No. 50099*

Germany
and
Kuwait

Agreement between the Government of the Federal Republic of Germany and the Government of the State of Kuwait on cooperation in the field of security. Berlin, 13 February 2007

Entry into force: *2 August 2012, in accordance with article 11*

Authentic texts: *Arabic, English and German*

Registration with the Secretariat of the United Nations: *Germany, 13 September 2012*

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Allemagne
et
Koweït

Accord entre le Gouvernement de la République fédérale d'Allemagne et le Gouvernement de l'État du Koweït relatif à la coopération en matière de sécurité. Berlin, 13 février 2007

Entrée en vigueur : *2 août 2012, conformément à l'article 11*

Textes authentiques : *arabe, anglais et allemand*

Enregistrement auprès du Secrétariat des Nations Unies : *Allemagne, 13 septembre 2012*

Numéro de volume RTNU n'a pas encore été établie pour ce dossier. Les textes réproduits ci-dessous, s'ils sont disponibles, sont les textes authentiques de l'accord/pièce jointe d'action tel que soumises pour l'enregistrement et publication au Secrétariat. Pour référence, ils ont été présentés sous forme de la pagination consécutive. Les traductions, s'ils sont inclus, ne sont pas en form finale et sont fournies uniquement à titre d'information.

(2) This Agreement shall be concluded for an unlimited period of time. The Agreement may be terminated by either Contracting Party in writing through diplomatic channels. The termination shall take effect six months after the date on which the Contracting Party received it.

Done at Berlin on 13.02.07 or A.H. ..... in the Islamic calendar, in duplicate in the German, Arabic and English languages, all three texts being authentic. In case of divergent interpretations of the German and Arabic texts, the English text shall prevail.

For the Government of the
Federal Republic of Germany

For the Government of the
State of Kuwait

6. The communicating agency and the receiving agency shall ensure that the data communicated are effectively protected against unauthorized access, unauthorized alteration and unauthorized disclosure.

7. A person shall be provided with information, upon request, about the data stored on file relating to him/her and on the intended use of that data. His/her right to information shall be based on the internal laws of the Contracting Party on whose territory the request for information has been filed. Such information may be refused if the interests of the party requesting the information are outweighed by the interests of the state in refusing to provide the information.

8. If the rights of any person are infringed upon in connection with data communicated under this Agreement, the agency receiving the data shall be obliged to pay compensation for damages caused within the scope of its internal laws.

Article 10
Protection of travel documents

The Contracting Parties undertake to guarantee the highest level of protection of travel documents against forgery. In so doing, they shall take into account the minimum security standards for machine-readable travel documents which have been recommended by the International Civil Aviation Authority (ICAO). They shall also advance the necessary technical developments in order to incorporate biometric features into their respective travel documents. The Contracting Parties shall support ICAO's standardization efforts and take into account the relevant ICAO recommendations. The Contracting Parties shall inform one another about the measures taken with regard to their own relevant travel documents.

Article 11
Entry into force and duration

(1) This Agreement shall enter into force thirty days after the date on which the Contracting Parties have notified each other in writing through diplomatic channels that the internal requirements for the entry into force have been fulfilled. The relevant date shall be the day on which the last notification was received.

Article 9
Personal data

The communication and use of personal data, hereinafter referred to as "data" by the agencies of the Contracting Parties referred to in Article 2, shall be based on the internal laws of each Contracting Party in compliance with the following provisions:

1. The communicating agency shall ensure that the data to be communicated are accurate, relevant and in relativity to the intent. In so doing, they shall respect the communication bans applicable under the relevant national law. The data shall not be communicated if the communicating agency has any grounds to assume that doing so could violate internal laws or harm the interests of the parties concerned which are worthy of protection. If it becomes evident that incorrect data has been communicated, the receiving agency shall be notified forthwith and the incorrect data shall be corrected.
   If it becomes evident that data has been communicated which should not have been communicated, the receiving agency shall be notified forthwith. The receiving agency must delete the incorrect data immediately.

2. The receiving agency of one Contracting Party shall, upon request, notify the communicating agency of the other Contracting Party as to how the data are to be used and of any results achieved.

3. The receiving agency shall use the data only for the purposes set forth in this Agreement and on the terms specified by the communicating agency. Furthermore, it shall be permissible to use any such data for the prevention and prosecution of serious criminal offences and for the purpose of averting serious danger to public security.

