

AGREEMENT BETWEEN THE PREPARATORY COMMISSION FOR  
THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY ORGANIZATION  
AND THE REPUBLIC OF AUSTRIA REGARDING  
THE SEAT OF THE COMMISSION

CONSIDERING that the Federal Government of the Republic of Austria has offered to the Preparatory Commission and the Preparatory Commission has accepted the use of land, buildings and facilities within the Vienna International Centre (hereinafter referred to as the "VIC");

NOW THEREFORE the Preparatory Commission and the Republic of Austria have agreed as follows:

Article I

DEFINITIONS

Section 1

In this Agreement:

- (a) The expression "Austria" means the Republic of Austria;
- (b) The expression "Government" means the Federal Government of the Republic of Austria;
- (c) The expression "Commission" means the Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization ("CTBTO"), having the status of an international organization, and includes any subsidiary organs established by the Commission for the exercise of its functions and the fulfillment of its purposes;
- (d) The expression "Treaty" means the Comprehensive Nuclear Test-Ban Treaty, opened for signature at New York on 24 September 1996;
- (e) The expression "Signatory" means a State that has signed the Treaty;
- (f) The expression "PTS" means the Provisional Technical Secretariat of the Commission;
- (g) The expression "competent Austrian authorities" means such federal, state, municipal, or other authorities in the Republic of Austria as may be competent in the context and in accordance with the laws and customs applicable in the Republic of Austria;
- (h) The expression "laws of Austria" includes:
  - (1) the federal constitution and state constitutions; and

(2) legislative acts, regulations and orders issued by or under authority of the Government or of competent Austrian authorities;

(i) The expression "seat of the Commission" means:

(1) the area occupied by the Commission in Vienna, as specified in Section 2; and

(2) any other land or building which may from time to time be included, temporarily or permanently, within that seat in accordance with this Agreement or by supplementary agreement with the Government;

(j) The expression "official of the Commission" means the Executive Secretary and all members of the staff of the Provisional Technical Secretariat (PTS), but does not include individuals that are locally recruited and assigned to hourly rates;

(k) The expression "representative" includes all delegates, alternates and advisers of delegations of Signatory States;

(l) The expression "experts" includes any persons, other than representatives to and officials of the Commission, who are performing missions specifically authorized by the Commission, including persons doing so on an uncompensated or seconded basis, or serving on committees or other subsidiary organizations of the Commission at the request of the Commission;

(m) The expression "Vienna Convention" means the Vienna Convention on Diplomatic Relations signed at Vienna on 18 April 1961.

## Article II

### THE SEAT OF THE COMMISSION IN VIENNA

#### Section 2

(a) The Government grants to the Commission, and the Commission accepts from the Government, the use and occupation of the area, including the land and buildings, shown on the map attached to this Agreement as the seat of the Commission in Vienna.

(b) The seat of the Commission in Vienna shall be within the area specified in this section and shall not be removed therefrom unless the Commission should so decide. Any transfer of the seat of the Commission temporarily to another place shall not constitute a removal of the seat of the Commission unless there is an express decision by the Commission to that effect.

(c) Upon request by the Commission and concurrence by the Government, the Government shall provide additional land, buildings or building space for the needs of the Commission that cannot be met in the seat of the Commission. Any such land or buildings, in or outside of Vienna, used for purposes of the Commission, shall be temporarily included in the seat of the Commission. Before any permanent addition can be made to the seat of the Commission the Government must concur. For all such uses, the present Agreement shall apply mutatis mutandis.

(d) The competent Austrian authorities shall take whatever action may be necessary to ensure that the Commission shall not be dispossessed of all or any part of the seat of the Commission without the express consent of the Commission.

### Section 3

(a) The Commission shall have the right to use the seat of the Commission in a manner consistent with the purposes and functions of the Commission and in accordance with the provisions of this Agreement.

(b) Without prejudice to the rights of the Commission referred to in this Article, the Government retains the ownership over the area constituting the seat of the Commission.

(c) If acceptable to the Commission and the Government, the Commission may let space in the seat of the Commission to any natural or juridical person providing services to the Commission or its staff. The rent charged by the Commission to such persons shall, after consultations with the Government, be based on the commercially prevailing rates for such premises, and be transferred in its entirety to the Government, except for payment relating to maintenance and operating costs, which shall be retained by the Commission.

### Section 4

The Commission shall pay to the Government with respect to the right to use the seat of the Commission a rental of one Austrian schilling per annum payable yearly in advance during the period of such use.

### Section 5

If the Commission should vacate the seat of the Commission, it shall surrender the area occupied by that seat to the Government in as good a condition as reasonable wear and tear will permit, provided, however, that the Commission shall not be required to restore the area to its shape and state prior to any alteration or change that may have been executed by the Commission or the Government in accordance with this Agreement.

## Article III

### ALTERATIONS AND REPAIRS

### Section 6

(a) Alterations and repairs with respect to any of the buildings forming part of the seat of the Commission to make the buildings suitable for the initial occupation by the Commission, in accordance with the space, technical, and security requirements of the Commission, shall be carried out at the expense of the Government, in accordance with Annex I. Such alterations and repairs shall be agreed between the Commission and the Government and set forth in writing in a separate Annex to be attached to this Agreement when it is completed. This Annex may be amended by agreement between the Commission and the Government.

