

AGREEMENT BETWEEN

THE UNITED NATIONS

AND

THE REPUBLIC OF KENYA

REGARDING THE HEADQUARTERS

OF THE

UNITED NATIONS ENVIRONMENT

PROGRAMME

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The United Nations and the Republic of Kenya,

Considering that the United Nations General Assembly, by resolution 2997 (XXVII) of 15 December 1972, has established institutional and financial arrangements for the United Nations Environment Programme, and, in response to an offer by the Government of Kenya, has, by resolution 3004 (XXVII) of 15 December 1972, decided that the Environment Secretariat shall be located at Nairobi;

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, to which the Republic of Kenya is a party, is ipso facto applicable to the United Nations Environment Programme;

Considering that it is desirable to conclude an agreement, complementary to the convention on the Privileges and Immunities of the United Nations, to regulate questions not envisaged in that Convention arising as a result of the establishment of the headquarters of the United Nations Environment Programme at Nairobi;

Have agreed as follows:

DEFINITIONS

SECTION 1

In this Agreement,

(a) The expression "the UNEP" means the institutional and financial arrangements for the United Nations Environment Programme established by the General Assembly of the United Nations in resolution 2997 (XXVII) of 15 December 1972, and such other institutional and financial arrangements as may from time to time be made for the United Nations Environment Programme. The United Nations Environment Programme shall, in particular, in accordance with resolution 2997 (XXVII), include the following:

- (i) the Governing Council of the United Nations Environment Programme (hereinafter referred to as "the Governing Council");
- (ii) the Executive Director of the United Nations Environment Programme;
- (iii) the Environment Secretariat;
- (iv) the Environment Fund; and
- (v) the Environment Co-ordination Board;

(b) The expression "Executive Director" means the Executive Director of the UNEP or any officer designated to act on his behalf;

(c) The expression "officials of the Environment Secretariat" means the Executive Director and all members of the staff of the UNEP, except those who are locally recruited and assigned to hourly rates;

(d) The expression "the Government" means the Government of the Republic of Kenya;

(e) The expression "appropriate Kenyan authorities" means such government, municipal or other authorities in the Republic of Kenya as may be appropriate in the context and in accordance with the laws and customs applicable in the Republic of Kenya;

(f) The expression "laws of the Republic of Kenya" includes:

(i) the Constitution of the Republic of Kenya; and

(ii) legislative acts, regulations and orders issued by or under authority of the Government or appropriate Kenyan authorities;

(g) The expression "headquarters seat" means:

(i) the headquarters area with the building or buildings upon it, as may from time to time be defined in supplemental agreements referred to in section 3 of article II hereof; and

(ii) any other land or building which may from time to time be included, temporarily or permanently, therein in accordance with this Agreement or by supplemental agreement with the Government;

(h) The expression "Member State" means a State which is a Member of the United Nations, or a member of one of the specialized agencies, or a member of the International Atomic Energy Agency, or any other State designated by the General Assembly as eligible to participate in the UNEP;

(i) The expression "General Convention" means the Convention on the Privileges and Immunities of the United Nations approved by the General Assembly of the United Nations on 13 February 1946.

Article II

THE HEADQUARTERS SEAT

SECTION 2

(a) The permanent headquarters of the UNEP shall be in the headquarters seat, and shall not be removed therefrom unless the United Nations should so decide. Any transfer of the headquarters temporarily to another place shall not constitute a removal of the permanent headquarters unless there is an express decision by the United Nations to that effect.

(b) Any building in or outside of Nairobi which may be used with the concurrence of the Government for meetings convened by the UNEP shall be temporarily included in the headquarters seat.

(c) The appropriate Kenyan authorities shall take whatever action may be necessary to ensure that the UNEP shall not be dispossessed of all or any part of the headquarters seat without the express consent of the United Nations.

SECTION 3

The Government grants to the UNEP, and the UNEP accepts from the Government, the permanent use and occupation of a headquarters seat as may from time to time be defined in supplemental agreements to be concluded between the UNEP and the Government.

SECTION 4

(a) The United Nations shall for official purposes have the authority to install and operate a radio sending and receiving station or stations to connect at appropriate points and exchange traffic with the United Nations radio network. The United Nations as a telecommunications administration will operate its telecommunications services in accordance with the International Telecommunication Convention and the

Regulations annexed thereto. The frequencies used by these stations will be communicated by the United Nations to the Government and to the International Frequency Registration Board.

