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Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Preparatory Commission for the Comprehensive
Nuclear-Test-Ban Treaty Organization on the

conduct of activities, including post-certification
activities, relating to International Monitoring
Facilities for the Comprehensive
Nuclear-Test-Ban Treaty

Vienna, 12 November 1999

[The Agreement entered into force on 16 June 2004]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
September 2004*

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AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE PREPARATORY COMMISSION FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY ORGANIZATION ON THE CONDUCT OF ACTIVITIES, INCLUDING POST-CERTIFICATION ACTIVITIES, RELATING TO INTERNATIONAL MONITORING FACILITIES FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY

In accordance with paragraphs 7 and 12(b) of the Text on the Establishment of a Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, as annexed to the resolution establishing the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (“Preparatory Commission”), adopted by the meeting of States Signatories of the Comprehensive Nuclear-Test-Ban Treaty (“CTBT”) on 19 November 1996¹ at New York, the Preparatory Commission and the Government of the United Kingdom of Great Britain and Northern Ireland (“the Parties”), with the goal of facilitating the activities of the Provisional Technical Secretariat (“PTS”) of the Preparatory Commission in: (a) conducting an inventory of existing monitoring facilities; (b) conducting a site survey; (c) upgrading or establishing monitoring facilities; and (d) certifying facilities to International Monitoring System standards, and with the goal of facilitating the continued testing, provisional operation, as necessary, and maintenance of the International Monitoring System (“IMS”) in pursuit of the goal of an effective CTBT;

And pursuant to the provisions of the CTBT, in particular Articles I to IV, and Part I of the Protocol to the CTBT;

HAVE AGREED as follows:

ARTICLE 1

The Parties shall cooperate to facilitate the implementation of the provisions of this Agreement. The Parties shall undertake further negotiations with the aim of concluding a further Appendix or Appendices specifying the activities to be carried out by or on behalf of the Preparatory Commission in the United Kingdom and in the Overseas Territories of the United Kingdom.

ARTICLE 2

Where activities pursuant to the provisions of this Agreement are to be carried out by the PTS, they shall be conducted by a PTS Team consisting of personnel designated by the PTS, after consultations with the Government of the United Kingdom. The Government of the United Kingdom shall be entitled to refuse particular PTS team members on the understanding that the PTS shall be entitled to propose new team members to replace them. For each activity carried out by the PTS, the PTS shall designate a Team Leader and the Government of the United Kingdom shall designate an Executive Agent who shall be the points of contact between the PTS and the Government of the United Kingdom.

ARTICLE 3

The activities to be carried out by the PTS shall be performed either:

- (a) in accordance with the terms and conditions of a contract or contracts with the Preparatory Commission, awarded in accordance with the provisions of its financial regulations and other rules; or

¹Treaty Series No. 46 (1999), Cm. 4399.

- (b) by the Government of the United Kingdom which, subject to the provisions on reduced assessment contained in the financial regulations and other rules of the Preparatory Commission, shall be entitled to the appropriate reduced assessment of its contributions.

ARTICLE 4

No less than 14 days in advance of the proposed arrival of the PTS Team at the point of entry, the PTS Team Leader and the Executive Agent shall consult for the purpose of facilitating the conduct of the activities that will be undertaken, including consultations regarding the equipment to be brought into the United Kingdom. In the course of these consultations, the Government of the United Kingdom shall inform the PTS of the points through which the PTS Team and equipment will enter and exit the United Kingdom.

ARTICLE 5

During the consultations referred to in Article 4, the Government of the United Kingdom shall inform the PTS of information required by it in order to issue documents to enable the PTS Team to enter and remain in the United Kingdom. The PTS shall provide that information as soon as possible after the conclusion of those consultations. The Government of the United Kingdom shall grant or renew as quickly as possible appropriate visas where required for members of the PTS team. In accordance with the relevant laws and regulations of the United Kingdom, the PTS Team shall be entitled to enter the United Kingdom and remain there for the period of time necessary to carry out such activities.

ARTICLE 6

The activities of the PTS Team shall be arranged in cooperation with the Government of the United Kingdom in such a way as to ensure, to the greatest degree possible, the timely and effective discharge of its functions, and the least possible inconvenience to the United Kingdom or disturbance to any facility or area where the PTS Team carries out its activities.

ARTICLE 7

The Government of the United Kingdom shall make all reasonable efforts to ensure that local entities cooperate with the activities undertaken by the PTS Team. The PTS shall take all reasonable steps necessary to ensure that the Executive Agent is kept informed of progress or developments in relation to testing, provisional operating, as necessary, and maintenance activities.