4. When communicating data, the communicating agency shall indicate any time limits for the retention of these data in accordance with its internal law, after which time the data must be deleted. Irrespective of these time limits, the data communicated shall be deleted as soon as they are no longer required for the purposes for which they were communicated.

5. The communicating agency and the receiving agency shall ensure that a record of the communication and receipt of personal data is kept on file.

(3) The Contracting Party filing the request shall be notified in writing of refusal to comply with the request for assistance in all cases. As a rule, the reasons for refusal shall be stated.

Article 6
Confidentiality and limitations of use

The two Contracting Parties shall treat all queries, information and documents they receive within the framework of this Agreement with utmost confidentiality at the request of the Contracting Party providing the information or documents.

Article 7
Evaluation of the Agreement and establishment of working groups

(1) The Contracting Parties shall enter into consultations, if necessary, in order to evaluate the implementation of this Agreement and the expediency of any supplements or amendments.

(2) The competent authorities of the Contracting Parties shall have the right to set up working groups, to organize meetings between experts and, if necessary, to agree on Protocols on the implementation of this Agreement.

Article 8
Basic and advanced training

The Government of the Federal Republic of Germany shall offer the Government of the State of Kuwait support in training its police force. The support shall be provided, upon request, in the form of basic and advanced training measures and through exchanges of experience.

3. exchange information on the prevention of the illegal manufacturing of and illegal trafficking in drugs and precursor substances;

4. deploy liaison officers as necessary;

5. provide the other Contracting Party, upon request, with a sample of objects and substances obtained from criminal activities that have been or have the potential for being used for criminal activity;

6. exchange research results particularly in the areas of criminalistics and forensics.

Article 4
Implementation of cooperation

(1) Cooperation under this Agreement shall be conducted in German or Arabic, with English translation.

(2) Requests for information or implementation of measures under this Agreement shall be transmitted in writing directly via the competent agencies referred to in Article 2. In urgent cases, requests may also be made verbally; however, verbal requests must be confirmed in writing without delay and within a maximum period of ten days.

(3) The Contracting Party filing the request shall bear any costs incurred in connection with compliance with the request, including travel expenses of its representatives.

Article 5
Failure to comply with a request

(1) Each Contracting Party shall have the right to refuse in full or in part to comply with a request filed under this Agreement or to make it contingent on conditions if compliance with the request could affect its sovereignty, security, its law and order or other important interests or if it is inconsistent with internal legal provisions.

(2) A Contracting Party shall also have the right to refuse to comply with a request if it is associated with an action which does not constitute a punishable offence under the laws of the Contracting Party with whom the request has been filed.

for the Government of the Federal Republic of Germany

1. the Federal Ministry of the Interior,
2. the Federal Ministry of Finance,
3. the Federal Ministry of Health,
4. the Federal Criminal Police Office,
5. the Federal Police Central Bureau,
6. the Customs Criminological Office;

for the Government of the State of Kuwait

1. the Ministry of the Interior

(2) The Contracting Parties shall notify each other through diplomatic channels of any changes in competencies or designation of the public authorities responsible for implementing this Agreement.

Article 3
Types of cooperation

For the purposes of implementing this Agreement, the Contracting Parties shall, within the framework of their internal laws:

1. exchange information on any criminal offences set forth in Article 1 of this Agreement which have either been committed or planned and which may be of interest to the other Contracting Party, as well as information about criminal organizations, their structures and links and on the means and methods of their activities, insofar as this is necessary for the prevention and solving of serious crime;

2. at the request of the other Contracting Party and insofar as the laws of the Contracting Party with whom the request was filed permit it, implement coordinated operational measures to prevent and solve crime in accordance with this Agreement, whereby permission may be granted to representatives of the other Contracting Party's competent public authorities to observe the implementation of any such operational measures; it shall not be permissible for these representatives to actually take part in operational measures;

6. Production, possession and dissemination of counterfeit money, falsification or forgery or use of forged or falsified means of non-cash payment, securities and documents,

7. White-collar and financial crime,

8. Intellectual property crime,

9. Computer crime,

10. Property-related crime,

11. Impairment of air and travel safety and security,

12. Motor vehicle crime.

(2) The Contracting Parties shall cooperate particularly in cases involving the committing of criminal activities or preparations for criminal activity on the sovereign territory of one of the Contracting Parties and if there is evidence to suggest that these activities have the capacity to adversely affect the sovereign territory of the other Contracting Party or to pose a threat to its security.