(b) The Government shall, upon request, grant to the UNEP for official purposes appropriate radio and other telecommunications facilities in conformity with technical arrangements to be made with the International Telecommunication Union.

SECTION 5

The UNEP may establish and operate research, documentation and other technical facilities. These facilities shall be subject to appropriate safeguards which, in the case of facilities which might create hazards to health or safety or interfere with property, shall be agreed with the appropriate Kenyan authorities.

SECTION 6

The facilities provided for in sections 4 and 5 may, to the extent necessary for efficient operation, be established and operated outside the headquarters area. The appropriate Kenyan authorities shall, at the request of the UNEP, make arrangements, on such terms and in such manner as may be agreed upon by supplemental agreement, for the acquisition or use by the UNEP of appropriate premises for such purposes, and for the inclusion of such premises in the headquarters seat.

EXTRATERRITORIALITY OF THE HEADQUARTERS SEAT

SECTION 7

(a) The Government recognizes the extraterritoriality of the headquarters seat, which shall be under the control and authority of the UNEP as provided in this Agreement.

(b) Except as otherwise provided in this Agreement or in the General Convention, and subject to any regulation enacted under section 8, the laws of the Republic of Kenya shall apply within the headquarters seat.

(c) Except as otherwise provided in this Agreement or in the General Convention, the courts or other appropriate organs of the Republic of Kenya shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place in the headquarters seat.

SECTION 8

(a) The UNEP shall have the power to make regulations, operative within the headquarters seat, for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions. No law of the Republic of Kenya which is inconsistent with a regulation of the UNEP authorized by this section shall, to the extent of such inconsistency, be applicable within the headquarters seat. Any dispute between the UNEP and the Republic of Kenya as to whether a regulation of the UNEP is authorized by this section, or as to whether a law of the Republic of Kenya is inconsistent with any regulation of the UNEP authorized by this section, shall be promptly settled by the procedure set out in section 35.

Pending such settlement, the regulation of the UNEP shall apply and the law of the Republic of Kenya shall be inapplicable in the headquarters seat to the extent that the UNEP claims it to be inconsistent with the regulation of the UNEP.

(b) The Executive Director shall from time to time inform the Government, as may be appropriate, of regulations made by him in accordance with subsection (a).

(c) This section shall not prevent the reasonable application of fire protection or sanitary regulations of the appropriate Kenyan authorities.

SECTION 9

(a) The headquarters seat shall be inviolable. No officer or official of the Republic of Kenya, or other person exercising any public authority within the Republic of Kenya, shall enter the headquarters seat to perform any duties therein except with the consent of, and under conditions approved by, the Executive Director. The service of legal process, including the seizure of private property, shall not take place within the headquarters seat except with the express consent of, and under conditions approved by, the Executive Director.

(b) Without prejudice to the provisions of the General Convention or article XI of this Agreement, the UNEP shall prevent the headquarters seat from being used as a refuge by persons who are avoiding arrest under any law of the Republic of Kenya, who are required by the Government for extradition to another country, or who are endeavouring to avoid service of legal process.

Article IV

PROTECTION OF THE HEADQUARTERS SEAT

SECTION 10

(a) The appropriate Kenyan authorities shall exercise due diligence to ensure that the tranquillity of the headquarters seat is not disturbed by any person or group of persons attempting unauthorized entry into or creating disturbances in the immediate vicinity of the headquarters seat, and shall provide on the boundaries of the headquarters seat such police protection as may be required for these purposes.

(b) If so requested by the Executive Director, the appropriate Kenyan authorities shall provide a sufficient number of police for the preservation of law and order in the headquarters seat.

SECTION 11

The appropriate Kenyan authorities shall take all reasonable steps to ensure that the amenities of the headquarters seat are not prejudiced and that the purposes for which the headquarters seat is required are not obstructed by any use made of the land or buildings in the vicinity of the headquarters seat. The UNEP shall take all reasonable steps to ensure that the amenities of the land in the vicinity of the headquarters seat are not prejudiced by any use made of the land or buildings in the headquarters seat.