(b) Alterations with respect to any of the buildings forming part of the seat of the Commission that may result in a change of a structural nature or architectural appearance, may be carried out by the Commission at its own expense and without the right to reimbursement only after having obtained the consent of the Government.

(c) Other alterations to the buildings or facilities forming part of the seat of the Commission may be carried out by the Commission at its expense and without the right to reimbursement.

#### Section 7

The Commission shall be responsible at its own expense for the orderly operation and adequate maintenance of the buildings and facilities forming part of the seat of the Commission and of the installations located therein and for minor repairs and replacements for the purpose of keeping them in good working order, and for any repairs or replacements which may be made necessary by faulty operation or inadequate maintenance that is within the responsibility of the Commission.

#### Section 8

(a) The Government shall carry out at its own expense repairs and replacements of buildings, facilities and installations made necessary by force majeure or by faulty material, design or labor used, within the responsibility of the Government, in their construction.

(b) The arrangements for defining and financing major repairs and replacements of buildings, facilities and installations forming part of the seat of the Commission shall be the subject of a separate agreement among the Commission, the Government, and other international organizations at the VIC, provided, however, that for a period of five years following the initial occupation of the seat of the Commission, the Government shall provide assistance to the Commission as specified in Annex I.

(c) The Government may carry out at its own expense capital improvements or repairs that have the effect of renewing or significantly extending the life span of buildings, facilities or installations, provided that the prior consent of the Commission is obtained. If such improvements or repairs would significantly affect the operation of the Commission, the Government shall be responsible for providing equivalent, alternative space, at no additional cost, in order to minimize the effect.

#### Section 9

Whenever the Commission has concluded an insurance contract to cover its liability for damages arising from the use of the seat of the Commission and suffered by juridical or natural persons who are not officials of the Commission, any claim concerning the Commission's liability for such damages may be brought directly against the insurer before Austrian courts, and the insurance contract shall so provide.

### Article IV

#### EQUIPMENT AND FACILITIES

## Section 10

(a) Without prejudice to the essential conditions set forth in relevant Austrian standards and established international practice, the Commission shall have the right to acquire from any source it chooses (by purchase, loan or otherwise), install, operate, maintain and replace equipment and facilities needed for the purposes and functions of the Commission, including, inter alia, radio, telephone, telex, telemetry, satellite, computer, facsimile and television equipment.

(b) Without prejudice to the essential conditions set forth in relevant Austrian standards and established international practice, the Commission shall have the right, freely and without a need for special permission, to obtain dedicated communications links for all types of communications equipment in order to send or receive to sources inside and outside of Austria. The Commission has the right to use the most cost-effective source and is not required to use any Austrian national system. The Commission has the right to connect all such equipment at appropriate points within Austria to independent systems or to Austria's public telecommunication networks, in accordance with the European interconnection regime and exchange traffic as required by the Commission.

(c) The Commission shall operate its equipment and facilities in accordance with the applicable international standards and the requirements of the Commission. Without prejudice to the Commission's right to confidential communications, pursuant to Section 21, the frequencies used by the Commission's equipment shall be communicated by the Commission to the Government and to the International Frequency Registration Board.

(d) All equipment acquired by or used by the Commission, and all communications of or to the Commission, shall be free of fees and any other charges of the Government or any competent Austrian authorities, except for charges directly related to the cost of providing a service, which shall not exceed the lowest comparable rates accorded to Austrian governmental administrations.

(e) The Government shall use its best endeavours to assist the Commission in obtaining the lowest rates accorded to Austrian governmental administrations for radio, television, satellite, telecommunications network and other facilities and connections thereto, in conformity with technical arrangements to be made with the International Telecommunications Union or other appropriate international telecommunications organizations.

## Section 11

The Commission may import, export, re-import, or re-export any equipment and materials it deems necessary for official purposes. The Government shall permit multiple entry and exit of any such equipment and materials without restrictions.

## Section 12

(a) The Commission may establish and operate storage, research, documentation, laboratory and other technical facilities of any type. These facilities shall be subject to appropriate safeguards

that, in the case of facilities which might create hazards to health or safety or interfere with property, shall be agreed upon with the competent Austrian authorities.

(b) The facilities provided for in this Article may, to the extent necessary for efficient operation, be established and operated outside the seat of the Commission. The competent Austrian authorities shall, at the request of the Commission, make arrangements on such terms and in such manner as may be agreed upon by supplementary agreement, for the acquisition or use by the Commission of appropriate premises for such purposes, and for the inclusion of such premises in the seat of the Commission in accordance with subsection (c) of Section 2.

### Section 13

The Government shall place at the disposal of the Commission, free of charge, such conference facilities at the Austria Centre Vienna or at equivalent facilities, as are required for meetings organized by the Commission or otherwise convened under the Treaty, if such meetings cannot be accommodated in the conference facilities at the VIC.

