

Model Agreement

Agreement for the provision of facilities for the International Tribunal for the Law of the Sea / a Chamber of the International Tribunal for the Law of the Sea to sit or otherwise exercise its functions in the Republic of Singapore in [case name]

The Government of the Republic of Singapore and the International Tribunal for the Law of the Sea,

Having regard to article 1 of Annex VI to the United Nations Convention on the Law of the Sea (hereinafter “the Statute”), which provides that the seat of the International Tribunal for the Law of the Sea shall be in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany and that the Tribunal may sit and exercise its functions elsewhere whenever it considers it desirable,

Having regard to article 7 of the Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, adopted by the Meeting of States Parties to the United Nations Convention on the Law of the Sea on 23 May 1997, which provides that the Tribunal may conclude with the State concerned an arrangement concerning the provision of the appropriate facilities to sit or exercise its functions elsewhere than at its Headquarters,

Considering that it is important to facilitate access to the Tribunal in order to serve the needs of the States of a particular region, with a view to promoting the peaceful settlement of disputes relating to the law of the sea,

Considering that it may be convenient to the States parties to a dispute before the Tribunal or a Chamber of the Tribunal, and to the Tribunal or the Chamber to meet for the hearing at a place agreeable to all of them,

Considering that the Republic of Singapore is a State Party to the United Nations Convention on the Law of the Sea, having deposited its instrument of ratification on 17 November 1994,

Considering that the Government of the Republic of Singapore has offered to assist the Tribunal in the provision of appropriate facilities in the event that the Tribunal considers it desirable that the Tribunal or a Chamber of the Tribunal sit or otherwise exercise its functions in the Republic of Singapore,

Recalling the Joint Declaration signed between the Ministry of Law of the Republic of Singapore (hereinafter “Ministry of Law”) and the President of the International Tribunal for the Law of the Sea on 31 August 2015,

Have agreed as follows:

Article 1

Use of terms

For the purposes of this Agreement:

- (a) “Convention” means the United Nations Convention on the Law of the Sea of 10 December 1982;
- (b) “Vienna Convention” means the Vienna Convention on Diplomatic Relations of 18 April 1961;
- (c) “Tribunal” means the International Tribunal for the Law of the Sea;
- (d) “Chamber of the Tribunal” means the Seabed Disputes Chamber established in accordance with article 14 of the Statute or a special chamber established in accordance with article 15 of the Statute;
- (e) “Government” means the Government of the Republic of Singapore;
- (f) “Ministry of Foreign Affairs” means the Ministry of Foreign Affairs of the Republic of Singapore;
- (g) “Member of the Tribunal” means an elected member of the Tribunal or a person chosen under article 17 of the Statute for the purpose of a particular case;
- (h) “Registrar” means the Registrar of the Tribunal and includes any official of the Tribunal acting as Registrar;
- (i) “officials of the Tribunal” means the Registrar and other members of the staff of the Registry;
- (j) “court facilities” means the facilities specified in article 5, paragraph 1;
- (k) “Singapore” means “the Republic of Singapore”.

*Article 2**Purpose of the Agreement*

This Agreement establishes the terms and conditions under which the Government shall provide the Tribunal with the appropriate facilities which are required for the Tribunal or the Chamber of the Tribunal to sit or otherwise exercise its functions in Singapore.

*Article 3**Competent authority*

1. The Ministry of Law shall be the competent authority of the Government for all issues that may arise with respect to the implementation of this Agreement with the Tribunal.

2. The Government shall appoint a liaison officer who shall be responsible, in consultation with the Tribunal, for making and implementing the administrative and personnel arrangements for the functioning of the Tribunal or the Chamber of the Tribunal in Singapore as required under this Agreement.

Article 4
Juridical personality of the Tribunal

The Tribunal shall possess juridical personality in Singapore. It shall have the capacity to:

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

Article 5
Court facilities

1. The Government agrees to make available at its expense such court facilities as shall be necessary for the Tribunal or the Chamber of the Tribunal to sit or otherwise exercise its functions in Singapore, as specified in the annex. Such facilities shall consist of a room for the court hearings, a deliberations room, a meeting room for the Registry, a meeting room for each party to the case, as well as office space for the Members of the Tribunal, the Registrar and officials of the Tribunal.

2. The Government shall at its expense furnish and equip the court facilities, which shall be in good repair, in a manner adequate for the effective functioning of the Tribunal or the Chamber of the Tribunal. The room for court hearings and deliberations room shall be equipped for simultaneous interpretation between the two official languages of the Tribunal and the room for court hearings shall have facilities for sound recording.