PUBLIC SERVICES IN THE HEADQUARTERS SEAT

SECTION 12

(a) The appropriate Kenyan authorities shall exercise, to the extent requested by the Executive Director, their respective powers to ensure that the headquarters seat shall be supplied with the necessary public services, including, without limitation by reason of this enumeration, electricity, water, sewerage, gas, post, telephone, telegraph, local transportation, drainage, collection of refuse and fire protection, and that such public services shall be supplied on equitable terms.

(b) In case of any interruption or threatened interruption of any such services, the appropriate Kenyan authorities shall consider the needs of the UNEP as being of equal importance with those of essential agencies of the Government, and shall take steps accordingly to ensure that the work of the UNEP is not prejudiced.

(c) The Executive Director shall, upon request, make suitable arrangements to enable duly authorized representatives of the appropriate public services bodies to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the headquarters seat under conditions which shall not unreasonably disturb the carrying out of the functions of the UNEP.

(d) Where gas, electricity, water or heat is supplied by appropriate Kenyan authorities, or where the prices thereof are under their control, the UNEP shall be supplied at tariffs which shall not exceed the lowest comparable rates accorded to Kenyan governmental administrations.

Article VI

LIAISON FUNCTIONS

SECTION 13

The Government shall take all necessary measures to facilitate the establishment of offices at Nairobi by international non-governmental organizations duly accredited to the UNEP, for the sole purpose of liaison with the UNEP.

Article VII

COMMUNICATIONS, PUBLICATIONS AND TRANSPORTATION

SECTION 14

(a) All official communication directed to the UNEP or to any officials of the Environment Secretariat, at the headquarters seat, and all outward official communications of the UNEP, by whatever means or in whatever form transmitted, shall be immune from censorship and from any other form of interception or interference with their privacy. Such immunity shall extend, without limitation by reason of this enumeration, to publications, still and moving pictures, films and sound recordings.

(b) The UNEP shall have the right to use codes and to dispatch and receive correspondence and other official communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

SECTION 15

(a) The Government recognizes the right of the UNEP freely to publish and broadcast within the Republic of Kenya in the fulfilment of its purpose.

(b) It is, however, understood that the UNEP shall respect any laws of the Republic of Kenya, or any international conventions to which the Republic of Kenya is a party, relating to copyrights.

SECTION 16

The UNEP shall be entitled for its official purposes to use the railroad facilities in the Republic of Kenya at tariffs which shall not exceed the lowest comparable passenger fares and freight rates accorded to Kenyan governmental administrations.

Article VIII

FREEDOM FROM TAXATION

SECTION 17

(a) The UNEP, its assets, income and other property shall be exempt from all forms of direct taxes, provided, however, that such tax exemption shall not extend to the owner or lessor of any property rented by the UNEP.

(b) While the UNEP will not generally claim exemption from indirect taxes which constitute part of the cost of goods purchased by or services rendered to the UNEP, including rentals,

nevertheless when the UNEP is making important purchases for official use on which such taxes or duties have been charged or are chargeable, the Government shall make appropriate administrative arrangements for the remission or refund of such taxes or duties. With respect to such taxes or duties, the UNEP shall at all times enjoy at least the same exemptions and facilities as are granted to Kenyan governmental administrations or to chiefs of diplomatic missions accredited to the Republic of Kenya, whichever are the more favourable. It is further understood that the UNEP will not claim exemption from taxes which are in fact no more than charges for public utility services.

(c) In any transaction to which the UNEP is a party, the UNEP shall be exempt from all taxes, recording fees, and documentary taxes.

(d) Articles imported or exported by the UNEP for official purposes shall be exempt from customs duties and other levies, and from prohibitions and restrictions on imports and exports.

(e) The UNEP shall be exempt from customs duties and other levies, prohibitions and restrictions on the importation of service automobiles, and spare parts thereof, required for its official purposes.

(f) The Government shall, if requested, grant the UNEP such facilities for the procurement of gasoline or other fuels and lubricating oils for each such automobile operated by the UNEP in such quantities as are required for the work of the UNEP and at such special rates as may be established for diplomatic missions in the Republic of Kenya.

(g) Articles imported in accordance with sub-sections (d) and (e) or obtained from the Government in accordance with sub-section (f) of this section, may be sold by the UNEP in the Republic of Kenya at any time after their importation or acquisition, subject to the Government regulations concerning payment by the buyer of customs duties and other levies.