(3) This Agreement shall not affect the internal regulations governing extradition, any other judicial assistance in criminal matters, administrative and judicial assistance in fiscal matters or any of the Contracting Parties' obligations arising from bilateral or multilateral agreements.

Article 2

Competent agencies

(1) For the purpose of implementing this Agreement, cooperation between the Contracting Parties shall take place between the agencies referred to hereinafter in their area of responsibility, with the Ministries of the Interior being responsible for any coordination that is required between the competent agencies:

The Government of the Federal Republic of Germany
and
the Government of the State of Kuwait,
hereinafter referred to as the "Contracting Parties" -

motivated by the joint determination to further consolidate the friendly relations existing between the Federal Republic of Germany and the State of Kuwait and to develop prosperity, stability and peace in both countries,

desiring to support each other and to intensify cooperation in all areas of their respective competency,

mindful of the huge importance attached to cooperation in the field of security and the joint measures aimed at combating international terrorism and the financing thereof,

have agreed as follows:

Article 1
Object of cooperation

(1) The Contracting Parties shall cooperate in accordance with their internal laws in an endeavour to prevent and combat serious crime, particularly in the following areas:

1. Terrorism and terrorist financing,

2. Unlawful trafficking in arms, ammunition, explosives, nuclear and radioactive materials as well as chemical and biological materials,

3. Unlawful smuggling of foreigners, trafficking in persons and pimping,

4. Unlawful manufacturing and illegal trafficking in narcotics and psychotropic substances, hereinafter referred to as "drugs", and of precursor substances,

5. Money laundering,

[ARABIC TEXT – TEXTE ARABE]

Agreement

between

the Government of the Federal Republic of Germany

and

the Government of the State of Kuwait

on

Cooperation in the Field of Security

[ENGLISH TEXT – TEXTE ANGLAIS]

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1. the Federal Ministry of the Interior,
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Done at Berlin on 13.02.07 or A.H. ..... in the Islamic calendar, in duplicate in the German, Arabic and English languages, all three texts being authentic. In case of divergent interpretations of the German and Arabic texts, the English text shall prevail.

For the Government of the Federal Republic of Germany

For the Government of the State of Kuwait

[GERMAN TEXT – TEXTE ALLEMAND]

Abkommen

zwischen

der Regierung der Bundesrepublik Deutschland

und

der Regierung des Staates Kuwait

über

die Zusammenarbeit im Sicherheitsbereich

Die Regierung der Bundesrepublik Deutschland
und
die Regierung des Staates Kuwait,
im Folgenden „Vertragsparteien" genannt -

getragen von dem gemeinsamen Willen, die freundschaftlichen Beziehungen zwischen der Bundesrepublik Deutschland und dem Staat Kuwait weiter zu festigen und den Wohlstand, die Stabilität und den Frieden in beiden Staaten zu entwickeln,

in dem Wunsch, sich gegenseitig zu unterstützen und die Zusammenarbeit in allen Bereichen ihrer jeweiligen Zuständigkeit zu verstärken,

in der Überzeugung der besonders großen Bedeutung der Zusammenarbeit im Sicherheitsbereich und der gemeinsamen Maßnahmen zur Bekämpfung des internationalen Terrorismus und seiner Finanzierung-

sind wie folgt übereingekommen:

Artikel 1
Gegenstand der Zusammenarbeit

(1) Die Vertragsparteien arbeiten nach Maßgabe ihres innerstaatlichen Rechts bei der Vorbeugung und der Bekämpfung von Straftaten von erheblicher Bedeutung insbesondere in den nachstehenden Bereichen zusammen:

1. Terrorismus und Terrorismusfinanzierung;

2. unerlaubter Verkehr mit Waffen, Munition, Sprengstoffen, nuklearen und radioaktiven sowie chemischen und biologischen Materialien,

3. unerlaubte Einschleusung von Ausländern, Menschenhandel und Zuhälterei,

4. unerlaubte Herstellung und unerlaubter Verkehr von Betäubungsmitteln und psychotropen Stoffen, im Weiteren „Rauschgift" genannt, sowie von Vorläufersubstanzen hierzu,