3. The court facilities referred to in paragraph 1, including furniture and equipment, shall remain at the disposal of the Tribunal or the Chamber of the Tribunal for such time as is necessary for the exercise of its functions.

4. The Government shall provide, within the court facilities, all necessary utilities and services including telephone, facsimile, data communication and internet services, electricity, water and gas, as well as air-conditioning, as necessary.

5. The Government shall bear, as applicable, the costs of the official use of the utilities and services referred to in paragraph 4.

*Article 6
Accommodation*

The Government shall use its best efforts to ensure that adequate accommodation in hotels or residences is available at preferential rates for the Members of the Tribunal, the officials of the Tribunal and the parties to the case.

*Article 7
Transport*

The Government shall provide transport from/to Singapore airport to/from the court facilities or accommodation for the Members and officials of the Tribunal.

*Article 8
Inviolability of the court facilities*

The court facilities as specified in the annex shall be inviolable, subject to such conditions as may be agreed with the Government.

*Article 9
Flag and emblem*

The Tribunal shall be entitled to display its flag and emblem at the court facilities and on vehicles used for official purposes.

*Article 10
Immunity of the Tribunal, its property, assets and funds*

1. The Tribunal shall enjoy immunity from 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, assets and funds of the Tribunal, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, seizure, expropriation or any other form of interference, whether by executive, administrative, judicial or legislative action.
3. To the extent necessary to carry out its functions, the property and assets of the Tribunal shall be exempt from restrictions, regulations, controls and moratoria of any nature.
4. The Tribunal shall have insurance coverage against third-party risks in respect of vehicles owned or operated by it in Singapore, as required by the laws and regulations of Singapore.

Article 11
Archives

The archives of the Tribunal, and all documents belonging to it or held by it, shall be inviolable at all times and wherever they may be located. The Government shall be informed of the location of such archives and documents in Singapore.

Article 12
Communications

1. For the purposes of its official communications and correspondence, the Tribunal shall enjoy in the territory of Singapore, insofar as is compatible with the international obligations of Singapore, treatment not less favourable than that which Singapore accords to any diplomatic mission in the matter of priorities, rates and taxes applicable to mail and the various forms of communication and correspondence.
2. The Tribunal may use all appropriate means of communication and make use of codes or cipher for its official communications or correspondence. The official communications and correspondence of the Tribunal shall be inviolable.
3. The Tribunal shall have the right to dispatch and receive correspondence and official communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

Article 13
Exemption from taxes, customs duties and import or export restrictions

1. The Tribunal, its assets, income and other property, and its operations and transactions shall be exempt from all direct taxes in Singapore; it is understood, however, that the Tribunal shall not claim exemption from taxes which are no more than charges for public utility services.
2. The Tribunal shall be exempt from all customs duties, taxes on imports and prohibitions and restrictions on imports and exports in respect of goods, including publications, imported to or exported from Singapore by the Tribunal for its official use. Goods imported or purchased under such an exemption shall not be sold or otherwise disposed of in the territory of Singapore, except under conditions agreed with the Government.

Article 14
Reimbursement of duties and/or taxes

1. The Tribunal shall not, as a general rule, claim exemption from duties and taxes which are included in the price of movable and immovable property and taxes paid for services rendered. Nevertheless, when the Tribunal for its official use makes purchases of property and goods or services on which duties and taxes are charged or are chargeable, Singapore shall make appropriate administrative arrangements for the exemption of such charges or reimbursement of the amount of duty and/or tax paid.

2. Goods purchased under the exemption or reimbursement in paragraph 1 shall not be sold or otherwise disposed of, except in accordance with the conditions laid down by Singapore which granted the exemption or reimbursement. No exemption or reimbursement shall be accorded in respect of charges for public utility services provided to the Tribunal.

*Article 15
Taxation*

1. The salaries, emoluments and allowances paid by the Tribunal to Members and officials of the Tribunal shall be exempt from taxation in Singapore.

2. Where the incidence of any form of taxation depends upon residence, periods during which such Members or officials are present in Singapore for the discharge of their functions shall not be considered as periods of residence if such Members or officials are accorded diplomatic privileges, immunities and facilities.