Article IX

FINANCIAL FACILITIES

SECTION 18

(a) Without being subject to any financial controls, regulations or moratoria of any kind, the UNEP may freely:

- (i) Purchase any currencies through authorized channels and hold and dispose of them;
- (ii) Operate accounts in any currency;
- (iii) Purchase through authorized channels, hold and dispose of funds, securities and gold;

- (iv) Transfer its funds, securities, gold and currencies to or from the Republic of Kenya, to or from any other country, or within the Republic of Kenya; and
- (v) Raise funds through the exercise of its borrowing power or in any other manner which it deems desirable, except that with respect to the raising of funds within the Republic of Kenya, the UNEP shall obtain the concurrence of the Government.

(b) The Government shall assist the UNEP to obtain the most favourable conditions as regards exchange rates, banking commissions in exchange transactions and the like.

(c) The UNEP shall, in exercising its rights under this section, pay due regard to any representations made by the Government in so far as effect can be given to such representations without prejudicing the interests of the UNEP.

Article X

SOCIAL SECURITY AND PENSION FUND

SECTION 19

The United Nations Joint Staff Pension Fund shall enjoy legal capacity in the Republic of Kenya and shall enjoy the same exemptions, privileges and immunities as the UNEP itself.

SECTION 20

The UNEP shall be exempt from all compulsory contributions to, and officials of the Environment Secretariat shall not be required by the Government to participate in, any social security scheme of the Republic of Kenya.

SECTION 21

The Government shall make such provision as may be necessary to enable any official of the UNEP who is not afforded social security coverage by the UNEP to participate, if the UNEP so requests, in any social security scheme of the Republic of Kenya. The UNEP shall, in so far as possible, arrange, under conditions to be agreed upon, for the participation in the Kenyan social security system of those locally recruited members of its staff who do not participate in the United Nations Joint Staff Pension Fund or to whom the UNEP does not grant social security protection at least equivalent to that offered under Kenyan law.

SECTION 22

(a) The Government shall take all necessary measures to facilitate the entry into and sojourn in Kenyan territory and shall place no impediment in the way of the departure from Kenyan territory of the persons listed below; it shall ensure that no impediment is placed in the way of their transit to or from the headquarters seat and shall afford them any necessary protection in transit:

- (i) Members of permanent missions and other representatives of Member States, their families and other members of their households, as well as clerical and other auxiliary personnel and the spouses and dependent children of such personnel;
- (ii) Officials of the Environment Secretariat, their families and other members of their households;
- (iii) Officials of the United Nations or of one of the specialized agencies or of the International Atomic Energy Agency, attached to the UNEP, and those who have official business with the UNEP, and their spouses and dependent children;
- (iv) Representatives of other organizations, with which the UNEP has established official relations, who have official business with the UNEP;

- (v) Persons, other than officials of the Environment Secretariat, performing missions authorized by the UNEP or serving on committees or other subsidiary organs of the UNEP, and their spouses;
- (vi) Representatives of the press, radio, film, television or other information media, who have been accredited to the UNEP in its discretion after consultation with the Government;
- (vii) Representatives of other organizations or other persons invited by the UNEP to the headquarters seat on official business. The Executive Director shall communicate the names of such persons to the Government before their intended entry.

(b) This section shall not apply in the case of general interruptions of transportation, which shall be dealt with as provided in section 12 (b), and shall not impair the effectiveness of generally applicable laws relating to the operations of means of transportation.

(c) Visas, where required for persons referred to in this section, shall be granted without charge and as promptly as possible.

(d) No activity performed by any person referred to in sub-section (a) in his official capacity with respect to the UNEP shall constitute a reason for preventing his entry into or his departure from the territory of the Republic of Kenya or for requiring him to leave such territory.

(e) No person referred to in sub-section (a) shall be required by the Government to leave the Republic of Kenya save in the event of an abuse of the right of residence, in which case the following procedure shall apply:

- (i) No proceeding shall be instituted to require any such person to leave the Republic of Kenya except with the prior approval of the Minister for the time being responsible for Foreign Affairs of the Republic of Kenya;
- (ii) In the case of a representative of a Member State, such approval shall be given only after consultation with the Government of the Member State concerned;
- (iii) In the case of any other person mentioned in sub-section (a), such approval shall be given only after consultation with the Executive Director, and if expulsion proceedings are taken against any such person, the Executive Director

shall have the right to appear or to be represented in such proceedings on behalf of the person against whom such proceedings are instituted; and

(iv) Persons who are entitled to diplomatic privileges and immunities under section 29 shall not be required to leave the Republic of Kenya otherwise than in accordance with the customary procedure applicable to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to the Republic of Kenya.