5. Geldwäsche,

6. Herstellung, Besitz und Verbreitung von Falschgeld, Fälschung oder Verfälschung oder Verwendung von ge- oder verfälschten unbaren Zahlungsmitteln, Wertpapieren und Urkunden,

7. Wirtschafts- und Finanzkriminalität,

8. Straftaten gegen das geistige Eigentum,

9. Computerkriminalität,

10. Eigentumskriminalität,

11. Beeinträchtigung der Luft- und Reisesicherheit,

12. Kfz-Kriminalität

(2) Die Vertragsparteien arbeiten insbesondere in den Fällen zusammen, in denen kriminelle Handlungen oder Vorbereitungen zu solchen Handlungen im Hoheitsgebiet einer der Vertragsparteien begangen werden und es Anzeichen dafür gibt, dass diese Handlungen auch das Hoheitsgebiet der anderen Vertragspartei betreffen oder deren Sicherheit bedrohen können.

(3) Durch dieses Abkommen werden die innerstaatlichen Bestimmungen über die Auslieferung und die sonstige Rechtshilfe in Strafsachen sowie über die Amts- und Rechtshilfe in Fiskalsachen und sonstige in zweiseitigen oder mehrseitigen Verträgen enthaltenen Verpflichtungen der Vertragsparteien nicht berührt.

Artikel 2
Zuständige Stellen

(1) Zum Zweck der Durchführung dieses Abkommens erfolgt die Zusammenarbeit der Vertragsparteien zwischen den nachfolgend genannten Stellen in deren Zuständigkeitsbereich, wobei bei Bedarf die Koordination zwischen den zuständigen Stellen in beiden Ländern beim Innenministerium liegt:

auf Seiten der Regierung der Bundesrepublik Deutschland

1. Bundesministerium des Innern,
2. Bundesministerium der Finanzen,
3. Bundesministerium für Gesundheit,
4. Bundeskriminalamt,
5. Bundespolizeidirektion,
6. Zollkriminalamt;

auf Seiten der Regierung des Staates Kuwait

1. Innenministerium

(2) Die Vertragsparteien zeigen einander auf diplomatischem Weg Änderungen der Zuständigkeiten oder Bezeichnungen der Behörden an, die dieses Abkommen durchführen.

Artikel 3
Formen der Zusammenarbeit

Zum Zweck der Durchführung dieses Abkommens werden die Vertragsparteien im Rahmen ihres innerstaatlichen Rechts:

1. alle beide Vertragsparteien interessierenden Informationen über in Artikel 1 dieses Abkommens bezeichnete begangene oder geplante Straftaten ebenso wie über kriminelle Organisationen, deren Strukturen und Verbindungen sowie die Mittel und die Methoden deren Tätigkeit austauschen, soweit dies für die Verhütung und Aufklärung von Straftaten von erheblicher Bedeutung erforderlich ist;

2. auf Ersuchen der anderen Vertragspartei, und soweit das Recht der ersuchten Vertragspartei es zulässt, abgestimmte operative Maßnahmen zur Verhütung und Aufklärung von Straftaten gemäß diesem Abkommen durchführen, wobei sie dazu die Anwesenheit von Vertretern der zuständigen Behörden der anderen Vertragspartei als Beobachter bei der Durchführung solcher operativer Maßnahmen gestatten können; eine Mitwirkung der Vertreter an operativen Maßnahmen ist nicht zulässig;

3. Erfahrungen hinsichtlich der Bekämpfung der illegalen Herstellung und des illegalen Verkehrs von Rauschgift und Vorläufersubstanzen austauschen;

4. bei Bedarf Verbindungsbeamte entsenden;

5. einander auf Ersuchen einer der Vertragsparteien Muster von Gegenständen und Stoffen, die aus Straftaten erlangt oder für diese verwendet wurden oder werden können, zur Verfügung stellen;

6. Forschungsergebnisse insbesondere in den Bereichen der Kriminalistik und der Kriminaltechnik austauschen.

Artikel 4
Umsetzung der Zusammenarbeit

(1) Die Zusammenarbeit im Rahmen dieses Abkommens erfolgt in deutscher oder arabischer Sprache mit englischer Übersetzung.