ARTICLE 8

The PTS shall, for the purpose of consultations under Article 4, prepare in advance a list of equipment to be brought into the United Kingdom by the PTS Team. The Government of the United Kingdom shall have the right to conduct an inspection of equipment brought into the United Kingdom by the PTS Team, as specified during the consultations, in order to ensure that the equipment is as specified. The Government of the United Kingdom shall conduct such inspection without the presence of the PTS Team Leader, unless the PTS Team Leader decides that his or her presence is necessary. Items of equipment that require special handling or storage for safety purposes shall be so designated by the PTS Team Leader and the designation communicated to the Executive Agent prior to the arrival of the PTS Team at the point of entry. The Government of the United Kingdom shall ensure that the PTS Team can store its equipment in secure premises. In order to prevent undue delays in transporting equipment, the Government of the United Kingdom shall assist the

PTS Team in meeting the internal rules and regulations of the United Kingdom for importing such equipment into the United Kingdom, and, where appropriate, exporting such equipment from the United Kingdom.

ARTICLE 9

Any data and any official reports prepared by either Party with respect to the activities undertaken in accordance with the provisions of this Agreement shall be made available to the other Party.

ARTICLE 10

For the purposes of this Agreement, post-certification activities for an IMS station shall commence upon completion of:

- (a) certification of the IMS station by the PTS in accordance with relevant certification manuals or procedures; and
- (b) adoption by the Preparatory Commission of the budget, including detailed financial arrangements, if any, for the operation and maintenance of the IMS station.

ARTICLE 11

For post-certification activities:

- (a) The facilities shall also be tested, provisionally operated, as necessary, and maintained by the Government of the United Kingdom in accordance with procedures and arrangements agreed between the Parties. In order to ensure that the International Data Centre (“IDC”) receives high quality data with a high degree of reliability, these procedures shall, without prejudice to Article II paragraph 26(h) of the CTBT, be consistent with IMS Operational Manuals as adopted by the Preparatory Commission (“IMS Manuals”).
- (b) The Government of the United Kingdom shall provide all appropriate utilities, consistent with IMS Manuals, for the testing, provisional operation, as necessary, and maintenance of the facilities in accordance with relevant laws and regulations at the United Kingdom, with costs to be met by the PTS in accordance with Article IV paragraphs 19 to 21 of the CTBT, and relevant budgetary decisions of the Preparatory Commission.
- (c) The Government of the United Kingdom shall ensure that, upon request, suitable frequencies required for the necessary communications links are made available in accordance with national laws and regulations and the national frequency usage plan.
- (d) The Government of the United Kingdom shall transmit data recorded or acquired by any facility to the IDC using the formats and protocols to be specified in the operational manual of the facility. Such transmission of data shall be done from the relevant station by the most direct and cost efficient means available.
- (e) When requested by the PTS, samples from radionuclide monitoring stations shall be transmitted to the laboratory or analytical facilities specified by the PTS. The Government of the United Kingdom shall store data and samples for at least seven days in the manner approved by the Preparatory Commission.
- (f) The Government of the United Kingdom shall maintain physical security of the facilities and associated equipment, including data lines and field equipment and sensors, with costs allocated in accordance with Article IV, paragraph 19 to 21 of the CTBT, and relevant budgetary decisions of the Preparatory Commission.
- (g) The Government of the United Kingdom shall ensure that the instruments at any facility are calibrated in accordance with IMS Manuals.

- (h) The Government of the United Kingdom shall notify the PTS when a problem occurs, informing the IDC of its nature and an estimate of the time to fix it. The Government of the United Kingdom shall also notify the PTS when an abnormal event occurs that affects the quality of the data originating from a facility.
- (i) The PTS shall consult the Government of the United Kingdom on procedures for the PTS to have access to a facility for checking equipment and communications links, and to make necessary changes in the equipment and other operational procedures, unless the Government of the United Kingdom takes responsibility for making the necessary changes. The PTS shall have access to the facility in accordance with such procedures.

ARTICLE 12

The Government of the United Kingdom shall ensure that its station monitoring staff responds as soon as practicable to enquiries from the PTS related to the testing and provisional operation, as necessary, of any facility, or to the transmission of data to the IDC. The responses shall be made in the format specified in the operational manuals of the relevant facility.

ARTICLE 13

Confidentiality regarding the implementation of this Agreement shall be dealt with in accordance with the CTBT and the relevant decisions of the Preparatory Commission.

