

**HEADQUARTERS AGREEMENT BETWEEN THE MINISTRY OF
AGRICULTURE, GOVERNMENT OF INDIA AND THE BAY OF BENGAL
PROGRAMME INTER-GOVERNMENTAL ORGANISATION**



BOBP/INF/19

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BETWEEN THE MINISTRY OF
AGRICULTURE, GOVERNMENT
OF INDIA AND THE BAY OF
BENGAL PROGRAMME –
INTER-GOVERNMENTAL
ORGANISATION**

BOBP For Sustainable Fisheries
BAY OF BENGAL PROGRAMME
Inter-Governmental Organisation



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This publication reproduces the Headquarters Agreement signed between the Ministry of Agriculture, Government of India and the Bay of Bengal Programme Inter-Governmental Organisation (BOBP-IGO) on 14 January 2004 at New Delhi. This publication describes the facilities to be provided by the host Government and defines the legal status, privileges and immunities of the Organisation. It also explains inter alia the exemptions provided to the Organisation from taxes and the operation of funds and currencies.

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HEADQUARTERS AGREEMENT BETWEEN THE MINISTRY OF AGRICULTURE, GOVERNMENT OF INDIA AND THE BAY OF BENGAL PROGRAMME – INTER-GOVERNMENTAL ORGANISATION

The Government of India (hereinafter referred to as “The Government”) and the Inter-Governmental Organisation for the Bay of Bengal Programme on Coastal Fisheries (hereinafter referred to as “The Organisation”);

Having regard to the offer made by the Government to host the Organisation in Chennai, Tamil Nadu, India and the acceptance of that offer by the Member Countries of the Organisation at the Signing Ceremony meeting held on 26 April 2003 in Chennai, India; and

Desiring to conclude an agreement regarding the establishment of the headquarters of the Organisation in Chennai and consequently to define its status, privileges, immunities and facilities to be granted by the Government and the related matters.

Have agreed as follows:

ARTICLE 1 DEFINITIONS

1. For the purposes of this Agreement the expression:
 - (a) “Council” means the Governing Council of the Organisation.
 - (b) “Member Countries” means a government, which is a contracting party to the Agreement on the Institutionalisation of the Bay of Bengal Programme as an Inter- Governmental Organisation.
 - (c) “Director” means the Director of the Organisation and during his absence from duty the officer acting on his behalf.
 - (d) “Staff members” mean the Director and all persons recruited for full-time employment with the Organisation including locally recruited staff and who are subject to the Staff Regulations of the Organisation other than Experts.
 - (e) “Locally Recruited Staff” means a Staff member who is an Indian citizen or is a permanent resident of India.
 - (f) “Experts” mean persons other than Staff members of the Organisation who perform missions authorised by the Director,

serve on committees or subsidiary organisations of the Council or consult at its request in any way with the Organisation.

- (g) “Dependent” means the spouse of a Staff member and his/her dependent children including stepchildren and legally adopted children, being under the age of 21 years and employed and shall include children beyond the age of 21 if they are mentally or physically incapacitated.
 - (h) “Representative” means a person nominated by a member country to represent it at the Organisation’s meetings.
 - (i) “Joint Secretary” means the Joint Secretary (Fisheries) of the Ministry of Agriculture, Department of Animal Husbandry and Dairying, Government of India.
 - (j) “Premises of the Organisation” means the building or parts of building and the land ancillary thereto used for the official purposes of the Organisation.
 - (k) “Official activities of the Organisation” include its administrative activities and those undertaken pursuant to the Agreement for the establishment of the Organisation.
 - (l) “Direct taxes” mean income and supplementary income taxes, excess profits tax, stamp duties and real property gains tax.
2. This Agreement shall be interpreted in the light of the primary objective of enabling the Organisation at its headquarters in Chennai, India, fully and efficiently to discharge its responsibilities and fulfil its purposes and functions.