(f) This section shall not prevent the requirement of reasonable evidence to establish that persons claiming the rights granted by this section come within the classes described in subsection (a), or the reasonable application of quarantine and health regulations.

SECTION 23

The Executive Director and the appropriate Kenyan authorities shall, at the request of either of them, consult as to methods of facilitating entrance into the Republic of Kenya, and as to the use of available means of transportation, by persons coming from abroad who wish to visit the headquarters seat and who do not enjoy the privileges provided by section 22.

REPRESENTATIVES TO THE UNEP

SECTION 24

Representatives of Member States to meetings of or convened by the UNEP, and those who have official business with the UNEP, shall, while exercising their functions and during their journey to and from Kenya, enjoy the privileges and immunities provided in article IV of the General Convention.

SECTION 25

Members of permanent missions to the UNEP shall be entitled to the same privileges and immunities as the Government accords to members, having comparable rank, of diplomatic missions accredited to the Republic of Kenya.

SECTION 26

Permanent missions to the UNEP of States members of the Governing Council and those of Member States shall enjoy the same privileges and immunities as are accorded to diplomatic missions in the Republic of Kenya.

SECTION 27

The Executive Director shall communicate to the Government a list of persons within the scope of this article and shall revise such list from time to time as may be necessary.

Article XIII

OFFICIALS OF THE ENVIRONMENT SECRETARIAT

SECTION 28

Officials of the Environment Secretariat shall enjoy within and with respect to the Republic of Kenya the following privileges and immunities:

(a) Immunity from legal process of any kind in respect of words spoken or written, and of acts performed by them in their official capacity, such immunity to continue notwithstanding that the persons concerned may have ceased to be officials of the Environment Secretariat;

(b) Immunity from seizure of their personal and official baggage;

(c) Immunity from inspection of official baggage, and if the official comes within the scope of section 29, immunity from inspection of personal baggage;

(d) Exemption from taxation in respect of the salaries, emoluments, indemnities and pensions paid to them by the UNEP for services past or present or in connexion with their service with the UNEP;

(e) Exemption from any form of taxation on income derived by them from sources outside the Republic of Kenya;

(f) Exemption from registration fees in respect of their automobiles;

(g) Exemption, with respect to themselves, their spouses, their dependent relatives and other members of their households, from immigration restrictions and alien registration;

(h) Exemption from national service obligations, provided that, with respect to Kenyan nationals, such exemption shall be confined to officials whose names have, by reason of their duties, been placed upon a list compiled by the Executive Director and approved by the Government; provided further that should officials, other than those listed, who are Kenyan nationals, be called up for national service, the Government shall, upon request of the Executive Director, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption of the essential work of the UNEP:

(i) The right to purchase petrol free of duty for their vehicles on similar terms as are accorded to members of diplomatic missions accredited to the Republic of Kenya;

(j) Freedom to acquire or maintain within the Republic of Kenya or elsewhere foreign securities, foreign currency accounts, and other movables and the right to take the same out of the Republic of Kenya through authorized channels without prohibition or restriction;

(k) (i) Freedom to purchase one dwelling house within the Republic of Kenya for strictly personal use, and the right to finance such purchase through local mortgage arrangements under the same conditions applicable to Kenyan citizens;

(ii) In the event of sale of such house, the right to take out of the Republic of Kenya, through authorized channels, the proceeds of the sale, after repayment of any outstanding local loan or local mortgage, in transferable currency;

(l) The same protection and repatriation facilities with respect to themselves, their spouses, their dependent relatives and other members of their households as are accorded in time of international crisis to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to the Republic of Kenya; and

(m) The right to import for personal use, free of duty and other levies, prohibitions and restrictions on imports:

(i) their furniture, household and personal effects, in one or more separate shipments, and thereafter to import necessary additions to the same;

(ii) one automobile, and in the case of officials accompanied by their dependents, two automobiles every three years, unless the UNEP and the Government agree in particular cases that replacements may take place at an earlier date, because of loss, extensive damage or otherwise;

