



Agreement between the United Nations and the United Republic of Tanzania concerning the Headquarters of the International Residual Mechanism for Criminal Tribunals

Whereas the Security Council of the United Nations acting under Chapter VII of the Charter of the United Nations decided by its resolution 1966 (2010) adopted on 22 December 2010 to establish the International Residual Mechanism for Criminal Tribunals with two branches, one for the International Criminal Tribunal for Rwanda (ICTR) and the other for the International Tribunal for the former Yugoslavia (ICTY);

Whereas the International Residual Mechanism for Criminal Tribunals is established as a subsidiary organ within the terms of Article 29 of the Charter of the United Nations;

Whereas Article 3 of the Statute of the International Residual Mechanism for Criminal Tribunals, Annex I to Security Council resolution 1966 (2010), provides that the branch for the ICTR shall have its seat in Arusha and the branch for the ICTY shall have its seat in The Hague;

Whereas the Security Council, by resolution 1966 (2010), decided that the determination of the seats of the branches of the Mechanism is subject to the conclusion of appropriate arrangements between the United Nations and the host countries of the branches of the Mechanism acceptable to the Security Council;

Whereas the United Nations and the United Republic of Tanzania wish to conclude an agreement to facilitate the smooth and efficient functioning of the International Residual Mechanism for Criminal Tribunals in the United Republic of Tanzania;

The United Nations and the United Republic of Tanzania have agreed as follows:

PART I. GENERAL PROVISIONS

Article 1. Use of terms

For the purpose of this Agreement:

- a) "Statute" means the Statute of the International Residual Mechanism for Criminal Tribunals, as annexed to Security Council resolution 1966 (2010);
- b) "Mechanism" means the International Residual Mechanism for Criminal Tribunals, established by the Security Council pursuant to its resolution 1966 (2010), which is also known as the Mechanism for International Criminal Tribunals or the MICT;
- c) "Secretary-General" means the Secretary-General of the United Nations;
- d) "host State" means the United Republic of Tanzania;
- e) "Parties" means the United Nations and the host State;



- f) “judges” means the judges of the Mechanism elected by the General Assembly in accordance with Article 10, paragraph 1 of the Statute or appointed by the Secretary-General in accordance with Article 10, paragraphs 2 and 4 of the Statute;
- g) “President” means the President of the Mechanism appointed by the Secretary-General in accordance with Article 11, paragraph 1 of the Statute;
- h) “Prosecutor” means the Prosecutor of the Mechanism appointed by the Security Council in accordance with Article 14, paragraph 4 of the Statute;
- i) “Registrar” means the Registrar of the Mechanism appointed by the Secretary-General in accordance with Article 15, paragraph 3 of the Statute;
- j) “staff of the Mechanism” means the staff of the Registry as referred to in Article 15, paragraph 4 of the Statute and the staff of the Office of the Prosecutor as referred to in Article 14, paragraph 5 of the Statute;
- k) “officials of the Mechanism” means the President, the judges, the Prosecutor, the Registrar and the staff of the Mechanism;
- l) “experts on mission for the Mechanism” means those persons, other than officials of the Mechanism, who perform missions for the Mechanism in the investigation or the prosecution of persons covered by Article 1 of the Statute or in the judicial or appellate proceedings;
- m) “interns” means persons who, not being staff of the Mechanism, have been accepted by the Mechanism into the internship or fellowship programme of the Mechanism for the purpose of performing certain tasks for the Mechanism without receiving a salary from the Mechanism;
- n) “witnesses” means persons designated as such by the Mechanism;
- o) “defence counsel” means a person admitted as counsel by the Mechanism;
- p) “suspect” means a person referred to as such in the Statute;
- q) “accused” means a person referred to as such in the Statute;
- r) “members of their family forming part of the household” shall be understood to include spouses of the officials of the Mechanism; children of the officials of the Mechanism who are under the age of 18; and children of the officials of the Mechanism aged 18 or over, but not older than 27, provided that they formed part of the official’s household prior to their first entry into the host State and still form part of this household, and that they are unmarried, financially dependent on the official of the Mechanism concerned and are attending education in the host State;