ARTICLE 14

The costs of the activities to implement this Agreement shall be arranged in accordance with relevant budgetary decisions adopted by the Preparatory Commission. In particular, the costs associated with the testing, provisional operation, as necessary, and maintenance of any facility, including physical security, if appropriate; the application of agreed data authentication procedures; the transmission of samples where appropriate; and the transmission of data from any facility to the IDC, shall be met as set forth in Article IV, paragraphs 19 to 21 of the CTBT and in accordance with relevant budgetary decisions of the Preparatory Commission.

ARTICLE 15

Following completion of each of the activities set forth in an Appendix or Appendices, the PTS shall provide the Government of the United Kingdom with such appropriate technical assistance as the PTS deems necessary for the proper functioning of any facility as part of the IMS. The PTS shall also provide technical assistance in, and support for, the provisional operation, as necessary, and maintenance of any monitoring facility and respective communications means, where such assistance is requested by the Government of the United Kingdom and within approved budgetary resources.

ARTICLE 16

The Preparatory Commission, representatives, staff members and experts shall be accorded in the United Kingdom the status, privileges and immunities provided for in Appendix I.

ARTICLE 17

In the case of any disagreement or dispute arising between the Parties relating to the implementation of this Agreement, the Parties shall consult with a view to an expeditious settlement. In case of failure to resolve the disagreement or dispute, either Party may raise the issue at a plenary session of the Preparatory Commission for its advice and assistance.

ARTICLE 18

Amendments to this Agreement and addition of further Appendices shall be by agreement between the Parties. The Parties may also enter into supplementary Agreements.

ARTICLE 19

The Appendix or Appendices to this Agreement form an integral part of the Agreement and any reference to this Agreement includes a reference to the Appendix or Appendices. In the event of any inconsistency between any provision in an Appendix and in the body of this Agreement, the latter provision prevails.

ARTICLE 20

This Agreement shall enter into force on the date on which the United Kingdom has informed the Preparatory Commission that necessary implementing legislation has been made. The relevant date shall be the day on which the communication is received. The Comprehensive Nuclear-Test-Ban Treaty Organization shall be accorded the same rights and obligations as the Preparatory Commission enjoy under this Agreement. A draft Agreement for this purpose shall be prepared by the Government of the United Kingdom and the Preparatory Commission. The present Agreement shall remain in force until the entry into force of the Agreement between the Government of the United Kingdom and the Comprehensive Nuclear-Test-Ban Treaty Organization.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement.

Done in duplicate at Vienna, this 12th day of November 1999, in the English language.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

J. FREEMAN

For the Preparatory Commission for the
Comprehensive Nuclear-Test-Ban
Treaty Organization:

WOLFGANG HOFFMANN

APPENDIX I

TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE PREPARATORY COMMISSION FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY ORGANIZATION ON THE CONDUCT OF ACTIVITIES, INCLUDING POST-CERTIFICATION ACTIVITIES, RELATING TO INTERNATIONAL MONITORING FACILITIES FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY

ARTICLE 1

Use of Terms

For the purpose of this Appendix:

- (a) “Commission” means the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization;
- (b) “Government” means the Government of the United Kingdom of Great Britain and Northern Ireland;
- (c) “official activities” in relation to the Commission means its administrative activities and those which it is authorized to undertake pursuant to the Text on the establishment of the Preparatory Commission for the Nuclear-Test-Ban Treaty Organization annexed to the resolution of 19 November 1996¹ of the States Signatories of the Comprehensive Nuclear-Test-Ban Treaty;
- (d) “Executive Secretary” means the Executive Secretary of the Commission;
- (e) “staff member” means a person appointed or recruited for employment with the Commission and subject to its staff regulations, other than persons in domestic service and persons recruited locally and assigned to hourly rates of pay;
- (f) “representatives” means representatives of States Signatories of the Comprehensive Nuclear-Test-Ban Treaty and in each case means heads of delegations, alternates and advisers; and
- (g) “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.

ARTICLE 2

Interpretation

This Appendix shall be interpreted in the light of the primary objective of enabling the Commission fully and efficiently to discharge its responsibilities and fulfil its purposes and functions.

¹Treaty Series No. 46 (1999), Cm. 4399.

ARTICLE 3

Legal Personality

The Commission shall have legal personality in the United Kingdom. It shall in particular have the capacity of contract, to acquire and dispose of moveable and immovable property and to institute legal proceedings.