*Article 16
Funds and freedom from currency restrictions*

1. Without being restricted by financial controls, regulations or financial moratoria of any kind, while carrying out its activities:

(a) the Tribunal may hold funds, currency of any kind or gold and operate accounts in Singapore in any currency;

(b) the Tribunal shall be free to transfer its funds, gold or its currency from or to Singapore or within Singapore and to convert any currency held by it into any other currency.

2. In exercising its rights under paragraph 1, the Tribunal shall pay due regard to any representations made by Singapore insofar as it is considered that effect can be given to such representations without detriment to the interests of the Tribunal.

*Article 17
Members of the Tribunal*

1. Members of the Tribunal shall, when engaged on the business of the Tribunal in Singapore, enjoy the privileges, immunities and facilities accorded to heads of diplomatic missions in Singapore in accordance with the Vienna Convention.

2. Members of the Tribunal shall be accorded facilities for entering and leaving Singapore.

3. Members of the Tribunal shall be accorded the same repatriation facilities in time of international crises as are accorded to diplomatic agents under the Vienna Convention.

4. Members of the Tribunal shall have insurance coverage against third-party risks in respect of vehicles owned or operated by them in Singapore, as required by the laws and regulations of Singapore.

5. Paragraphs 1 to 4 shall apply to Members of the Tribunal even after they have been replaced if they continue to exercise their functions in accordance with article 5, paragraph 3, of the Statute.

6. In order to secure, for Members of the Tribunal, complete freedom of speech and independence in the discharge of their functions, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their functions shall continue to be accorded, notwithstanding that the persons concerned are no longer Members of the Tribunal or performing those functions.

Article 18 *Officials*

1. The Registrar and the Deputy Registrar shall, when engaged on the business of the Tribunal in Singapore, be accorded diplomatic privileges, immunities and facilities in Singapore.

2. Other officials of the Tribunal shall enjoy in Singapore privileges, immunities and facilities as are necessary for the independent exercise of their functions. In particular, they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) the right to import free of duty their effects at the time of first taking up their functions in Singapore and to re-export the same free of duty to their country of permanent residence;

(c) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of Singapore; an inspection in such a case shall be conducted in the presence of the official concerned;

(d) immunity from legal process in respect of words spoken or written and all acts done by them in discharging their functions, which immunity shall continue even after they have ceased to exercise their functions;

(e) immunity from national service obligations;

(f) exemption from immigration restrictions or alien registration;

(g) the same privileges in respect of currency and exchange facilities as are accorded to the officials of comparable rank forming part of diplomatic missions to Singapore;

(h) the same repatriation facilities in time of international crises as are accorded to diplomatic agents under the Vienna Convention.

3. The officials of the Tribunal shall be required to have insurance coverage against third-party risks in respect of vehicles owned or operated by them in Singapore, as required by the laws and regulations of Singapore.

4. The Tribunal shall communicate to the Government the categories of officials to which the provisions of this article shall apply. The names of the officials included in these categories shall be communicated to the Government.

Article 19

Experts appointed under article 289 of the Convention

Experts appointed under article 289 of the Convention shall be accorded, during the period of their missions in Singapore, including the time spent on journeys in connection with their missions, such privileges, immunities and facilities as are necessary for the independent exercise of their functions. In particular, they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by law or controlled by the quarantine regulations of Singapore; an inspection in such a case shall be conducted in the presence of the expert concerned;

(c) immunity from legal process in respect of words spoken or written and acts done by them in discharging their functions, which immunity shall continue even after they have ceased to exercise their functions;

(d) inviolability of documents and papers;

(e) exemption from immigration restrictions or alien registration;

(f) the same facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(g) such experts shall be accorded the same repatriation facilities in time of international crises as are accorded to diplomatic agents under the Vienna Convention.

Article 20

Agents, counsel and advocates

1. Agents, counsel and advocates before the Tribunal or the Chamber of the Tribunal shall be accorded, during the period of their missions in Singapore, including the time spent on journeys in connection with their missions, the privileges, immunities and facilities as are necessary for the independent exercise of their functions. In particular, they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of

which is prohibited by law or controlled by the quarantine regulations of Singapore; an inspection in such a case shall be conducted in the presence of the agent, counsel or advocate concerned;

(c) immunity from legal process in respect of words spoken or written and all acts done by them in discharging their functions, which immunity shall continue even after they have ceased to exercise their functions;

(d) inviolability of documents and papers;

(e) the right to receive papers or correspondence by courier or in sealed bags;

(f) exemption from immigration restrictions or alien registration;

(g) the same facilities in respect of their personal baggage and in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(h) the same repatriation facilities in time of international crises as are accorded to diplomatic agents under the Vienna Convention.