- s) “premises” means buildings, parts of buildings and areas, including land, installations and facilities made available to, maintained, occupied or used by the Mechanism in the host State in connection with its functions and purposes, including detention of a person;
- t) “Ministry of Foreign Affairs” means the Ministry of Foreign Affairs and International Co-operation of the host State;
- u) “competent authorities” means national, provincial, municipal and other competent authorities under the laws, regulations and customs of the host State;
- v) “Vienna Convention” means the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961, to which the United Republic of Tanzania acceded on 5 November 1962;
- w) “General Convention” means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946, to which the United Republic of Tanzania acceded on 29 October 1962;
- x) “Resolution 1966” means Security Council resolution 1966 (2010) adopted on 22 December 2010, which established the Mechanism;
- y) “Rules of Procedure and Evidence” means the Rules of Procedure and Evidence of the Mechanism adopted in accordance with Article 13 of the Statute;
- z) “ICTR” means the International Criminal Tribunal for Rwanda, established by the Security Council pursuant to its resolution 955 (1994); and
- aa) “ICTY” means the International Tribunal for the former Yugoslavia, established by the Security Council pursuant to its resolutions 808 (1993) and 827 (1993).

Article 2. Purpose and scope of this Agreement

This Agreement shall regulate matters relating to or arising out of the establishment and the proper functioning of the Mechanism in the host State.

PART II. STATUS OF THE MECHANISM

Article 3. Juridical personality

1. The Mechanism shall possess in the host State full juridical personality. This shall, in particular, include the capacity:
 - a) to contract;
 - b) to acquire and dispose of movable and immovable property; and



c) to institute legal proceedings.

2. For the purpose of this Article, the Mechanism shall be represented by the Registrar.

Article 4. Privileges, immunities and facilities

1. The Mechanism shall enjoy, in the territory of the host State, such privileges, immunities and facilities as are necessary for the fulfilment of its purposes.
2. The General Convention shall apply to the Mechanism and the archives of the Mechanism, the ICTR, and the ICTY, and officials of the Mechanism and experts on mission for the Mechanism.

Article 5. Inviolability of the premises

1. The premises shall be inviolable. The competent authorities shall take whatever action may be necessary to ensure that the Mechanism is not dispossessed and/or deprived of all or any part of its premises without its express consent.
2. The competent authorities shall not enter the premises to perform any official duty, except with the express consent or at the request of the Registrar, or an official designated by him or her. Judicial actions and the service or execution of legal process, including the seizure of private property, cannot be enforced on the premises except with the consent of and in accordance with conditions approved by the Registrar, or an official designated by him or her.
3. In case of fire or other emergency requiring prompt protective action, the consent of the Registrar, or an official designated by him or her, to any necessary entry into the premises shall be presumed if neither of them can be contacted in time.
4. Subject to paragraphs 1, 2 and 3 of this Article, the competent authorities shall take the necessary action to protect the premises against fire or other emergency.
5. The Mechanism shall prevent its premises from being used as a refuge by persons who are avoiding arrest or the proper administration of justice under any law of the host State.

Article 6. Protection of the premises and their vicinity

1. The competent authorities shall take all necessary measures to ensure the security and protection of the Mechanism and to ensure that the tranquillity of the Mechanism is not disturbed by the intrusion of persons or groups from outside the premises or by disturbances in their immediate vicinity, and shall provide to the premises the appropriate protection as may be required.
2. If so requested by the Registrar, or an official designated by him or her, the competent authorities shall, in consultation with the Registrar or an official designated by him or her, provide adequate protection, including police



protection, for the preservation of law and order on the premises or in the immediate vicinity thereof, and for the removal of persons therefrom.