ARTICLE 4

Property, Funds and Assets

1. 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.
2. The property and assets of the Commission, wherever located and held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.
3. The archives of the Commission shall be inviolable. The term “archives” includes all records, correspondence, documents, manuscripts, photographs, film and recordings belonging to or held by the Commission and all information contained therein.

ARTICLE 5

Exemption from Taxes

1. Within the scope of its official activities, the Commission and its property and income shall be exempt from all United Kingdom direct taxes, including income tax, capital gains tax and corporation tax. The Commission shall be granted the like relief from non-domestic rates or any other local rates or duties on the official premises of the Commission as is accorded to a diplomatic mission. Rates or any other local taxes or duties shall in the first instance be paid by the Government and the proportion that represents payments for specific services rendered shall be recovered by them from the Commission.
2. The Commission shall be accorded a refund of value added tax paid on the purchase of new motor cars and, where it is readily identifiable, value added tax or other indirect taxes paid on the supply of goods or services of substantial value and necessary for the official activities of the Commission. In this connection it is envisaged that claims for refund will be made only in respect of goods or services supplied on a recurring basis, or involving considerable quantities of goods, or involving considerable expenditure. No refund shall be made in respect of any claim for goods or services where the value of the goods or services does not amount in aggregate to £500 sterling or more.
3. The Commission shall be accorded a refund of insurance premium tax and air passenger duty necessarily paid in the exercise of its official activities.

ARTICLE 6

Exemption from Customs and Excise Duties

1. Goods imported or exported by the Commission and necessary for the exercise of its official activities shall be exempt from all United Kingdom customs and excise duties and such other charges (except mere payments for services), and from all United Kingdom prohibitions and restrictions on import or export.

2. The Commission shall be accorded a refund of the duty (whether customs or excise) and value added tax paid on importation of hydrocarbon oils purchased by it and necessary for the exercise of its official activities.

ARTICLE 7

Limitation on Exemptions

Exemption in respect of taxes, duties or other charges under Article 5 or Article 6 shall not be granted in respect of goods or services which are purchased or imported for the personal benefit of a representative, staff member or expert of the Commission.

ARTICLE 8

Disposal of Exempted Goods

Goods which have been acquired or imported under Article 5 or Article 6 shall not be given away, sold, hired out or otherwise disposed of unless the appropriate authorities have been notified in advance and any necessary duties and taxes paid.

ARTICLE 9

Funds, Currency and Securities

The Commission may in the United Kingdom receive, acquire, hold and dispose of freely any kind of funds, currencies or securities.

ARTICLE 10

Circulation of Publications and Communications

1. The circulation of publications and other information material sent by or to the Commission within the scope of its official activities shall not be restricted in any way.
2. For its official communications and the transfer of all its documents, including the right to use codes and to despatch and receive its correspondence by courier or in bags, the Commission shall enjoy treatment not less favourable than that accorded by the Government to other international organizations.
3. No censorship shall be applied to official communications of the Commission.

ARTICLE 11

Representatives

1. Representatives shall enjoy, while exercising their official functions in the United Kingdom and in the course of their journeys to and from the place of meeting, the following privileges and immunities:
 - (a) immunity from personal arrest or detention and from seizure of their personal baggage, and in respect of acts (even after the termination of their mission), including words written or spoken, done by them in the exercise of their functions, immunity from legal process of every kind; this immunity shall not apply however in the case of a motor traffic offence committed by a representative, nor in the case of damage caused by a motor vehicle belonging to or driven by him;

- (b) inviolability for all papers and documents;
- (c) exemption from all measures restricting entry, from charges for visas and for registration formalities; and members of their families forming part of their household shall enjoy the same facilities;
- (d) the right to use codes and to receive papers and correspondence by courier or in sealed bags;
- (e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys; and
- (g) such other privileges, immunities and facilities not inconsistent with this Appendix as diplomatic envoys enjoy.

2. The privileges and immunities described in paragraph 1 shall not be accorded to any representative of the Government or to any person who is a British citizen, a British Dependant Territories citizen, a British Overseas citizen, or a British National (Overseas).

3. Privileges and immunities are accorded to representatives in order to ensure complete independence in the exercise of their functions in connection with the Commission. A Government not only has the right but is under a duty to waive the immunity of its representatives where the immunity would impede the course of justice and where in the opinion of the Government it can be waived without prejudicing the purposes for which it was accorded.

4. The provisions of this article shall be without prejudice to any privileges and immunities to which a representative may be entitled under any other international agreement.