ARTICLE 2

FACILITIES

The Government grants free of charge to the Organisation and the Organisation accepts as from the date of coming into force and during the life of this Agreement, the use and occupancy of office accommodation and the use of installations, office furniture and equipment therein contained as well as other facilities. Details of such accommodation, installations, furniture, equipment and other facilities as well as staff provided by the hosting agency, shall be agreed upon between the Indian authorities concerned and the Organisation.

ARTICLE 3

LEGAL STATUS OF THE ORGANISATION

The Government recognises the juridical personality of the Organisation and shall have the capacity:

- (a) to contract;
- (b) to acquire, hold and dispose of movable and immovable property; and
- (c) to institute legal proceedings in its name.

ARTICLE 4

INVIOABILITY OF ARCHIVES

1. The archives of the Organisation shall be inviolable. The term “archives” includes all records, correspondence, documents, manuscripts, photographs, films and recordings belonging to or held by the Organisation.
2. The location of the archives of the Organisation shall be made known to the Government by the Director if it is at a place other than the premises of the Organisation.

ARTICLE 5

INVIOABILITY OF PREMISES

1. The premises of the Organisation shall be inviolable. The Government will take all necessary steps to protect the premises of the Organisation against any intrusion or damage and to prevent any disturbances of the peace of the Organisation or impairment of its dignity.
2. Where premises are temporarily used or occupied by the Organisation for the fulfillment of its official function, these premises shall with the concurrences of the Government, be accorded the status of Premises of the Organisation.
3. No official of the Government or persons exercising any Public Authority shall enter the premises of the Organisation except with the consent of, and under conditions approved by the Director. Such consent may be assumed in case of fire or other disasters requiring prompt protective action.

4. No service (other than service by Post) or execution of any legal process or any ancillary act such as seizure of private property shall be permitted by the Government to take place within the premises of the Organisation except with the express consent of and under condition(s) approved by the Director.
5. Without prejudice to the terms of this Agreement, the Council shall not permit the premises of the Organisation to become a refuge from justice for persons who are avoiding arrest or service of legal process under the laws of India or against whom an order of extradition or deportation has been issued by the appropriate Authorities.

ARTICLE 6

FLAG AND EMBLEM

The Organisation shall be entitled to display its flag and emblem on its premises and emblem on the means of transport used by its Director.

ARTICLE 7

PRIVILEGES AND IMMUNITY OF THE ORGANISATION

1. The Organisation shall have immunity from jurisdiction and execution thereof except:
 - (a) to the extent that the Organisation shall have expressly waived such immunity in a particular case;
 - (b) in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to or operated on behalf of the Organisation or in respect of a motor traffic offence involving such a vehicle;
 - (c) in respect of an enforcement of an arbitration award made under Article 20.
2. The property and assets of the Organisation wherever situated shall be immune from any requisition, confiscation, expropriation, acquisition or distress sale. They shall also be immune from any form of administrative or provisional judicial constraint, except insofar as may be temporarily necessary in connection with the prevention of, and investigation into accidents involving motor vehicles belonging to or operated on behalf of the Organisation.

ARTICLE 8
EXEMPTION FROM TAXES AND CUSTOMS DUTIES
FOR THE ORGANISATION

1. Within the scope of its official activities, the Organisation, its assets, income and properties shall be exempt from all direct taxes; it being understood, however that the Organisation will not claim exemption from taxes which are, in fact no more than charges levied for specific services rendered. (This immunity shall however, be available only if the Parliament of India enacts an enabling legislation giving effect to the provisions of the agreement). In the alternative, the Organisation can claim its income exempt under Section 10 (23 C) or 11 of the Income Tax Act subject to the conditions prescribed therein.

ARTICLE 9
RE-SALE

Goods which have been acquired under Article 8 or Article 15 shall not be sold or given away in India except in accordance with conditions agreed with the Government.

ARTICLE 10
FUND, CURRENCY AND SECURITIES

The Organisation may receive, acquire, hold and dispose of freely any kind of funds, currencies, securities or commodities.

