

No. 49470*

**United Nations
and
India**

Agreement between the United Nations and the Government of India relating to the establishment of the subregional office for South and South-West Asia of the United Nations Economic and Social Commission for Asia and the Pacific. Bangkok, 13 March 2012

Entry into force: *13 March 2012 by signature, in accordance with article XX*

Authentic text: *English*

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**Organisation des Nations Unies
et
Inde**

Accord entre l'Organisation des Nations Unies et le Gouvernement de la République de l'Inde relatif à la création d'un bureau sous-régional pour l'Asie du Sud et du Sud-Ouest de la Commission économique et sociale des Nations Unies pour l'Asie et le Pacifique. Bangkok, 13 mars 2012

Entrée en vigueur : *13 mars 2012 par signature, conformément à l'article XX*

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[ENGLISH TEXT – TEXTE ANGLAIS]



English

**AGREEMENT
BETWEEN THE UNITED NATIONS AND
THE GOVERNMENT OF INDIA
RELATING TO THE ESTABLISHMENT OF THE SUBREGIONAL OFFICE FOR SOUTH
AND SOUTH-WEST ASIA OF THE UNITED NATIONS ECONOMIC AND SOCIAL
COMMISSION FOR ASIA AND THE PACIFIC**

The United Nations and the Government of India,

CONSIDERING that the General Assembly of the United Nations decided in its resolution 63/260 of 24 December 2008, to approve the establishment of an ESCAP Sub-regional Office for South and South-West Asia,

WHEREAS the Commission, in its letter dated 6 October 2009, following a comprehensive process of consultations with member States, accepted the offer from the Government of India, to establish the ESCAP Sub-regional Office for South and South-West Asia in New Delhi,

WHEREAS the Government of India agrees to ensure the availability of all necessary facilities to enable the Sub-regional Office to perform its functions and any related activities,

DESIRING to conclude an agreement for the purpose of the establishment of an ESCAP Sub-Regional Office for South and South-West Asia in India.

HAVE AGREED as follows:

[Signature]

[Signature]



Article I
Definitions

In this Agreement, the expression(s):

- (a) "ESCAP" means the United Nations Economic and Social Commission for Asia and the Pacific;
- (b) "the Host Country" means India;
- (c) "the Government" means the Government of India;
- (d) "the Parties" means the United Nations and the Government;
- (e) "the Office" means ESCAP Sub-regional Office for South and South-West Asia;
- (f) "the Head of Office" means the senior officer appointed by the Secretary-General, or the authorized representative of the senior officer;
- (g) "the 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 India acceded on 13 May 1948 without reservation;
- (h) "the Pension Fund" means the United Nations Joint Staff Pension Fund or its successors;
- (i) "competent authorities" means central, local or other authorities under the laws of the Host Country;
- (j) "Officials" means all staff members assigned to the Office, irrespective of nationality, with the exception of persons who are locally recruited and assigned to hourly rates as provided for in United Nations General Assembly resolution 76(1) of 7 December 1946;

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- (k) "Experts on Mission" means persons, other than officials of the Office, performing missions at the request of or on behalf of the Office;
- (l) "archives of the Office" means all records, correspondence, documents, manuscripts, computer records, still and motion pictures, film and sound recordings, belonging to or held by the Office in furtherance of its functions;
- (m) "Office premises" means the facilities in the Host Country used for conducting functions by the Office;
- (n) "property of the Office" means all property, including funds, income and other assets belonging to the Office or held or administered by the Office in furtherance of the functions of the Office;
- (o) "the Secretary-General" means the Secretary-General of the United Nations; and
- (p) "communications" means any emission, transmission or reception of written or verbal information, images, sound or information of any nature by wire, radio, satellite, optical fibre or any other electronic or electromagnetic means.

Article II

Establishment of the Office

1. The Office shall be established in the city of New Delhi, India.
2. The Parties shall cooperate in ensuring the uninterrupted operation of the Office.

Article III

Objective

The objective of the Office is to promote inclusive and sustainable development and the achievement of the internationally agreed development goals, including the Millennium

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Development Goals, focusing on the specific priorities of ESCAP member States in South and South-West Asia.