5. The Commission shall agree with the Government to which meetings this article shall apply, and shall inform the Government of the names of representatives to such meetings in advance of their arrival in the United Kingdom.

ARTICLE 12

Staff Members

1. Staff members shall in the United Kingdom:
 - (a) enjoy (even after they have left the service of the Commission) immunity from jurisdiction in respect of all acts done by them in the exercise of their official functions, including words written or spoken; this immunity shall not, however, apply in the case of a motor traffic offence committed by a staff member, nor in the case of damage caused by a motor vehicle belonging to or driven by him;
 - (b) enjoy inviolability for all their official papers and documents;
 - (c) enjoy exemption from all measures restricting immigration, from charges for visas and for registration formalities; and members of their families forming part of the household shall enjoy the same facilities;
 - (d) be accorded the same privileges in respect of exchange facilities as are accorded to officials of comparable ranks forming part of diplomatic missions; and
 - (e) be given, together with their spouses and members of their families forming part of their household, the same repatriation facilities in time of international crisis as diplomatic envoys.
2. In addition to the privileges and immunities specified in paragraph 1, the Executive Secretary and the spouse and minor children of the Executive Secretary shall be accorded the privileges, immunities and facilities accorded to diplomatic envoys in accordance with international law.

3. The Commission shall inform the Government of the names of staff members before they arrive in the United Kingdom.

ARTICLE 13

Income Tax on Staff Members

1. Staff members shall be immune from taxation on the salaries and emoluments paid to them by the Commission.
2. In the event that the Commission operates a system for the payment of pensions and annuities to its former staff members, the provisions of paragraph 1 shall not apply to such pensions and annuities.

ARTICLE 14

Social Security

Staff members shall with respect to services rendered for the Commission be exempt from the provisions of any social security scheme established by the law of the United Kingdom, provided that those staff are participating in a social security scheme established by the Commission, or another scheme as approved by the Government.

ARTICLE 15

Experts on Missions

1. Experts on mission for the Commission (other than staff members coming within the scope of Article 12) serving on committees of, or performing missions for the Commission, shall in the United Kingdom:
 - (a) enjoy immunity from personal arrest or detention and from seizure of their personal baggage;
 - (b) enjoy (even after they are no longer serving on committees of, or performing missions for, the Commission) immunity from legal process in respect of acts done by them in the exercise of their official functions, including words written or spoken; this immunity shall not, however, apply in the case of a motor traffic offence committed by an expert, nor in the case of damage caused by a motor vehicle belonging to or driven by him;
 - (c) enjoy inviolability for all papers and documents;
 - (d) for the purposes of their communications with the Commission, be accorded the right to use codes and to receive papers and correspondence by courier or in sealed bags;
 - (e) be accorded the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions; and
 - (f) be accorded the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.
2. The Commission shall inform the Government of the names of experts before they arrive in the United Kingdom.

ARTICLE 16

Object of Privileges and Immunities: Waiver

1. The privileges and immunities accorded in this Appendix to staff members and experts of the Commission are provided, not for the personal benefit of the individuals themselves, but solely to safeguard the independent exercise of their functions in connection with the Commission.

2. The Executive Secretary has the right, and the duty, to waive such immunities (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 interests of the Commission. In respect of the Executive Secretary, the Commission may waive his immunity.

ARTICLE 17

Co-operation

The Commission shall co-operate at all times with the appropriate United Kingdom authorities in order to facilitate the proper administration of justice and to prevent any abuse of the privileges, immunities and facilities accorded in this Appendix.

ARTICLE 18

Consultations and Modification

At the request either of the Commission or of the Government consultations shall take place in respect of the implementation or modification of this Appendix. Any understanding or modification shall be given effect by an exchange of letters between the Government and the Executive Secretary, acting on behalf of the Commission.

ARTICLE 19

Disputes

Any dispute between the Commission and the Government concerning the interpretation or application of this Appendix, which is not settled by negotiation or by some other agreed method, may, at the request of either party, be referred for final decision to a Tribunal of three arbitrators. One arbitrator shall be designated by the Government. One shall be designated by the Commission. The third, who shall be Chairman of Tribunal, shall be chosen by the other two arbitrators. Should an arbitrator not be designated within three months of the request for arbitration, or if the first two arbitrators fail to agree upon the third within three months of their appointment, the necessary appointment or appointments shall, if the Government or the Commission so request, be made by the Secretary-General of the Permanent Court of Arbitration.



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