ARTICLE 11
COMMUNICATIONS

1. The Organisation shall enjoy, as far as may be compatible with any international conventions, regulations and arrangements to which the Government is a party, protected and unrestricted communication for its official purposes. The Organisation may employ all appropriate means of communication. However, the Organisation may install and use a wireless transmitter only with the consent of the appropriate Authorities in India. The Director shall permit the inspection of wireless transmitting apparatus (if any) at all reasonable times by the appropriate Authorities.
2. No censorship shall be applied to official communications of the Organisation.

ARTICLE 12

CIRCULATION OF PUBLICATIONS

The circulation of publications and other information material sent by or to the Organisation shall not be restricted in any way.

ARTICLE 13

PRIVILEGES AND IMMUNITIES FOR REPRESENTATIVES

1. Representatives shall enjoy, while exercising their functions and in the course of their journeys to and from the place of meetings, the following privileges and immunities:
 - (a) immunity from personal arrest, detention and from seizure of their personal luggage;
 - (b) immunity from jurisdiction, even after the termination of their mission in respect of acts done by them in the exercise of their official functions, including words written or spoken;
 - (c) inviolability for all their official papers and documents;
 - (d) exemption for themselves and their spouses from all measures restricting entry, from charges for visas and from registration formalities;
 - (e) the same facilities in matters of exchange control as is generally accorded to a diplomatic agent in India of the State which they represent or in case of representatives of an inter-governmental organisation, the same facilities as are generally accorded to diplomatic agents in India, it being understood that where diplomatic relations with the state do not exist or have been broken off, the treatment accorded shall be not less than those given to a diplomatic agent of any third country;
 - (f) the same customs facilities for their personal luggage as are accorded to diplomatic agents.
2. The privileges and immunities described in paragraph 1 of this Article shall not be accorded to any representative of the Government or to any citizen of India.
3. Privileges and immunities are accorded to representatives in order to ensure complete independence in the exercise of their functions in connection with the Organisation. A member country or inter-governmental organisation may waive the immunity of its representatives where, in the opinion of that country or organisation,

the immunity would impede the course of justice and that it can be waived without prejudicing the purposes for which it was accorded.

4. In order to assist the Government in implementing the provision of this Article, the Director shall as far as possible inform the Government of the names of representatives in advance of their arrivals in India.

ARTICLE 14

THE DIRECTOR

In addition to the privileges and immunities provided in Article 15 of this Agreement, the Director of the Organisation, unless he is a citizen or permanent resident of India, shall enjoy the privileges and immunities to which a diplomatic agent accredited to India is entitled.

ARTICLE 15

STAFF MEMBERS

1. The Staff members of the Organisation shall enjoy within and with respect to India the following privileges and immunities:
 - (a) Immunity from jurisdiction in respect of acts done by them in the exercise of their official duties, including words written or spoken, such immunities to continue notwithstanding that the persons concerned may have ceased to be staff of the Organisation; this immunity shall not however apply in the case of a motor traffic offence committed by a Staff member of the Organisation nor in the case of damage caused by a motor vehicle belonging to or driven by a Staff member.
 - (b) Inviolability for all their official papers and documents for the purposes of their employment with the Organisation.
 - (c) Exemption with respect to themselves, and their dependent from immigration restrictions. This exemption shall cease to apply when the Staff member ceases to be employed by the Organisation.
 - (d) The same treatment in matters of exchange control which is generally accorded to a diplomatic agent in India unless they are citizens or permanent residents of India.
 - (e) The same protection and facilities to repatriate as diplomatic agents in time of international crises, for themselves and their dependents.