The presence of the Office will strengthen ESCAP presence and interventions at the subregional level, enabling better targeting and delivery of programmes that address specific key priorities in South and South West Asia subregion as decided by the Member States of UNESCAP.

Article IV
Legal Capacity

1. The Office shall have the capacity:
 - (a) to contract;
 - (b) to acquire and dispose of movable and immovable property; and
 - (c) to institute legal proceedings.

Article V
The Office

1.
 - (a) The Office premises shall be inviolable. No officer or official of the competent authorities shall enter the Office premises to perform any official duties therein except with the express consent of, and under the conditions approved by the Head of Office, at his request.
 - (b) Nothing in this Agreement shall prevent the reasonable application by the competent authorities of measures for the protection of the Office premises against fire or other emergency requiring prompt protection action.
 - (c) The Office premises shall be used solely to further its purposes and activities. The Head of Office may also permit the use of the Office premises and facilities for meetings, seminars, exhibitions and other related purposes which are organized by the Office, the United Nations, ESCAP or other related organizations.

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(d) Without prejudice to the provisions of the General Convention or of this Agreement, the United Nations shall prevent the seat of the United Nations from being used as refuge by persons who are avoiding arrest by the competent Government authorities, who are required by the Government for extradition to another country, or who are endeavouring to avoid services of legal process.

2. The competent authorities are under a special duty to take reasonable steps to protect the Office premises against any intrusion or damage and to prevent any disturbance of the peace of the Centre or impairment of its dignity.

3. Except as otherwise provided in this Agreement or in the General Convention, the laws applicable in the Host Country shall apply within the Office premises. However, the Office premises shall be under the immediate control and authority of the Office itself which may establish regulations for the execution of its functions therein.

4. The Office shall be entitled to fly the United Nations flag and display its emblem on the Office premises and means of transport of the Office.

Article VI

Security and Protection

1. The competent authorities shall ensure the security and protection of the Office premises and exercise due diligence to ensure that the tranquillity of the Office premises is not disturbed by the unauthorized entry of persons or groups of persons from outside or by disturbances in its immediate vicinity. If so requested by the Head of Office, the competent authorities shall provide adequate police force necessary for the preservation of law and order in the Office premises or in its immediate vicinity, and for the removal of persons therefrom.

2. The competent authorities shall take effective and adequate action which may be required to ensure the appropriate security, safety and protection of persons referred to in

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this Agreement, which is indispensable for the proper functioning of the Office free from interference of any kind.

Article VII
Public Services

1. The competent authorities shall use their best efforts, in consultation with the Office, to ensure that the Office premises shall be supplied with the necessary public utilities and services, including, without limitation by reasons of this enumeration, electricity, water, sewerage, gas, post, telephone, telegraph, local transportation, drainage, collection of refuse and fire protection, and that such public utilities and services shall be supplied on equitable terms.
2. In case of any interruption or threatened interruption of any such services, the competent authorities shall consider the needs of the Office as being of equal importance with the official agencies in the Host Country and shall take steps accordingly to ensure that the work of the Office is not prejudiced.
3. The Head of Office shall, upon request, make suitable arrangements to enable the appropriate public service bodies to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the Office premises.

Article VIII
Archives of the Office

1. The archives of the Office shall be inviolable.

Article IX
Legal Status of the Office

1. The General Convention shall be applicable to the Office, the Head of Office, Officials and experts on mission.

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

3. The property of the Office, 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.

Article X

Communications Facilities

1. The Office shall enjoy, for its official communications, treatment not less favourable than that accorded by the Host Country to any Government, including the latter's diplomatic mission, in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communication, and press rates for information to the press and radio.

2. No censorship shall be applied to the official correspondence and other official communications of the Office.

3. The Office shall have the right to use codes and to despatch and receive correspondence by couriers and bags. The bags must bear visibly the United Nations emblem and may contain only documents or articles intended for official use, and the courier shall be provided with a courier certificate issued by the United Nations.