(2) Ersuchen um Auskunft oder Durchführung von Maßnahmen nach diesem Abkommen werden von den in Artikel 2 genannten zuständigen Stellen schriftlich direkt übermittelt. In dringenden Fällen kann das Ersuchen auch mündlich übermittelt werden; es muss aber unverzüglich, spätestens innerhalb von zehn Tagen, schriftlich bestätigt werden.

(3) Die ersuchende Partei trägt die mit der Erledigung eines Ersuchens verbundenen Kosten einschließlich der Reisekosten für die von ihr entsandten Vertreter.

Artikel 5
Nichterfüllung eines Ersuchens

(1) Jede Vertragspartei kann die Erfüllung eines Ersuchens nach diesem Abkommen ganz oder teilweise verweigern oder sie von Bedingungen abhängig machen, wenn die Erfüllung dieses Ersuchens ihre Souveränität, ihre Sicherheit, ihre öffentliche Ordnung oder andere wesentliche Interessen ihrerseits beeinträchtigen kann oder wenn es ihren innerstaatlichen Rechtsvorschriften widerspricht.

(2) Das Ersuchen kann auch abgelehnt werden, wenn es im Zusammenhang mit einer Handlung erging, die nach dem Recht der ersuchten Vertragspartei keine strafbare Handlung ist.

(3) Die ersuchende Vertragspartei wird in allen Fällen über die Ablehnung, dem Ersuchen um Unterstützung nachzukommen, schriftlich unterrichtet. In der Regel werden die Gründe für die Verweigerung angegeben.

Artikel 6
Vertraulichkeit und Grenzen der Verwendung

Beide Vertragsparteien stellen auf Bitte der übermittelnden Seite eine vertrauliche Behandlung der Anfragen, Informationen und Dokumente sicher, die nach Maßgabe dieses Abkommens eingehen.

Artikel 7
Evaluierung des Abkommens und Einrichtung von Arbeitsgruppen

(1) Die Vertragsparteien werden zur Bewertung der Durchführung dieses Abkommens und der Zweckmäßigkeit seiner Ergänzung oder Änderung bei Bedarf Konsultationen durchführen.

(2) Die zuständigen Behörden der Vertragsparteien können Arbeitsgruppen einrichten, Expertentreffen durchführen und bei Bedarf Protokolle zur Durchführung dieses Abkommens vereinbaren.

Artikel 8
Aus- und Fortbildungsmaßnahmen

Die Regierung der Bundesrepublik Deutschland gewährt der Regierung des Staates Kuwait Unterstützung bei der Ausbildung ihrer Polizei. Die Unterstützung erfolgt auf Wunsch in Form von Aus- und Fortbildungsmaßnahmen sowie im Wege des Erfahrungsaustausches.

Artikel 9
Personenbezogene Daten

Die Übermittlung und die Verwendung personenbezogener Daten, nachfolgend „Daten" genannt, durch die Stellen der Vertragsparteien, die in Artikel 2 genannt sind, richten sich nach dem innerstaatlichen Recht jeder Vertragspartei unter Beachtung der nachfolgenden Bestimmungen:

1. Die übermittelnde Stelle ist verpflichtet, darauf zu achten, dass die zu übermittelnden Daten richtig und für den verfolgten Zweck erforderlich und angemessen sind. Dabei sind die nach dem jeweiligen innerstaatlichen Recht geltenden Übermittlungsverbote zu beachten. Die Übermittlung der Daten unterbleibt, wenn die übermittelnde Stelle Grund zu der Annahme hat, dass dadurch gegen den Zweck eines innerstaatlichen Gesetzes verstoßen würde oder schutzwürdige Interessen der betroffenen Personen beeinträchtigt würden. Erweist sich, dass unrichtige Daten übermittelt worden sind, so ist dies der empfangenden Stelle unverzüglich mitzuteilen und eine Berichtigung der unrichtigen Daten vorzunehmen.
   Erweist sich, dass Daten, die nicht hätten übermittelt werden dürfen, übermittelt worden sind, so ist dies der empfangenden Stelle unverzüglich mitzuteilen. Diese ist verpflichtet, die Löschung unverzüglich vorzunehmen.

2. Die empfangende Stelle einer Vertragspartei unterrichtet die übermittelnde Stelle der anderen Vertragspartei auf Ersuchen über die Verwendung der übermittelten Daten und über die dadurch erzielten Ergebnisse.