(iii) reasonable quantities of certain articles including liquor, tobacco, cigarettes and foodstuffs, for personal use or consumption and not for gift or sale; the UNEP may establish a commissary for the sale of such articles to its officials and members of delegations. A supplemental agreement shall be concluded between the Executive Director and the Government to regulate the exercise of these rights;

(n) Automobiles imported in accordance with subsection (m) (ii) of this section may be sold in the Republic of Kenya at any time after their importation, subject to the Government regulations concerning payment by the buyer of customs duties;

(o) Officials of the Environment Secretariat who are locally recruited shall enjoy only those privileges and immunities provided in the General Convention, it being understood, nevertheless, that such privileges and immunities include exemption from taxation on pensions paid to them by the United Nations Joint Staff Pension Fund. Such officials shall also have access to the Commissary to be established in accordance with paragraph (m) (iii) of this section.

SECTION 29

In addition to the privileges and immunities specified in section 28:

(a) The Executive Director and officials of the Environment Secretariat having the rank of Assistant Secretary-General and above shall be accorded the privileges and immunities, exemptions and facilities accorded to Ambassadors who are heads of missions;

(b) A senior official of the Environment Secretariat, when acting on behalf of the Executive Director during his absence from duty, shall be accorded the same privileges and immunities, exemptions and facilities as are accorded to the Executive Director; and

(c) Other officials having the professional grade P-5 and above, and such additional categories of officials as may be designated, in agreement with the Government, by the Executive Director in consultation with the Secretary-General of the United Nations on the ground of the responsibilities of their positions in the UNEP, shall be accorded the same privileges and immunities, exemptions and facilities as the Government accords to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to the Republic of Kenya.

SECTION 30

(a) The Executive Director shall communicate to the Government a list of officials of the Environment Secretariat and shall revise such list from time to time as may be necessary.

(b) The Government shall furnish persons within the scope of this article with an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to all Kenyan authorities.

Article XIV

EXPERTS ON MISSION FOR THE UNEP

SECTION 31

Experts (other than officials of the Environment Secretariat coming within the scope of article XIII) performing missions authorized by, serving on committees or other subsidiary organs of, or consulting at its request in any way with, the UNEP shall enjoy, within and with respect to the Republic of Kenya, the following privileges and immunities so far as may be necessary for the effective exercise of their functions:

(a) Immunity in respect of themselves, their spouses and their dependent children from personal arrest or detention and from seizure of their personal and official baggage;

(b) Immunity from legal process of any kind with respect to words spoken or written, and all acts done by them, in the performance of their official functions, such immunity to continue notwithstanding that the persons concerned may no longer be employed on missions for, serving on committees of, or acting as consultants for, the UNEP, or may no longer be present at the headquarters seat or attending meetings convened by the UNEP;

(c) Inviolability of all papers, documents and other official material;

(d) The right, for the purpose of all communications with the UNEP, to use codes and to dispatch or receive papers, correspondence or other official material by courier or in sealed bags;

(e) Exemption with respect to themselves and their spouses from immigration restrictions, alien registration and national service obligations;

(f) The same protection and repatriation facilities with respect to themselves, their spouses, their dependent relatives and other members of their households as are accorded in time of international crisis to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to the Republic of Kenya;

(g) The same privileges with respect to currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions; and

(h) The same immunities and facilities with respect to their personal and official baggage as the Government accords to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to the Republic of Kenya.

SECTION 32

Where the incidence of any form of taxation depends upon residence, periods during which the persons designated in section 31 may be present in the Republic of Kenya for the discharge of their duties shall not be considered as periods of residence. In particular, such persons shall be exempt from taxation on their salaries and emoluments received from the UNEP during such periods of duty.

SECTION 33

(a) The Executive Director shall communicate to the Government a list of persons within the scope of this article and shall revise such list from time to time as may be necessary.

(b) The Government shall furnish persons within the scope of this article with an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to all Kenyan authorities.

Article XV

SETTLEMENT OF DISPUTES

SECTION 34

The Executive Director shall make provision for appropriate methods of settlement of:

(a) Disputes arising out of contracts and disputes of a private law character to which the UNEP is a party; and, in consultation with the Government,

(b) Disputes involving an official of the Environment Secretariat who, by reason of his official position, enjoys immunity, if such immunity has not been waived.