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

Article 7. Law and authority on the premises

1. The premises shall be under the control and authority of the Mechanism, as provided in this Agreement.
2. Except as otherwise provided in this Agreement or the General Convention, the laws and regulations of the host State shall apply on the premises.
3. The Mechanism shall have the power to make its own rules and regulations operative on its premises and apply other United Nations rules and regulations as are necessary for the carrying out of its functions. The Mechanism shall promptly inform the competent authorities upon the adoption of such regulations. No laws or regulations of the host State which are inconsistent with the rules and regulations of the United Nations or of the Mechanism under this paragraph shall, to the extent of such inconsistency, be applicable on the premises.
4. The Mechanism may expel or exclude persons from the premises for violation of the applicable rules and regulations.
5. Subject to the rules and regulations referred to in paragraph 3 of this Article, and consistent with the laws and regulations of the host State, only staff of the Mechanism authorized by the Registrar, or an official designated by him or her, shall be allowed to carry arms on the premises.
6. The Registrar, or an official designated by him or her, shall notify the host State of the name and identity of staff of the Mechanism authorized by the Registrar, or an official designated by him or her, to carry arms on the premises, as well as the name, type, calibre and serial number of the arm or arms at his or her disposition.
7. Any dispute between the Mechanism and the host State as to whether a rule or regulation of the Mechanism or the United Nations comes within the ambit of this Article or as to whether a law or regulation of the host State is inconsistent with a rule or regulation of the United Nations or the Mechanism under this Article shall promptly be settled by the procedure under Article 44 of this Agreement. Pending such settlement, the rule or regulation that is the subject of the dispute shall apply and the law or regulation of the host State shall be inapplicable on the premises to the extent that the Mechanism claims it to be inconsistent with the rule or regulation in question.



Article 8. Public services for the premises

1. The competent authorities shall secure, upon the request of the Registrar, or an official designated by him or her, on fair and equitable conditions, the public services needed by the Mechanism such as, but not limited to, postal, telephone, telegraphic services, any means of communication, electricity, water, gas, sewage, collection of waste, fire protection, parking space, local transportation and cleaning of public streets.
2. In cases where the services referred to in paragraph 1 of this Article are made available to the Mechanism by the competent authorities, or where the prices thereof are under their control, the rates for such services shall not exceed the lowest comparable rates accorded to diplomatic missions or other international organizations.
3. In case of any interruption or threatened interruption of any such services, the Mechanism shall be accorded the priority given to essential agencies and organs of the host State and the host State shall take steps accordingly to ensure that the work of the Mechanism is not prejudiced.
4. Upon request of the competent authorities, the Registrar, or an official designated by him or her, shall make suitable arrangements to enable duly authorized representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers on the premises under conditions which shall not unreasonably disturb the carrying out of the functions of the Mechanism.
5. Underground constructions may be undertaken by the competent authorities on the premises only after consultation with the Registrar, or an official designated by him or her, and under conditions which shall not disturb the carrying out of the functions of the Mechanism.

Article 9. Flag, emblem and markings

The Mechanism shall be entitled to display its and the United Nations flag, emblem and markings on its premises and on vehicles and other means of transportation used for official purposes.

Article 10. Funds, assets and other property

1. The Mechanism, its funds, assets and other property, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process, except insofar as in any particular case the Secretary-General has expressly waived its immunity. It is understood, however, that no waiver of immunity shall extend to any measure of execution.
2. Funds, assets and other property of the Mechanism, wherever located and by whomsoever held, shall be immune from search, seizure, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.



3. Without being restricted by financial controls, regulations or moratoria of any kind, the Mechanism:
 - a) may hold and use funds, gold or negotiable instruments of any kind and maintain and operate accounts in any currency and convert any currency held by it into any other currency;
 - b) shall be free to transfer its funds, gold or currency from one country to another, or within the host State;
 - c) shall enjoy treatment not less favourable than that accorded by the host State to any international organization or diplomatic mission in respect of rates of exchange for its financial transactions;
 - d) may raise funds in any manner which it deems desirable, except that with respect to the public raising of funds within the host State, the Mechanism shall obtain the concurrence of the competent authorities.