3. Die Verwendung der Daten durch die empfangende Stelle ist nur zu den in diesem Abkommen bezeichneten Zwecken und zu den durch die übermittelnde Stelle vorgegebenen Bedingungen zulässig. Die Verwendung ist darüber hinaus zur Verhütung und Verfolgung von schwerwiegenden Straftaten sowie zum Zweck der Abwehr von erheblichen Gefahren für die öffentliche Sicherheit zulässig.

4. Die übermittelnde Stelle weist bei der Übermittlung von Daten auf die nach ihrem innerstaatlichen Recht vorgesehenen Fristen für die Aufbewahrung dieser Daten hin, nach deren Ablauf sie gelöscht werden müssen. Unabhängig von diesen Fristen sind die übermittelten Daten zu löschen, sobald sie für den Zweck, für den sie übermittelt worden sind, nicht mehr erforderlich sind.

5. Die übermittelnde und die empfangende Stelle stellen sicher, dass die Übermittlung und der Empfang der Daten aktenkundig gemacht werden.

6. Die übermittelnde und die empfangende Stelle sind verpflichtet, die übermittelten Daten wirksam gegen unbefugten Zugang, unbefugte Veränderung und unbefugte Bekanntgabe zu schützen.

7. Einer Person ist auf Antrag über die zu ihr vorhandenen Daten sowie über deren vorgesehenen Verwendungszweck Auskunft zu erteilen. Ihr Recht auf Auskunftserteilung richtet sich nach dem innerstaatlichen Recht der Vertragspartei, in deren Hoheitsgebiet die Auskunft beantragt wird. Die Erteilung einer solchen Auskunft kann verweigert werden, wenn das Interesse des Staates, die Auskunft nicht zu erteilen, das Interesse des Antragstellers überwiegt.

8. Wird jemand im Zusammenhang mit Datenübermittlungen aufgrund dieses Abkommens rechtswidrig geschädigt, ist die empfangende Stelle nach Maßgabe ihres innerstaatlichen Rechts zum Ersatz des verursachten Schadens verpflichtet.

Artikel 10
Schutz von Reisedokumenten

Die Vertragsparteien verpflichten sich, die Fälschungssicherheit ihrer Reisedokumente auf höchstem Niveau zu gewährleisten. Hierbei werden sie die von der Internationalen Zivilluftfahrtorganisation (ICAO) für maschinenlesbare Reisedokumente empfohlenen Mindestsicherheitsstandards berücksichtigen. Außerdem werden sie die notwendigen technischen Entwicklungsarbeiten vorantreiben, um biometrische Merkmale in ihre jeweiligen Reisedokumente aufzunehmen. Die entsprechenden Standardisierungsbemühungen in der ICAO werden durch die Vertragsparteien unterstützt und einschlägige Empfehlungen der ICAO ebenfalls berücksichtigt. Die Vertragsparteien werden sich über die für ihre jeweiligen Reisedokumente getroffenen Maßnahmen unterrichten.

Artikel 11
Inkrafttreten und Geltungsdauer

(1) Dieses Abkommen tritt dreißig Tage nach dem Tag in Kraft, an dem die Vertragsparteien einander auf diplomatischem Weg schriftlich mitgeteilt haben, dass die innerstaatlichen Voraussetzungen für das Inkrafttreten erfüllt sind. Maßgebend ist der Tag des Eingangs der letzten Mitteilung.

(2) Dieses Abkommen wird auf unbestimmte Zeit geschlossen. Das Abkommen kann von jeder Vertragspartei auf diplomatischem Wege schriftlich gekündigt werden. Die Kündigung wird sechs Monate nach dem Tag wirksam, an dem sie der anderen Vertragspartei zugegangen ist.

Geschehen zu Berlin ..... am 13.02.07 ..... , dies entspricht dem ..... nach islamischer Zeitrechnung, in zwei Urschriften, jede in deutscher, arabischer und englischer Sprache, wobei jeder Wortlaut verbindlich ist. Bei unterschiedlicher Auslegung des deutschen und des arabischen Wortlauts ist der englische Wortlaut maßgebend.

Für die Regierung der
Bundesrepublik Deutschland

Für die Regierung des
Staates Kuwait