## Article V

### INVIOABILITY OF THE SEAT OF THE COMMISSION

#### Section 14

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

(b) Except as otherwise provided in this Agreement and subject to any regulation enacted pursuant to Section 15, the laws of Austria shall apply within the seat of the Commission.

(c) Except as otherwise provided in this Agreement, the courts or other competent organs of Austria shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place within the seat of the Commission.

#### Section 15

(a) The Commission shall have the power to make regulations, operative within the seat of the Commission, for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions. No law of Austria which is inconsistent with a regulation of the Commission authorized by this Section shall, to the extent of such inconsistency, be applicable within the seat of the Commission. Any dispute between the Commission and the Government as to whether a regulation of the Commission is authorized by this Section or as to whether a law of Austria is inconsistent with any regulation of the Commission authorized by this Section, shall be promptly settled by the procedure set out in Article XVIII. Pending such settlement, the regulation of the Commission shall apply and the law of Austria shall be inapplicable in the seat of the Commission to the extent that the Commission claims it to be inconsistent with its regulation.

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

(c) This Section shall not prevent the reasonable application of fire protection or sanitary regulations of the competent Austrian authorities.

#### Section 16

(a) The seat of the Commission shall be inviolable. No officer or official of the Government or other competent Austrian authorities, or other person exercising any public authority within Austria, shall enter the seat of the Commission to perform any duties therein except with the consent of, and under conditions approved by, the Executive Secretary. Such permission may, however, be presumed in the event of fire or life-threatening emergency. Any officer or official of Austria, or other person exercising any public authority within Austria who has entered the seat of the Commission with presumed permission shall, if so requested by or on behalf of the Executive Secretary, leave the seat of the Commission immediately.

(b) The seat of the Commission, its fixtures, furnishings, and other property thereon, and the means of transport of the Commission, shall be immune from, inter alia, search, requisition, attachment, or execution.

(c) The archives, records, and documents of the Commission shall be inviolable at any time and wherever they may be.

(d) The service of legal process, including the seizure of private property, shall not take place within the seat of the Commission except with the express consent of, and under conditions approved by, the Executive Secretary.

(e) Without prejudice to Article XIII of this Agreement, the Commission shall prevent the seat of the Commission from being used as a refuge by persons who are avoiding arrest under any law of Austria, who are required by the Government for extradition to another country or for deportation, or who are endeavouring to avoid service of legal process.

### Article VI

#### PROTECTION OF THE SEAT OF THE COMMISSION

#### Section 17

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

(b) The Commission and the competent Austrian authorities shall closely co-operate regarding the interrelation of effective security within and in the immediate vicinity outside the seat of the Commission.

(c) If so requested by the Executive Secretary, the competent Austrian authorities shall provide a sufficient number of police for the preservation of law and order within the seat of the Commission.

(d) The Commission, in the preparation of its security regulations and procedures, shall consult with the Government with a view to achieving the most effective and efficient exercise of security functions.

### Section 18

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

## Article VII

### PUBLIC SERVICES WITHIN THE SEAT OF THE COMMISSION

### Section 19

(a) The competent Austrian authorities shall exercise, to the extent requested by the Executive Secretary, their respective powers to ensure that the seat of the Commission is supplied with the necessary public services, including, *inter alia*, electricity, water, sewage, gas, post, telephone, telegraph, any means of communication, local transportation, drainage, collection of refuse, fire protection and snow removal from public streets, and that such public services are supplied on the most favourable terms offered to Austrian governmental administrations.

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

(c) The Executive Secretary shall, upon request, make suitable arrangements to enable duly authorized personnel of the competent public service bodies to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the seat of the Commission under conditions that shall not unreasonably disturb the carrying out of the functions of the Commission.

(d) Where gas, electricity, water or heat is supplied by competent Austrian authorities, or where the prices thereof are under their control, the Commission shall be supplied at rates that shall not exceed the lowest comparable rates accorded to Austrian governmental administrations.

## Article VIII

### COMMUNICATIONS, PUBLICATIONS AND TRANSPORTATION

#### Section 20

(a) All official communications addressed to the Commission or to any of its officials at the seat of the Commission, and all outgoing official communications of the Commission, by whatever means or in whatever form transmitted, shall be immune from censorship, from any other form of interception or from interference with their privacy. Such immunity shall extend, *inter alia*, to publications, still and moving pictures, films, computer-based communications, satellite communications, radio, television, telephone, facsimile, telex, sound and video recordings, and other communications.

(b) The Commission shall have the right to use codes, to use methods of encryption 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 21

(a) The Government recognizes the right of the Commission freely to publish and broadcast within Austria in the exercise of its functions and fulfilment of its purposes.

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

#### Section 22

The Commission shall have the right for its official purposes to use the railroad facilities of the Government and other Government common carriers at rates that shall not exceed the lowest comparable passenger fares and freight rates accorded to Austrian governmental administrations.

## Article IX

### JURIDICAL PERSONALITY AND IMMUNITY FROM SUIT

#### Section 23

The Commission shall possess juridical personality. It shall have the capacity:

- (a) To contract;
- (b) To acquire and dispose of immovable and movable property;
- (c) To institute legal proceedings.

