE AT BANGKOK THIS TWELFTH DAY OF MAY 2008.

FOR THE GOVERNMENT OF THE REPUBLIC OF THE FIJI ISLANDS:

By: Ratu Epeli Nailatikau (Mr)
Minister for Foreign Affairs
Government of the Republic
of the Fiji Islands

FOR THE UNITED NATIONS:

By: Noeleen Heyzer (Ms)
Under-Secretary-General of the
United Nations and ESCAP
Executive Secretary