Article 11. Inviolability of archives, documents and materials

1. The archives of the Mechanism, the ICTR and the ICTY, and all papers and documents in whatever form, and materials being sent to or from the Mechanism, held by the Mechanism or belonging to it, wherever located and by whomsoever held, shall be inviolable.
2. The termination or absence of such inviolability shall not affect protective measures that the Mechanism, ICTR or the ICTY may have ordered or may order with regard to documents and material made available to or used by the Mechanism.

Article 12. Facilities in respect of communications

1. The Mechanism shall enjoy in the territory of the host State for the purposes of its official communications and correspondence treatment not less favourable than that accorded by the host State to any international organization or diplomatic mission in the matter of priorities, rates and taxes applicable to mail and the various forms of communication and correspondence.
2. No censorship shall be applied to the official communications or correspondence of the Mechanism. Such immunity from censorship shall extend to printed matter, photographic and electronic data communications and other forms of communications as may be used by the Mechanism.
3. The Mechanism shall have the right to operate all appropriate means of communication, including electronic means of communication, and shall have the right to use codes or cipher for its official communications and correspondence. The official communications and correspondence of the Mechanism shall be inviolable.



4. The Mechanism shall have the right to despatch and receive correspondence and other materials or communications by courier or in sealed bags, which shall enjoy the same privileges, immunities and facilities as diplomatic couriers and bags.
5. The Mechanism shall have the right to operate radio, satellite and other telecommunication equipment on the United Nations registered frequencies or frequencies allocated to it by the host State in accordance with its national procedures. The host State shall endeavour to allocate to the Mechanism, to the extent possible, frequencies for which it has applied.
6. For the fulfilment of its purposes, the Mechanism shall have the right to publish freely and without restrictions within the host State in conformity with this Agreement.

Article 13. Exemption from taxes and duties

1. The Mechanism, its assets, income and other property shall be exempt from all direct taxes, whether levied by national, regional or local authorities or otherwise.
2. The Mechanism shall not claim exemption from taxes which are, in fact, no more than charges for public utility services provided at a fixed rate according to the amount of services rendered and which can be specifically identified, described and itemized.
3. While the Mechanism will not generally claim exemption from indirect taxes which constitute part of the cost of goods purchased by or services rendered to the Mechanism, including rentals, nevertheless when the Mechanism is making important purchases for official use on which such taxes or duties have been charged or are chargeable, the Government shall make appropriate administrative arrangements for the remission or refund of such taxes or duties.
4. The Mechanism, its funds, assets and other property shall be exempt from all customs duties in respect of articles imported or exported by the Mechanism for its official use, including motor vehicles. The Mechanism shall also be exempt from all customs duties in respect of its publications. Assets and other property for which an exemption from customs duties has been obtained shall not be sold within the host State except in accordance with conditions agreed to with the host State.

Article 14. Exemption from import and export restrictions

The Mechanism shall be exempt from all restrictions on imports and exports in respect of articles imported or exported by the Mechanism for its official use and in respect of its publications.



PART III. PRIVILEGES, IMMUNITIES AND FACILITIES ACCORDED TO PERSONS UNDER THIS AGREEMENT

Article 15. Privileges, immunities and facilities of the President, judges, the Prosecutor and the Registrar