#### Section 24

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

## Article X

### FREEDOM FROM TAXATION

#### Section 25

(a) The Commission, its property and its income shall be exempt from all forms of taxation whether levied by the Government or other competent Austrian authorities; provided, however, that such tax exemption shall not extend to the owner or lessor of any property rented by the Commission.

(b) Insofar as the Government, for important administrative considerations, may be unable to grant to the Commission immediate exemption at source from indirect taxes which constitute part of the cost of goods purchased by or services rendered to the Commission, including, *inter alia*, rentals, the Government shall reimburse the Commission for such taxes by the payment from time to time of lump sums to be agreed upon by the Commission and the Government. It is, however, understood that the Commission will not claim reimbursement with respect to minor purchases. With respect to such taxes, the Commission shall at all times enjoy at least the same exemptions and facilities as are granted to Austrian governmental administrations or to chiefs of diplomatic missions accredited to Austria, whichever are the more favourable. It is understood that the Commission shall not claim exemption from taxes that are in fact no more than charges for public utility services.

(c) All transactions to which the Commission is a party, and all documents recording such transactions, shall be exempt from all taxes, recording fees, and documentary taxes. This principle shall also apply to the supply of goods or services purchased by the Commission for immediate export or use abroad.

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

(e) The Commission shall be exempt from tariffs, customs duties and other levies, and from prohibitions and restrictions on the import or export of automobiles, trucks, vans, buses, utility vehicles, other work vehicles, and spare parts thereof, required for its official activities. Vehicles of the Commission that are to be driven outside the seat of the Commission shall be registered in Austria under the same conditions and subject only to the restrictions applied to diplomatic agents accredited to Austria.

(f) The Government shall, if requested, grant allotments of gasoline or other fuels and lubricating oils for each such vehicle operated by the Commission in such quantities as are required for its work and at such special rates as may be established for diplomatic missions in Austria.

(g) Articles imported in accordance with subsections (d) and (e) or obtained from the Government in accordance with subsection (f) shall not be sold by the Commission in Austria within two years of their importation or acquisition, unless otherwise agreed by the Government, except that such articles may be disposed of within two years without charge only for the benefit of international organizations possessing comparable privileges or for the benefit of charitable institutions. After the expiration of two years, the Commission may sell such articles without the articles being subject to taxes that were waived upon import.

(h) The Commission shall be exempt from the obligation to pay employer's contributions to the Family Burden Equalization Fund or an instrument with equivalent objectives.

## Article XI

### FINANCIAL FACILITIES

#### Section 26

Without being subject to any financial controls, regulations, notification requirements in respect of financial transactions or moratoria of any kind, the Commission may freely:

- (a) Purchase any currencies through authorized channels and hold and dispose of them;
- (b) Operate accounts in any currency;
- (c) Purchase through authorized channels, hold and dispose of funds, currencies, securities and gold;
- (d) Transfer its funds, currencies, securities and gold to or from Austria, to or from any other country or within Austria; and
- (e) 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 Austria the Commission shall obtain the concurrence of the Government.

#### Section 27

The Government shall assist the Commission to obtain terms at least as favourable as those offered to any agency, department or office of the Government, or international organization, as regards exchange rates, banking commissions in exchange transactions and the like.

#### Section 28

The Commission shall have the right to establish a pension fund which shall enjoy full legal capacity in Austria and shall enjoy the same exemptions, privileges and immunities as the Commission itself. Benefits received from the pension fund shall be exempt from taxation.

#### Section 29

The Commission shall, in exercising its rights under this Article, pay due regard to any representations made by the Government insofar as effect can be given to such representations without prejudicing the interests of the Commission.

## Article XII

### SOCIAL SECURITY

#### Section 30

The Commission and its officials shall be exempt from the application of all laws of Austria on social insurance, except as may be provided in a supplemental agreement.

#### Section 31

The Commission and Austria may, through a supplemental agreement, make such provisions as may be necessary to enable any official of the Commission who is not afforded social security coverage by the Commission to participate voluntarily in any social insurance scheme of Austria. The Commission may, in accordance with the provisions of such a supplemental agreement, arrange for the participation in the Austrian Social Insurance Scheme of those locally recruited members of its staff who do not participate in a pension fund or to whom the Commission does not grant social security protection at least equivalent to that offered under Austrian law.

## Article XIII

### TRANSIT AND RESIDENCE

#### Section 32

With respect to the persons listed below, the Government shall take all necessary measures to facilitate their entry into and sojourn in the territory of Austria, shall place no impediment in the way of their departure from the territory of Austria, shall ensure that no impediment is placed in the way of their transit to or from the seat of the Commission and shall afford them any necessary protection in transit:

(a) Members of Permanent Missions and other representatives of Signatories, 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;

(b) Officials of the Commission assigned to Vienna, their families and other members of their households;

(c) Officials of the United Nations, the specialized agencies of the United Nations, or any other intergovernmental organization, who are attached to the Commission or who have official business with the Commission in Vienna, and their spouses and dependent children;

(d) Representatives of other organizations with which the Commission has established official relations who have official business with the Commission in Vienna;

(e) Experts as defined in Article I and members of their families forming part of their households;

(f) Representatives of the press, radio, film, television or other information media, who have been accredited to the Commission in Vienna, after consultation between the Commission and the Government;

(g) Representatives of other organizations or other persons invited by the Commission to the seat of the Commission on official business. The Executive Secretary shall communicate the names of such persons to the Government before their intended entry.