Article XI

Exemption from Taxes, Duties, Import or Export Restriction

1. The Office, its assets, income and other property shall be:

- (a) exempt from all direct and indirect taxes; it is understood, however, that the Office will not claim exemption from taxes which are, in fact, no more than taxes or

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charges for public utility services, according to the amount of services rendered, and which can be specifically identified, described and itemized;

(b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Office for its official use. It is understood, however, that articles imported under such exemption will not be sold in the Host Country except under conditions agreed with the competent authorities;

(c) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

2. While the Office 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, nevertheless when the Office is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, the competent authorities will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

Article XII

Funds, Assets and Other Property

1. Without being restricted by financial controls, regulations or moratoria of any kind, the Office may:

(a) hold funds, gold or currency of any kind and operate accounts in any currency;

(b) freely transfer its funds, gold or currency to or from the Host Country or within the Host Country and convert any currency held by it into any other currency.

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Article XIII

United Nations' Meetings

1. Any building in or outside New Delhi which may be used with the concurrence of the Government for conferences, meetings, seminars, training courses, symposiums, workshops and similar activities organised by the United Nations shall be temporarily included in the Office premises and shall be deemed to be covered by this Agreement for the duration of such conferences, meetings, seminars, training courses, symposiums, workshops and similar activities organised by the United Nations.

Article XIV

Access, Transit and Residence

1. The competent authorities shall take all necessary measures to facilitate the entry into, sojourn in and transit through the Host Country territory of the persons listed below and their spouses and relatives dependent on them for the purposes of official business of such persons related to the Office:

- (a) the Head of Office, Officials and experts on mission;
- (b) persons performing services, fellows and trainees of the Office;
- (c) Officials of the United Nations or specialized agencies or of the International Atomic Energy Agency, having official business with the Office;
- (d) Personnel of the research and training centres and programmes and associated institutions of ESCAP, and persons participating in the programmes of ESCAP; and
- (e) Other persons invited by the Office on official business.

2. The Office shall notify the competent authorities as far as possible in advance, of the names of the persons described in paragraph 1 above, and of their spouses and relatives dependent on them, together with other relevant data regarding them, as well as any changes therein. The facilities provided for in this Article include granting of visas without charge and as promptly as possible, where required for persons referred to above.

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3. No act performed by any person referred to in paragraph 1 in his official capacity with respect to the Office shall constitute a reason for preventing his entry into or departure from, or for requiring him to leave, the territory of the Host Country.

Article XV

Privileges, Immunities and Other Facilities

1. Officials of the Office shall have:
 - (a) immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
 - (b) exemption from taxation on the salaries and emoluments paid to them by the Office;
 - (c) immunity from seizure or inspection of their official baggage;
 - (d) immunity from national service obligations.

2. In addition, internationally-recruited officials of the Office shall:
 - (a) be immune, together with their spouse and relatives dependent on them, from immigration restrictions and alien registration;
 - (b) be given, together with their spouse and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;
 - (c) have the right to import free of duty their furniture and effects at the time of first taking up their post in the Host Country. Thereafter, in respect of import of personal effects, including motor vehicles and consumables for personal use, the privileges enjoyed shall be the same as those enjoyed by officials of UN Agencies, Programmes and Funds in the Host Country.

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3. The Head of Office, in addition to the aforementioned privileges and immunities, may be accorded additional facilities consistent with the relevant laws and regulations of the Host Country.

4. Experts on mission shall enjoy such privileges and immunities as are provided for *mutatis mutandis* in Article VI of the General Convention. In addition, they shall be entitled to the privileges, immunities and facilities specified in paragraph 2 above.

5. Privileges and immunities are granted by this Agreement in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any individual in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations.

Article XVI

Locally-recruited personnel assigned to hourly rates

1. The terms and conditions of employment for persons recruited locally and assigned to hourly rates, shall be in accordance with the relevant United Nations resolutions, decisions, regulations and rules as well as policies of the competent organs of the United Nations including ESCAP. Locally-recruited personnel shall be accorded all facilities necessary for the independent exercise of their function for the United Nations.