1. The President, the Prosecutor and the Registrar, together with members of their family forming part of the household, who are not nationals or permanent residents of the host State, shall enjoy the privileges, immunities, exemptions and facilities accorded to diplomatic agents in accordance with international law, including the General Convention and the provisions of the Vienna Convention. Judges of the Mechanism, other than the President, together with members of their family forming part of the household, who are not nationals or permanent residents of the host State, shall enjoy these same privileges and immunities, exemptions and facilities when engaged on the business of the Mechanism. Such privileges and immunities, *inter alia*, include:
 - a) personal inviolability, including immunity from personal arrest or detention or any other restriction of their liberty and from seizure of their personal baggage;
 - b) immunity from criminal, civil and administrative jurisdiction;
 - c) inviolability of all papers and documents in whatever form and materials;
 - d) immunity from national service obligations;
 - e) exemption from immigration restrictions and alien registration;
 - f) exemption from taxation on salaries, emoluments and allowances paid to them in respect of their employment with the Mechanism;
 - g) the same privileges in respect of currency and exchange facilities as are accorded to diplomatic agents;
 - h) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents;
 - i) the right to import free of duties and taxes, except payments for services, their furniture and effects at the time of first taking up their post in the host State, and to re-export their furniture and effects free of duties and taxes to their country of destination upon separation from the Mechanism;
 - j) for the purpose of their communications with the Mechanism, the right to receive and send papers in whatever form; and
 - k) the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention.



2. The President, judges, the Prosecutor and the Registrar shall continue to be accorded immunity from legal process of every kind in respect of words which were spoken or written and all acts which were performed by them in their official capacity even after they have ceased to perform their functions for the Mechanism.
3. Where the incidence of any form of taxation depends upon residence, periods during which the President, judges, the Prosecutor and the Registrar are present in the host State for the discharge of their functions shall not be considered as periods of residence.
4. In the event the Mechanism operates a system for the payments of pensions and annuities, the host State shall not be obliged to exempt from income tax pensions or annuities paid to former Presidents, judges, Prosecutors and Registrars and the members of their family forming part of the household who reside in the host State after they have ceased to perform their functions for the Mechanism.
5. Persons referred to in this Article who are nationals or permanent residents of the host State shall:
 - a) enjoy the privileges, immunities and facilities in paragraph 1 of this Article, except for the immunity provided for in paragraph 1(b) of this Article; and
 - b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity, which immunity shall continue to be accorded even after they have ceased to perform their functions for the Mechanism.
6. Persons referred to in paragraph 5 of this Article shall not be subjected by the host State to any measure which may affect the free and independent performance of their functions before the Mechanism.

Article 16. Privileges, immunities and facilities of staff of the Mechanism

1. Staff of the Mechanism shall, regardless of their nationality, enjoy the privileges and immunities accorded to officials of the United Nations under the General Convention, including Articles V and VII and as modified and supplemented below:
 - a) immunity from personal arrest or detention or any other restriction of their liberty and from seizure of their personal baggage;
 - b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity, which immunity shall continue to be accorded even after they have ceased to perform their functions for the Mechanism;
 - c) inviolability of all papers and documents in whatever form and materials;
 - d) immunity from national service obligations;



- e) together with members of their family forming part of the household, exemption from immigration restrictions and alien registration;
 - f) exemption from taxation on salaries, emoluments and allowances paid to them in respect of their employment with the Mechanism;
 - g) the same privileges in respect of currency and exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions established in the host State;
 - h) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents;
 - i) together with members of their family forming part of the household, the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention; and
 - j) the right to import free of duties and taxes, except payments for services, their furniture and effects at the time of first taking up their post in the host State, and to re-export their furniture and effects, including motor vehicles, free of duties and taxes to their country of destination upon separation from the Mechanism.
2. Additionally, staff of the Mechanism of P-4 level and above, and such additional categories of staff of the Mechanism as may be designated in agreement with the host State by the Registrar, together with members of their family forming part of the household who are not nationals or permanent residents of the host State, shall be accorded the same privileges, immunities and facilities as the host State accords to diplomatic agents of comparable rank of the diplomatic missions established in the host State in conformity with the Vienna Convention.
 3. Additionally, staff of the Mechanism of P-3 level and below, including general service staff, together with members of their family forming part of the household, who are not nationals or permanent residents of the host State, shall be accorded the same privileges, immunities and facilities as the host State accords to members of the administrative and technical staff of diplomatic missions established in the host State, in conformity with the Vienna Convention, provided that the immunity from criminal jurisdiction and personal inviolability shall not extend to acts performed outside the course of their official duties.
 4. Internationally-recruited staff of the Mechanism, who are not nationals or permanent residents of the host State shall also be entitled to the following additional facilities:
 - a) to import free of custom and excise duties limited quantities of certain articles intended for personal consumption in accordance with existing regulations of the host State; and