For purposes of this Section, family shall include spouses, -minors and dependent adults.

### Section 33

This Article shall not apply in the case of general interruptions of transportation, which shall be dealt with as provided in sub-section (b) of Section 19, and shall not impair the effectiveness of generally applicable laws relating to the operation of means of transportation.

### Section 34

Visas, where required for persons referred to in this Article, providing for multiple entries, if requested shall be granted without charge and as promptly as possible. In exceptional circumstances, the Government shall endeavour to make such arrangements as are necessary to enable such persons to obtain a visa upon arrival in Austria.

### Section 35

Without prejudice to sub-section (c) of Section 61, no activity performed by any person referred to in Section 32 in his or her official capacity with respect to the Commission shall constitute a reason for preventing that person's entry into or departure from the territory of Austria or for requiring that person to leave such territory.

### Section 36

No person referred to in Section 32 shall be required by the Government to leave the territory of Austria save in the event of an abuse of the right of residence, in which case the following procedures shall apply:

(a) No proceeding shall be instituted to require any such person to leave the territory of Austria except with the prior approval of the Federal Minister for Foreign Affairs or the State Secretary for Foreign Affairs or the Secretary-General for Foreign Affairs of Austria;

(b) In the case of a representative of a Signatory, such approval shall be given only after consultation with the Government of the Signatory concerned;

(c) In the case of any other person mentioned in Section 32, such approval shall be given only after consultation with the Executive Secretary, or that person's designate, and, if expulsion proceedings are taken against any such person, the Executive Secretary, or that person's designate, 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

(d) Persons who are entitled to diplomatic privileges and immunities under Article XV shall not be required to leave the territory of Austria otherwise than in accordance with the customary procedure applicable to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to Austria.

### Section 37

This Article shall not prevent the requirement of reasonable evidence to establish that persons claiming the rights granted by this Article come within the categories described in Section 32, or the reasonable application of quarantine and health regulations.

### Section 38

The Executive Secretary and the competent Austrian authorities shall, at the request of either of them, consult as to methods of facilitating entrance into the territory of Austria, and as to the use of available means of transportation, by persons coming from abroad who wish to visit the seat of the Commission and who do not enjoy the privileges provided by this Article.

## Article XIV

### PRIVILEGES AND IMMUNITIES FOR REPRESENTATIVES TO THE COMMISSION

### Section 39

In addition to any rights specifically provided by this Agreement, Permanent Missions accredited by Signatories to the Commission in Vienna shall enjoy the same privileges and immunities as are accorded to diplomatic missions in Austria, on terms that are no less favorable than the terms provided to any diplomatic mission in Austria. The matter of parking is addressed in Annex II.

### Section 40

(a) Members of Permanent Missions accredited to the Commission in Vienna, and members of their families forming part of their household, shall be entitled to the same privileges and immunities as the Government accords to members, having comparable rank, of diplomatic missions accredited to Austria, and to members of their families forming part of their households. The value added tax (VAT) exemption shall be granted in accordance with Annex III.

(b) Access to the commissary shall be provided on the same terms as those provided to representatives to the International Atomic Energy Agency (IAEA), pursuant to the Supplemental Agreement on the Establishment of an Agency Commissary.

#### Section 41

Representatives of States and of intergovernmental organizations to meetings of, or convened by, the Commission and those who have official business with the Commission in Vienna, shall, while exercising their functions and during their journeys to and from Austria, enjoy the privileges and immunities provided in Article IV of the Convention on the Privileges and Immunities of the United Nations approved by the General Assembly of the United Nations on 13 February 1946. Such persons shall have access to the commissary on the same terms as those provided to representatives to IAEA, pursuant to the Supplemental Agreement on the Establishment of an Agency Commissary.

#### Section 42

Having regard to Article 38 (1) of the Vienna Convention and to the practice of Austria, members of Permanent Missions who are Austrian nationals or stateless persons resident in Austria shall, with respect to privileges and immunities, be accorded only immunity from legal process of every kind in respect of words spoken or written and all acts done by them in their capacity as members of such Permanent Missions.

#### Section 43

In conformity with Article 42 of the Vienna Convention and the practice of Austria, members of Permanent Missions, referred to in Section 40, who are enjoying the same privileges and immunities as are accorded to members having comparable rank of diplomatic missions accredited to Austria, shall not practice for personal profit any professional or commercial activity within Austria, except for family members that have obtained local employment in accordance with this Article.