- (f) Subject to the conditions enumerated in paragraph 4 of this Article, the Staff member shall be exempt from the payment of customs duty in respect of personal effects and household equipment brought into India for his own use or the use of his dependents, provided that such personal effects and equipment are brought into India within the period of four months from the date of his arrival to assume duties with the Organisation in India.
- 2. The facilities accorded in sub-paragraphs (c), (d), (e) and (f) of this paragraph shall not be available to locally recruited staff.
 - 3. Any staff member desiring to import or make purchases locally of duty free items under sub-paragraphs (f) of paragraph 1 of this Article shall in the first instance apply to the appropriate Government authority through the Director, for approval. Orders for such purchases shall be placed with the manufacturers or sole agents, and delivery made from bonded warehouses.
 - 4. The exemptions given in sub-paragraphs (f) of paragraph 1 of this Article are given subject to the following conditions:
 - (a) save in exceptional circumstances, the aforesaid exemptions are given only once irrespective of whether the Staff member's assignment with the Organisation in India is extended beyond the original period of his assignment;
 - (b) each Staff member is confined to only a reasonable number of any personal effects and household equipment to be imported;
 - (c) the personal effects and household equipment in respect of which the aforesaid exemption is given will be cleared by the Customs upon presentation thereto of a certificate of exemption prepared and duly signed by the appropriate Government authority;
 - (d) the Director shall maintain a complete record of all the personal effects and household equipment so cleared and shall make such records available upon request for inspection by the Customs or other appropriate Government Authority;
 - (e) any personal effects, household equipment or motor vehicle in respect of which the aforesaid exemptions are given, if disposed of in India during or at the end of the period of personal assignment in India shall be subject to the normal duty or other charges at the rate and value in force at the date of the disposal.

ARTICLE 16

EXPERTS

Experts in the exercise of their functions in connection with the Organisation or in carrying out missions for the Organisation shall enjoy the following privileges and immunities to the extent that are necessary for the carrying out of their functions, including during journeys made in carrying out their functions and in the course of such missions:

- (a) immunity from jurisdiction in respect of acts done by them in the exercise of their functions, including words written or spoken, except in the case of motor traffic offences committed by them or in the case of damage caused to third parties by motor vehicles belonging to or driven by them; Experts shall continue to enjoy this immunity after they have ceased to be employed by the Organisation;
- (b) inviolability for all their official papers and documents;
- (c) the same treatment in matters of exchange control which is generally accorded to a diplomatic agent accredited to India, unless they are citizens or permanent residents of India; and
- (d) the same facilities as regards their personal luggage as are accorded to officials of the State of which they are resident on temporary official mission.

ARTICLE 17

INCOME TAX

2. The Director and the Staff members of the Organisation who are not citizens or permanent residents of India shall be fully exempt from Indian Income Tax on the salaries and emoluments that they receive from the Organisation. However, the Government shall have the right to take these salaries and emoluments into account for the purpose of assessing the amount of tax to be levied on income from other sources. (This immunity shall however, be available only if the Parliament of India enacts an enabling legislation giving effect to the provisions of the agreement).

ARTICLE 18
NOTIFICATION OF STAFF APPOINTMENTS AND
SYSTEM OF IDENTIFICATION

1. (a) The Organisation shall from time to time send to the Government a list of all Staff members and Experts and their particulars indicating in each case whether or not the individual is a citizen or permanent resident of India. The Organisation shall inform the Government of the appointment of new Staff members and Experts, for addition to the list.
- (b) It shall also be the duty of the Organisation to notify the Government promptly of any resignation or termination of service of Staff members and Experts.
- (c) The notification required under this section shall be deemed to be duly given if it is sent to the Joint Secretary.
2. The Government shall issue to all Staff members except those who are citizens or residents of India on notification of their appointment a card bearing the photograph of the holder and identifying him as a Staff member. This card shall be accepted as evidence of identity and appointment.

ARTICLE 19
CONTRACTS

Where the Organisation enters into contracts (other than contracts concluded in accordance with staff regulations) with a person resident in India or a body incorporated or having its principal place of business in India, and embodies the terms of the contract in a formal instrument, the instrument shall include an arbitration clause whereby any dispute arising out of the interpretation or execution of the contract may at the request of either Party be submitted to arbitration in accordance with Article 20.