SECTION 35

(a) Any dispute between the UNEP and the Government concerning the interpretation or application of this Agreement or of any supplemental agreement, or any question affecting the headquarters seat or the relationship between the UNEP and the Government, 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 chosen by the Executive Director, one to be chosen by the Minister for the time being responsible for Foreign Affairs of the Republic of Kenya, 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 within six months following the appointment of the first two arbitrators, such third arbitrator shall be chosen by the President of the International Court of Justice at the request of the Secretary-General of the United Nations or the Government.

(b) The Secretary-General of the United Nations or the Government may ask the General Assembly to request of the International Court of Justice an advisory opinion on any legal question arising in the course of such proceedings. Pending the receipt of the opinion of the Court, an interim decision of the arbitral tribunal shall be observed by both parties. Thereafter, the arbitral tribunal shall render a final decision, having regard to the opinion of the Court.

GENERAL PROVISIONS

SECTION 36

The Republic of Kenya shall not incur by reason of the location of the headquarters seat of the UNEP within its territory any international responsibility for acts or omissions of the UNEP or of officials of the Environment Secretariat acting or abstaining from acting within the scope of their functions, other than the international responsibility which the Republic of Kenya would incur as a Member of the United Nations.

SECTION 37

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

SECTION 38

(a) The Executive Director 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 officials of the Environment Secretariat 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 Executive Director shall, upon request, consult with the appropriate Kenyan authorities to determine whether any such abuse has occurred. If such consultations fail to achieve a result satisfactory to the Executive Director and to the Government, the matter shall be determined in accordance with the procedure set out in section 35.

SECTION 39

This Agreement shall apply irrespective of whether the Government maintains or does not maintain diplomatic relations with the State concerned and irrespective of whether the State concerned grants a similar privilege or immunity to diplomatic envoys or nationals of the Republic of Kenya.

SECTION 40

Whenever this Agreement imposes obligations on the appropriate Kenyan authorities, the ultimate responsibility for the fulfilment of such obligations shall rest with the Government.

SECTION 41

The provisions of this Agreement shall be complementary to the provisions of the General Convention. In so far as any provision of this Agreement and any provision of the General Convention relate to the same subject matter, the two provisions shall, wherever possible, be treated as complementary, so that both provisions shall be applicable and neither shall narrow the effect of the other.

SECTION 42

This Agreement shall be construed in the light of its primary purpose of enabling the UNEP at its headquarters in the Republic of Kenya fully and efficiently to discharge its responsibilities and fulfil its purposes.

SECTION 43

Consultations with respect to modification of this Agreement shall be entered into at the request of the United Nations or the Government. Any such modification shall be by mutual consent.

SECTION 44

The UNEP and the Government may enter into such supplemental agreements as may be necessary.

SECTION 45

This Agreement shall apply, mutatis mutandis, to such other offices of the United Nations as may in future be set up with the consent of the Government in the Republic of Kenya.

SECTION 46

This Agreement shall cease to be in force:

- (i) by mutual consent of the United Nations and the Government; or
- (ii) if the permanent headquarters of the UNEP is removed from the territory of the Republic of Kenya, except for such provisions as may be applicable in connexion with the orderly termination of the operations of the UNEP at its permanent headquarters in the Republic of Kenya and the disposal of its property therein.

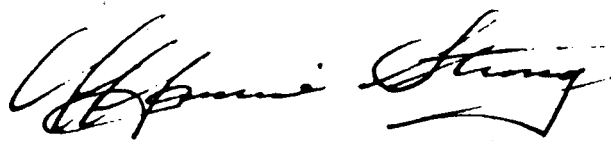
SECTION 47

This Agreement shall enter into force upon signature and shall replace any interim agreement hitherto governing the establishment and operation of the UNEP headquarters in the Republic of Kenya.

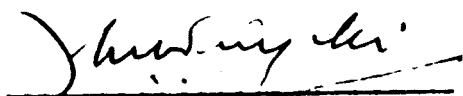
DONE at Nairobi in the English language, on this twenty-sixth day of March 1975.

For the United Nations:
On behalf of
the Secretary-General:

For the Republic
of Kenya:



Maurice F. Strong
Executive Director
of the United Nations
Environment Programme



Dr. Munyua Waiyaki
Minister for
Foreign Affairs