#### Section 44

The Commission 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 XV

#### PRIVILEGES AND IMMUNITIES FOR OFFICIALS OF THE COMMISSION

#### Section 45

Officials of the Commission shall, without prejudice to any other privileges and immunities to which they may be entitled while exercising their functions and during their journeys to and from the seat of the Commission, be entitled to the following privileges and immunities within and with respect to Austria:

- (a) Immunity from seizure of their official or personal baggage;

(b) Immunity from inspection of their official baggage;

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

(d) Exemption with respect to themselves and members of their families forming part of their households from national service obligations, provided that, with respect to Austrian nationals, such exemption shall be confined to officials whose names have, by reason of their duties, been placed upon a list compiled by the Commission and transmitted to the Government; provided further that should officials, other than those listed, who are Austrian nationals, be called up for national service, the Government shall, upon request of the Executive Secretary, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption of the essential work of the Commission;

(e) Immunity from legal process of any kind with respect to words spoken or written, and of acts performed by them, in the performance of official functions, such immunity to continue, notwithstanding that the persons concerned may have ceased to be officials of the Commission, or may no longer be engaged in the performance of such functions;

(f) Freedom with respect to themselves and members of their families forming part of their households to acquire or maintain within Austria or elsewhere, foreign securities, foreign currency accounts, and other movable property; and, under the same conditions applicable to Austrian nationals, immovable property in Austria. At the termination of their assignment with the Commission in Vienna, the right to take out of Austria through authorized channels without prohibition or restriction, their funds in any currency;

(g) 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 times of international crisis to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to Austria;

(h) Exemption from taxation in respect of the salaries, emoluments, indemnities and pensions paid to them for services past or present by the Commission or in connection with their service with the Commission or from sources outside of Austria;

(i) Exemption from taxation on all income and property of officials and members of their families forming part of their households, insofar as the obligation to pay such taxes arises solely from the fact that the officials and members of their household reside or maintain their usual domicile in Austria. Such exemption shall not be construed to extend to taxes levied on income earned in Austria pursuant to Section 46;

(j) Exemption from inheritance and gift taxes, except with respect to immovable property located in Austria, insofar as the obligation to pay such taxes arises solely from the fact that the officials and members of their household reside or maintain their usual domicile in Austria;

(k) Access to the commissary on the same terms as those provided to officials of IAEA, pursuant to the Supplemental Agreement on the Establishment of an Agency Commissary;

(l) The right to import and export for personal use and establishment of a household, personal and household goods, furniture, supplies and other similar articles, free from all tax, duty, tariff and other charges having equivalent effect:

(1) One or more shipments shall be allowed;

(2) Such shipment to be free from inspection, unless serious grounds exist that the contents are not for personal or household use, are prohibited by law or controlled by quarantine;

(m) Exemption from taxation in respect of benefits received from their participation in the Austrian Social Insurance Scheme; and

(n) For themselves and members of their families forming part of their household, on the same terms as Austrian citizens, the right of access to universities and other institutions of higher education for the purpose of obtaining graduate and post-graduate degrees and related training leading to the attainment of the relevant educational and professional qualifications required in Austria.

#### Section 46

Spouses and dependent relatives of officials of the Commission, forming part of the same households, shall have access to the labour market in accordance with Austrian law, but on a preferential basis in accordance with the procedures outlined in Annex IV. Insofar as such persons engage in gainful occupation, privileges and immunities shall not apply to such occupation.

#### Section 47

Individuals provided the privileges and immunities in this Article shall not practice for personal profit any professional or commercial activity within Austria, except for family members that have obtained local employment in accordance with this Article.

#### Section 48

In addition to the privileges and immunities specified in this Article:

(a) The Executive Secretary shall be accorded the privileges and immunities, exemptions and facilities accorded to ambassadors who are heads of missions;

(b) A senior official of the Commission, when acting on behalf of the Executive Secretary during the latter's absence from duty, shall be accorded the same privileges and immunities, exemptions and facilities as are accorded to the Executive Secretary;

(c) Other officials having the professional grade of P-5 and above, and such additional categories of officials as may be designated, in agreement with the Government, by the Executive Secretary on the ground of the responsibilities of their positions in the Commission, shall be accorded the same privileges and immunities, exemptions and facilities as the Government accords to

members, having comparable rank, of the staffs of diplomatic missions accredited to Austria. The VAT exemption shall be granted in accordance with Annex III.

(d) In conformity with Article 42 of the Vienna Convention and the practice of Austria, officials enjoying the same privileges and immunities as are accorded to members having comparable rank of diplomatic missions accredited to Austria shall not practice for personal profit any professional or commercial activity within Austria.

(e) The members of the family of an official referred to in this Section, forming part of his or her household, shall, if they are not Austrian nationals or stateless persons resident in Austria, enjoy those privileges and immunities specified for that category of persons by the Vienna Convention.

#### Section 49

Except as otherwise provided, officials of the Commission who are Austrian nationals or stateless persons resident in Austria, shall enjoy only those privileges and immunities provided for in Section 18, subsections (a), (b), (d) and (e) of the Convention on the Privileges and Immunities of the United Nations approved by the General Assembly of the United Nations on 13 February 1946, it being understood, nevertheless, that such privileges and immunities include:

- (1) Exemption from taxation on benefits paid to them by a pension fund;
- (2) Access to the commissary on the same terms as those provided to officials of IAEA, pursuant to the Supplemental Agreement on the Establishment of an Agency Commissary.