ARTICLE 20
SETTLEMENT OF DISPUTES

Any dispute:

- (a) arising out of a contract provided for under Article 19;
- (b) involving the Director, a Staff member or Expert of the Organisation who by reason of his official position enjoys

immunity, if such immunity has not been waived by the Organisation or;

- (c) between the Organisation and the Government concerning the interpretation or application of this Agreement or any supplemental Agreement or any question affecting the relationship between the Organisation and the Government;

shall unless it is settled by negotiation or other agreed mode of settlement, be referred to Arbitration in New Delhi for a final decision thereon, in accordance with the UNCITRAL Arbitration Rules as has been recommended by the United Nations General Assembly and adopted on 15 December, 1976.

ARTICLE 21

COOPERATION

1. The Organisation shall cooperate at all times with the appropriate Authorities of the Government in order to facilitate the proper administration of justice, to ensure the observance of police regulations and regulations concerning the handling of inflammable material, public health, labour inspection and other similar national legislation, and to prevent any abuse of the privileges and immunities and facilities provided for in this Agreement. It is understood that nothing in this Agreement shall prejudice the right of the Government to take all precautionary measures in the interest of its national security.

ARTICLE 22

GENERAL PROVISIONS

1. The privileges and immunities accorded in this Agreement to the Director and Staff members and Experts of the Organisation are provided solely to ensure in all circumstances the unimpeded functioning of the Organisation and the complete independence of the persons to whom they are accorded.
2. The Director shall take every precaution to ensure that no abuse of privileges or immunities accorded under this Agreement shall occur and for this purpose shall establish such rules and regulations as he may deem necessary and expedient for the Staff members and Experts of the Organisation.

3. Should the Government consider that an abuse of a privilege or immunity conferred by this Agreement has occurred, the Director shall upon request, consult with the appropriate Indian Authorities to determine whether any such abuse has occurred. If such consultations fail to achieve a result satisfactory to the Director and to the Government, the matter shall be determined in accordance with the procedure set out in Article 20.

ARTICLE 23

WAIVER

The Director has the right and the duty to waive any immunities accorded under this Agreement (other than his own) when he considers that such immunities are preventing the carrying out of justice and when it is possible to dispense with them without prejudicing the interest of the Organisation. In respect of the Director, the Council may waive his immunities.

ARTICLE 24

MODIFICATION

At the request either of the Government or of the Council, consultations shall take place respecting the implementation, modifications or extension of this Agreement. Any understanding, modification or extension may be given effect by an Exchange of Letters between a representative of the Government and the Director after approval by the Council.

ARTICLE 25

SUPPLEMENTAL AGREEMENTS

The Government and the Organisation may enter into such supplemental agreements to and/ or agreements as may be necessary within the scope of this Agreement.

**ARTICLE 15
SUPPLEMENTAL AGREEMENTS**

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**ARTICLE 16
ENTRY INTO FORCE AND TERMINATION**

1. The Agreement shall enter into force on signature.
2. This Agreement may be terminated by Agreement between the Government and the Council. In the event of the headquarters of the Organisation being moved from the territory of India, this Agreement shall, after the period reasonably required for such transfer and the disposal of the property of the Organisation in India, cease to be in force.

IN WITNESS WHEREOF the respective representatives duly authorized thereto have signed this Agreement.

DONE at DELHI on this FOURTEENTH day of JANUARY, 2004 in two originals in English language, which shall be authoritative.

For the GOVERNMENT OF INDIA

P. Ramamurthy
14/1/04
.....
Joint Secretary (Fisheries)
Department of Animal Husbandry and Dairying
Ministry of Agriculture
Government of India
Joint Secretary
Deptt. of Animal Husbandry
& Dairying
Ministry of Agriculture
Kirti Bhawan, New Delhi

For the ORGANISATION

S. S. Sankar
14.1.2004
.....
Director
Bay of Bengal Programme Inter-
Governmental Organisation



BOBP/INF/19

**BAY OF BENGAL PROGRAMME
Inter-Governmental Organisation**

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