- b) to import one motor vehicle, or two motor vehicles per family, every three years free of customs and excise duties, including value-added tax, if applicable, in accordance with existing regulations of the host State applicable to members of diplomatic missions of comparable ranks.
5. Staff of the Mechanism may be accorded such additional privileges, immunities and facilities as may be agreed upon between the Parties.
 6. Where the incidence of any form of taxation depends upon residence, periods during which staff of the Mechanism are present in the host State for the discharge of their functions shall not be considered as periods of residence.
 7. In the event the Mechanism operates a system for the payments of pensions and annuities, the host State shall not be obliged to exempt from income tax pensions or annuities paid to former staff of the Mechanism and the members of their family forming part of the household who reside in the host State after they have ceased to perform their functions.

Article 17. Experts on mission for the Mechanism

1. Experts on mission for the Mechanism shall enjoy the privileges, immunities and facilities as are necessary for the independent performance of their functions for the Mechanism, and in particular, shall enjoy the privileges, immunities and facilities under Articles VI and VII of the General Convention.
2. Experts on mission for the Mechanism shall be granted exemption from taxation on salaries, emoluments and allowances paid to them in respect of their engagement by the Mechanism, and may be accorded such additional privileges, immunities and facilities as may be agreed upon between the Parties.

Article 18. Personnel recruited locally by the Mechanism and not otherwise covered by this Agreement, including such personnel assigned to hourly rates

1. Personnel recruited locally by the Mechanism and not otherwise covered by this Agreement, including such personnel assigned to hourly rates, shall be accorded immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity for the Mechanism. Such immunity shall continue to be accorded even after they have ceased to perform their functions for the Mechanism. During their employment, they shall also be accorded such other facilities as may be necessary for the independent performance of their functions for the Mechanism.
2. The terms and conditions of the employment of personnel recruited locally and assigned to hourly rates by the Mechanism shall be in accordance with the relevant United Nations resolutions, decisions, regulations, rules and policies.



Article 19. Employment of family members of officials of the Mechanism

1. Members of their family forming part of the household of officials of the Mechanism shall be authorized to engage in gainful employment in the host State for the duration of the term of office of the official concerned.
2. Members of their family forming part of the household of officials of the Mechanism who obtain gainful employment shall enjoy no immunity from criminal, civil or administrative jurisdiction with respect to matters arising in the course of or in connection with such employment. However, any measures of execution shall be taken without infringing the inviolability of their person or of their residence, if they are entitled to such inviolability.
3. The employment referred to in paragraph 1 of this Article shall be in accordance with the legislation of the host State, including fiscal and social security legislation.
4. Nothing in the present Article shall be deemed a waiver, express or implied, of the privileges and immunities of the Mechanism or officials of the Mechanism.

Article 20. Interns and legal researchers

Interns and legal researchers shall enjoy the following privileges and immunities:

- a) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity, which immunity shall continue to be accorded even after the person concerned is no longer an intern or legal researcher at the Mechanism; and
- b) inviolability of all papers and documents in whatever form and materials relating to the performance of their functions for the Mechanism.