#### Section 50

Officials of the Commission and members of their families living in the same household to whom this Agreement applies shall not be entitled to payments out of the Family Burden Equalization Fund or an instrument with equivalent objectives, unless such persons are Austrian nationals or stateless persons resident in Austria.

#### Section 51

The Executive Secretary shall communicate to the Government a list of officials of the Commission assigned to Vienna and shall revise such list from time to time as may be necessary.

### Article XVI

#### EXPERTS ON MISSION FOR THE COMMISSION

#### Section 52

(a) Experts as defined in Article I shall enjoy within and with respect to Austria the privileges and immunities accorded by the Government to Experts on Mission for the United Nations pursuant to Article XIII, Sections 42 and 43, of the Agreement between the United Nations and Austria Regarding the Seat of the United Nations in Vienna dated 29 November 1995.

(b) The Commission 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 XVII

### IDENTITY CARDS

#### Section 53

Upon the request of the Commission, or, with respect to Representatives of Signatories, upon the request of the Permanent Mission of such State, the Government shall furnish each individual within the scope of Articles XIV, XV and XVI an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to all Austrian authorities as well as serve as a multiple entry visa.

## Article XVIII

### SETTLEMENT OF DISPUTES

#### Section 54

The Commission 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 Commission is a party; and

(b) Disputes involving an official of or expert on mission for the Commission who, by reason of his or her official position, enjoys immunity, if such immunity has not been waived.

#### Section 55

(a) Any dispute between the Commission and the Government concerning the interpretation or application of this Agreement and the annexes thereto or of any supplementary agreement, or any question affecting the seat of the Commission or the relationship between the Commission 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 Secretary, one to be chosen by the Federal Minister for Foreign Affairs of Austria, and the third, who shall be chairman of the tribunal, to be chosen by the first two arbitrators. Should either Party not have chosen its arbitrator within six months following the appointment by the other Party of its arbitrator or should the first two arbitrators fail to agree upon the third within three months following the appointment of the first two arbitrators, such second or third arbitrator shall be chosen by the President of the International Court of Justice at the request of the Commission or of the Government. The third arbitrator shall not be a national of Austria. A majority of the arbitral tribunal shall constitute a quorum and all decisions shall require the concurrence of two arbitrators. The

arbitral tribunal's procedures and rules shall be fixed by the tribunal. The decisions of the tribunal shall be binding on both parties;

(b) The Executive Secretary of the Commission or the Government may ask the United Nations 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, any 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.

## Article XIX

### GENERAL PROVISIONS

#### Section 56

Austria shall not incur by reason of the location of the seat of the Commission within its territory any international responsibility for acts or omissions of the Commission or of its officials acting or abstaining from acting within the scope of their functions, other than the international responsibility which Austria would incur as a Signatory.

#### Section 57

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 Austria, and not to interfere in the internal affairs of this State.

#### Section 58

(a) The Executive Secretary 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 Commission 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 Secretary shall, upon request, consult with the competent Austrian authorities to determine whether any such abuse has occurred. If such consultations fail to achieve a result satisfactory to the Executive Secretary and to the Government, the matter shall be determined in accordance with the procedure set out in Article XVIII.

#### Section 59

This Agreement shall apply whether or not the Government maintains diplomatic relations with any State or Organization concerned and irrespective of whether the State concerned grants the same privileges or immunities to diplomatic envoys or nationals of Austria.

#### Section 60

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

#### Section 61

(a) This Agreement shall be construed in the light of its primary purpose of enabling the Commission at its seat in Austria fully and efficiently to discharge its responsibilities and fulfil its purposes.

(b) Privileges and immunities are granted to individuals on mission, in the interests of the Commission and not for the personal benefit of the individuals themselves.

(c) The Executive Secretary shall have the right and the duty to waive the immunity of any official in any case where, in his or her opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Commission.

#### Section 62

Consultations with respect to modification of this Agreement shall be entered into at the request of the Commission or the Government. Any such modification shall be by mutual consent expressed in an exchange of letters or an agreement concluded by the Commission and the Government.

#### Section 63

(a) The Commission and the Government may enter into such supplemental agreements as may be necessary.

(b) If and to the extent that the Government shall enter into any agreement with any intergovernmental organization containing terms or conditions more favourable to that organization than similar terms or conditions of this Agreement, the Government shall extend such more favourable terms or conditions to the Commission, by means of a supplementary agreement.

#### Section 64

This Agreement shall cease to be in force:

(a) By mutual consent of the Commission and the Government; or

(b) If the seat of the Commission is removed from the territory of Austria, except for such provisions as may be applicable in connection with the orderly termination of the operations of the Commission at its seat in Austria and the disposal of its property therein; or

(c) Upon the conclusion of the first session of the Conference of the States Parties of the Comprehensive Nuclear Test-Ban Treaty Organization.