2. Upon receipt of notification from parties to the case before the Tribunal or the Chamber of the Tribunal as to the appointment of an agent, counsel or advocate, a certification of the status of such representative shall be provided under the signature of the Registrar and limited to a period reasonably required for the proceedings.

3. The Government shall accord the privileges, immunities and facilities provided for in this article upon production of the certification referred to in paragraph 2.

Article 21

Witnesses, experts and persons performing missions

1. Witnesses, experts and persons performing missions by order of the Tribunal or the Chamber of the Tribunal shall be accorded, during the period of their missions in Singapore, including the time spent on journeys in connection with their missions, the privileges, immunities and facilities as are necessary for the independent exercise of their functions. In particular, they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by law or controlled by the quarantine regulations of Singapore; an inspection in such a case shall be conducted in the presence of the witness, expert or person performing a mission concerned;

(c) immunity from legal process in respect of words spoken or written and acts done by them in discharging their functions, which immunity shall continue even after they have ceased to exercise their functions;

- (d) inviolability of documents and papers;
- (e) exemption from immigration restrictions or alien registration;
- (f) subject to the declarations that need to be made under Singapore law, the same facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign governments on temporary official missions.

2. Witnesses, experts and persons performing missions shall be accorded repatriation facilities in time of international crises.

Article 22

Nationals and permanent residents

Without prejudice to the exemption granted to Members of the Tribunal and the Registrar from taxation in Singapore in accordance with article 15, a person enjoying immunities and privileges under this Agreement who is a national or permanent resident of Singapore, shall, in the territory of Singapore, enjoy only immunity from legal process and inviolability in respect of words spoken or written and all acts done by that person in the discharge of his or her duties, which immunity shall continue even after the person has ceased to exercise his or her functions in connection with the Tribunal.

Article 23

Respect for laws and regulations

1. Privileges, immunities and facilities as provided for in articles 17 to 21 are granted not for the personal benefit of the individuals themselves but in order to safeguard the independent exercise of their functions in connection with the Tribunal or the Chamber of the Tribunal.

2. Without prejudice to their privileges and immunities, all persons referred to in articles 17 to 21 shall respect the laws and regulations of Singapore. They shall not interfere in the internal affairs of Singapore.

Article 24

Cases of abuse

1. The Tribunal shall take every precaution to ensure that no abuse of the privileges, immunities and facilities as provided for in this Agreement shall occur. If the Government considers that there has been such abuse, the President of the Tribunal shall, when so requested, enter into consultations with the pertinent authorities of Singapore to determine whether such abuse has occurred. If the consultations fail to achieve a result satisfactory to the Government and to the President of the Tribunal, the matter shall be resolved according to the procedures established in article 30.

2. The Government may only require persons referred to in articles 17 to 21, other than Members, the Registrar or the Deputy Registrar or any other official of the Tribunal when

acting as Registrar or representatives of States Parties, to leave Singapore on account of any activities performed by them which are an abuse of the right of residence in Singapore and are not directly related to, or incidental to the performance of, official functions, with the approval of the Minister for Foreign Affairs of Singapore, after consultation with the Registrar in the case of officials of the Tribunal, and the President of the Tribunal in the case of the other persons herein referred to. Representatives of States Parties other than agents, representing such States Parties in proceedings before the Tribunal or the Chamber of the Tribunal, may only be required to leave Singapore in accordance with the diplomatic procedure applicable to diplomatic agents accredited to Singapore.

Article 25

Waiver

1. Inasmuch as the privileges and immunities provided for in this Agreement are granted in the interests of the good administration of justice and not for the personal benefit of the individuals themselves, the competent authority has the right and the duty to waive the immunity in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the administration of justice.
2. For this purpose, the competent authority in the case of agents, counsel and advocates representing or designated by a State which is a party to proceedings before the Tribunal or the Chamber of the Tribunal will be the State concerned. In the case of other agents, counsel and advocates, the Registrar, experts appointed under article 289 of the Convention and witnesses, experts and persons performing missions, the competent authority will be the Tribunal. In the case of other officials of the Tribunal, the competent authority will be the Registrar, acting with the approval of the President of the Tribunal.