Article XVII

United Nations Laissez-Passer

1. The Government shall recognize and accept the United Nations laissez-passers issued to Officials as a valid travel document equivalent to a passport. Visas and entry permits, where required, shall be granted free of charge and as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

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2. Similar facilities specified in paragraph 1 above shall be accorded to persons who though not the holders of United Nations laissez-passer have a certificate that they are travelling on the business of the United Nations.

Article XVIII

Social Security and the Pension Fund

1. The Pension Fund shall enjoy legal capacity in the Host Country and shall enjoy the same exemptions, privileges and immunities as the United Nations itself. Benefits received from the Pension Fund shall be exempt from taxation.

2. The Parties agree that, owing to the fact that officials of the United Nations are subject to the United Nations Staff Regulations and Rules, including Article VI thereof, which establish a comprehensive social security scheme, the United Nations and its officials, irrespective of nationality, shall be exempt from the laws of the Host Country on mandatory coverage and compulsory contributions to the social security schemes of the Host Country during their appointment with the United Nations.

3. The provisions of paragraph 2 above shall apply *mutatis mutandis* to the members of families forming part of the household of persons referred to in paragraph 2 above, unless they are employed or self-employed in the Host Country or receive social security benefits from the Host Country.

Article XIX

Settlement of Disputes

1. The United Nations shall make provisions for appropriate modes of settlement of:
- (a) disputes arising out of the contracts or other disputes of a private law character to which the United Nations is a party; and

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(b) disputes involving any of the individuals covered by this Agreement who by reasons of his or her official position enjoys immunity, if immunity has not been waived in accordance with Article XV, paragraph 5.

2. Any disputes between the Parties concerning the interpretation or application of this Agreement or of any supplemental agreement, or any question affecting the Office premises, 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 the Secretary-General, and the third, who shall be the chairperson of the tribunal, to be appointed by the first two arbitrators. Should the first two arbitrators fail to agree upon the third within six months following the appointment of the first two arbitrators, such third arbitrator shall be appointed by the President of the International Court of Justice at the request of the United Nations or the Government.

Article XX

General Provisions

1. Without prejudice to the privileges and immunities accorded by this Agreement, it is the duty of all persons enjoying such privileges and immunities to observe the laws and regulations of the Host Country. They also have a duty not to interfere in the internal affairs of the Host Country.

(a) The Head of Office shall take every precaution to ensure that no abuse of a privilege or immunity conferred by this Agreement shall occur, and for this purpose shall establish such rules and regulations as may be deemed necessary and expedient, for the Officials and experts and for such other persons as may be appropriate.

(b) Should the Government consider that an abuse of a privilege or immunity conferred by this Agreement has occurred, the Head of Office shall, upon request, consult with the competent authorities to determine whether any such abuse has occurred. If such consultations fail to achieve a result satisfactory to the Government

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and to the Head of Office, the matter shall be determined in accordance with the procedure set out in Article XIX, paragraph 2.

2. The provisions of this Agreement and the provisions of the General Convention shall be applicable to the Office with equal force. Nothing in the present Agreement shall be construed as prejudicial in any manner the provisions of the General Convention.
3. Consultations with respect to the modification of this Agreement shall be entered into at the request of either party. Any modification may be made by mutual consent.
4. The Parties may enter into such supplemental agreements as may be necessary.
5. This Agreement shall cease to be in force if the Office ceases to operate in or is removed from the territory of the Host Country, except for such provisions as may be applicable in connection with the orderly termination of operations of the Office in the Host Country and disposal of its property therein.
6. This Agreement shall enter into force upon signature.

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IN WITNESS WHEREOF, the undersigned, duly appointed representatives of the Parties, have signed the present Agreement at Bangkok, Thailand on this 13 day of March, 2012, in the English language, in duplicate.

For the
UNITED NATIONS

For the
GOVERNMENT OF INDIA

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Ms. Noeleen Heyzer
Under-Secretary-General of
the United Nations and
ESCAP Executive Secretary

Mr. Anil Wadhwa
Ambassador Extraordinary and Plenipotentiary
of India to Kingdom of Thailand and
India's Permanent Representative to ESCAP