#### Section 65

This Agreement, of which the annexes are an integral part, shall enter into force on the first day of the month following the day the Government has notified the Commission that the necessary constitutional conditions for its entry into force have been fulfilled.

DONE at Vienna, in duplicate, in the English and German languages, both versions being equally authentic, on this     day of March one thousand nine hundred and ninety- .

FOR THE COMMISSION:

FOR THE REPUBLIC OF AUSTRIA:

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Dr. Wolfgang Hoffmann  
Executive Secretary of the  
Preparatory Commission  
for the CTBTO

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Dr. Benita Ferrero-Waldner  
Secretary of State in the Federal  
Ministry for Foreign Affairs

## ANNEX I

### Alterations and repairs for the initial occupation

Pursuant to Section 6, the Government and the Commission shall agree on the alterations and repairs for making the buildings and office space forming a part of the seat of the Commission suitable for the initial occupation by the Commission. When determining these alterations and repairs, the Government and the Commission shall take into account the space, technical and security requirements of the Commission and any plans by the Commission to delay its occupation of portions of the space allotted. Such alterations and repairs shall be carried out by the I.A.K.W.-AG ("Internationales Amtssitz- und Konferenzzentrum Wien AG"), following consultations with the Commission, and shall be paid for by the Government, provided that the total cost does not exceed 30 million Austrian schillings. In the event that the total cost of the agreed alterations and repairs exceeds 30 million Austrian schillings, the Government and the Commission shall enter into consultations on the remaining costs.

### Major repairs and renovations

Pursuant to Section 8 (b), starting from the date of the initial occupation by the Commission of the seat of the Commission or parts thereof, the Government shall pay up to one million Austrian schillings per year into the Major Repair Fund for the VIC for a period of five years on behalf of the Commission or, as appropriate, the Comprehensive Nuclear Test-Ban Treaty Organization. In addition, the Government shall support the Commission in its effort to fix its contribution to the Major Repair Fund according to objective criteria.

ANNEX II

Parking facilities at the Vienna International Airport

Pursuant to Section 39, the Government shall provide for specially designated and guarded parking facilities at the Vienna International Airport that are reserved for persons having diplomatic status in a number sufficient for normal needs. In special cases, such as major international meetings, arrangements for temporary parking facilities shall be made, free of charge.

ANNEX III

VAT reimbursement

1. With a view to accelerating the current procedure of reimbursement, the Government shall examine introducing a system of deduction at source of the VAT, including the availability of a suitable, cost-effective method while preserving the refund ceiling of 40,000 Austrian schillings per annum.
2. The exemption from VAT applies to articles, goods, services (including restaurant and similar services) food and beverages and supplies purchased for personal use.
3. The VAT exemption shall be granted for amounts of not less than 1,000 Austrian schillings per invoice and up to an annual total refund amount of 40,000 Austrian schillings.
4. The Government shall provide reimbursement to the individual of all VAT paid on goods and services upon application by the individual accompanied with receipts and other business records that provide a basis for calculation of the amount of the tax paid. These applications can be submitted to the competent Austrian authorities twice annually, i.e. on 1 January and 1 July of each year, and will be dealt with as speedily and expeditiously as possible.

## ANNEX IV

### Access to the labour market

1. Spouses of the Officials of the Commission and their children under the age of 21, provided they came to Austria for the purpose of family reunion and forming part of the same household with the principal holder of the identity card issued according to Article XVII, shall have preferential access to the labour market. These family members are hereinafter called beneficiaries.
2. Upon application, the above-mentioned beneficiaries will be issued, by the Federal Ministry for Foreign Affairs, a certificate confirming their preferential status under this agreement. The issuing of such certificate shall not be conditional on a specific offer of employment. It shall be valid for the entire Austrian territory and its validity shall expire upon expiration of the identity card.
3. The prospective employer of the beneficiary will be granted an employment permit ("*Beschäftigungsbewilligung*") upon application, provided that the employment is not sought in a sector of the labor market or a region with grave employment problems, as determined by the Austrian Public Employment Service ("*Arbeitsmarktservice*"). The employment permit will be granted even if the legally fixed maximum number for employment of foreign labor ("*Bundeshöchstzahl*") has been exceeded.
4. The employment permit shall be issued by the regional office of the Austrian Public Employment Service ("*Arbeitsmarktservice*") competent for the area in which employment is taken up; in the case of employment which is not confined to a specific location, the competence of the regional office shall be determined by the business seat of the employer.
5. Children who came to Austria before the age of 21 for the purpose of family unification and who wish to take up employment after the completion of their twenty-first year of age shall be considered as beneficiaries if the principal holder of the identity card provided for their livelihood before they reached the age of 21 up to the moment in which they took up employment. For all other dependent relatives the normal regulations for access of foreigners to employment in Austria shall apply.
6. The above rules concerning employment shall not apply to self-employed activities. In such cases, the beneficiaries shall comply with the necessary legal requirements for the exercise of such business activities.

ANNEX V

Access to the VIC commissary

For the purpose of determining access to the VIC commissary, the term "Head of Delegation" means the person actually present and acting in this capacity during meetings or conferences.