Article 26

Laissez-passer and visas

1. Restrictions regarding entry into, sojourn in, or departure from the territory of Singapore shall not apply to persons referred to in articles 17 to 21 who enjoy diplomatic immunity or similar legal status. Restrictions regarding entry into, sojourn in, or departure from the territory of Singapore may apply to persons referred to in articles 20 and 21 who do not enjoy diplomatic immunity or similar legal status if the person in question has been convicted of or is charged with a serious criminal offence as referred to in the law of Singapore. The name of any such person to whom such restrictions are intended to be applied shall be communicated to the Tribunal and such person shall be provided safe conduct at the request of the Tribunal.
2. The Government shall recognize and accept the United Nations laissez-passer issued to Members and officials of the Tribunal or experts appointed under article 289 of the Convention as a valid travel document.
3. Applications for visas (where required) from the Members of the Tribunal and the Registrar shall be dealt with as speedily as possible. Applications for visas from all other persons holding or entitled to hold laissez-passer referred to in paragraph 2 and from persons referred to in articles 20 and 21, when accompanied by a certificate that they are travelling on the business of the Tribunal, shall be dealt with as speedily as possible.

Article 27
Maintenance of security and public order

1. If the Government considers it necessary to take, without prejudice to the independent and proper working of the Tribunal or the Chamber of the Tribunal, measures necessary for the security or for the maintenance of public order of Singapore in accordance with international law, it shall approach the Tribunal or the Chamber of the Tribunal as rapidly as circumstances allow in order to determine, after consultations with the Registrar, the measures necessary to protect them.
2. The Tribunal or the Chamber of the Tribunal shall cooperate with the Government to avoid any prejudice to the security or public order of Singapore resulting from its activities.
3. The Government shall take, in cooperation with the Registrar, the necessary measures to ensure that the use by the Tribunal or the Chamber of the Tribunal of the court facilities, equipment or supplies is not disrupted.
4. The Government shall protect the court facilities against unauthorized entry or damage of any kind and take appropriate measures to prevent any disturbance of the peace or impairment of the dignity and proper functioning of the Tribunal or the Chamber of the Tribunal or to prevent disturbances of public security or order in the court facilities or in the immediate vicinity thereof.
5. The Government shall provide the police or security forces necessary for the preservation of law and order in the court facilities and the removal therefrom of persons, if so requested by the Registrar.

Article 28
Cooperation with the authorities of Singapore

The Tribunal shall cooperate at all times with the appropriate authorities of Singapore to facilitate the execution of their laws and to prevent any abuse in connection with the privileges, immunities and facilities referred to in this Agreement.

Article 29
Responsibility

Singapore shall not incur, by reason of the functioning of the Tribunal or the Chamber of the Tribunal within its territory, any international responsibility for acts or omissions of the Tribunal or of its officials acting or abstaining from acting within the scope of their functions other than the international responsibility which Singapore would incur as a State Party.

Article 30
Settlement of disputes

1. The Tribunal shall make suitable provisions for the settlement of:

(a) disputes arising out of contracts and other disputes of a private law character to which the Tribunal is a party;

(b) disputes involving any person referred to in this Agreement who by reason of his or her official position enjoys immunity, if such immunity has not been waived.

2. All disputes between the Tribunal and the Government arising out of the interpretation or application of this Agreement shall be referred to an arbitral tribunal unless the parties have agreed to another mode of settlement. If a dispute arises which is not settled by consultation, negotiation or other agreed mode of settlement within three months following a request by one of the parties to the dispute, it shall at the request of either party be referred for final decision to a panel of three arbitrators: one to be chosen by the Tribunal, one to be chosen by the Government and the third, who shall be chairperson of the panel, to be chosen by the first two arbitrators. If either party has failed to make its appointment of an arbitrator within two months of the appointment of an arbitrator by the other party, the Secretary-General of the United Nations shall make such appointment. Should the first two arbitrators fail to agree upon the appointment of the third arbitrator within three months following the appointment of the first two arbitrators, the third arbitrator shall be chosen by the Secretary-General of the United Nations upon the request of either party.

Article 31
Entry into force

This Agreement shall enter into force upon signature.

Article 32
Modification

At the request of the Government or the Tribunal, consultations shall be entered into with respect to the modification of this Agreement. Any such modifications shall be made in writing by consent of both parties to this Agreement. Such modifications shall come into effect on such date as mutually agreed by the parties.

Article 33
Termination of the Agreement

This Agreement may be terminated:

(a) by mutual consent of the Tribunal and the Government; or

(b) by either party by giving notice to the other party at least one month in advance of the effective date of termination.

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