Article 21. Defence counsel and persons assisting counsel

1. Defence counsel, when holding a certificate that they have been admitted as counsel by the Mechanism and when performing their official functions, shall enjoy the same privileges and immunities as are accorded to experts on mission for the United Nations under Article VI, section 22, paragraphs (a)-(c), and section 23 of the General Convention, including as modified and supplemented below:
 - a) immunity from personal arrest or detention or any other restriction of their liberty and from seizure of their personal baggage;
 - b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity, which immunity shall continue to be accorded even after they have ceased to perform their functions for the Mechanism;



- c) inviolability of all papers and documents relating to the exercise of his or her functions as a counsel of a suspect or accused;
 - d) immunity from national service obligations;
 - e) the same privileges in respect of currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions; and
 - f) for the purpose of their communications in pursuance of their functions as counsel, the right to receive and send papers in whatever form and the right to use codes and to receive papers or correspondence by courier or in sealed bags.
2. In addition to the privileges, immunities and facilities provided for in paragraph 1 of this Article, defence counsel who are not nationals or permanent residents of the host State shall enjoy the following privileges and immunities:
 - a) together with members of their family forming part of the household, exemption from immigration restrictions and alien registration;
 - b) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents; and
 - c) together with members of their family forming part of the household, the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention.
 3. Upon their appointment in accordance with the Statute and the Rules of Procedure and Evidence, defence counsel shall be provided with a certificate by the Registrar for the period required for the performance of their functions. This certificate shall be withdrawn if the power or mandate is terminated prior to the expiry of the certificate.
 4. Where the incidence of any form of taxation depends upon residence, periods during which defence counsel are present in the host State for the discharge of their functions shall not be considered as periods of residence.
 5. Defence counsel shall not be subjected by the host State to any measure which may affect the free and independent performance of their functions before the Mechanism.
 6. This Article shall be without prejudice to such disciplinary rules as may be applicable to defence counsel.
 7. The provisions of this Article shall apply, *mutatis mutandis*, to persons assisting defence counsel, recognised by the Registrar in accordance with the relevant rules and procedures.



Article 22. Witnesses

1. Without prejudice to the obligation of the host State to comply with requests for assistance made or orders issued by the Mechanism pursuant to Article 28 of the Statute, witnesses shall be accorded the following privileges, immunities and facilities as are necessary for their appearance before the Mechanism, subject to the production of the document referred to in paragraph 2 of this Article:
 - a) immunity from personal arrest or detention or any other restriction of their liberty in respect of acts or convictions prior to their entry into the territory of the host State and from seizure of their personal baggage;
 - b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their appearance or testimony, which immunity shall continue to be accorded even after their appearance or testimony before the Mechanism;
 - c) inviolability of all papers and documents in whatever form and materials relating to their appearance or testimony;
 - d) exemption from immigration restrictions and alien registration when they travel for purposes of their appearance or testimony;
 - e) for the purpose of their communications with the Mechanism and with defence counsel in connection with their appearance or testimony, the right to receive and send papers in whatever form; and
 - f) the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention.
2. Witnesses shall be provided by the Registrar with a document certifying that their appearance is required by the Mechanism and specifying a time period during which such appearance is necessary. This document shall be withdrawn prior to its expiry if the witness' appearance before the Mechanism or his or her presence at the seat of the Mechanism is no longer required.
3. The privileges, immunities and facilities provided for in paragraph 1 of this Article, except for that referred to in paragraph 1(b) of this Article, shall cease to apply after 15 consecutive days following the date on which the presence of the witness concerned is no longer required by the Mechanism, provided that such witness had an opportunity to leave the host State during that period.
4. The privileges, immunities and facilities provided for in paragraphs 1(d) and 1(f) and the provision relating to seizure of personal baggage provided for in paragraph 1(a) of this Article do not apply to witnesses who are nationals or permanent residents of the host State.
5. Witnesses shall not be subjected by the host State to any measure which may affect their appearance or testimony before the Mechanism.



Article 23. Other persons required to be present at the seat of the Mechanism

1. Other persons required to be present at the seat of the Mechanism shall, to the extent necessary for their presence at the seat of the Mechanism, be accorded the following privileges, immunities and facilities, subject to production of the document referred to in paragraph 2 of this Article:
 - a) immunity from personal arrest or detention or any other restriction of their liberty and from seizure of their personal baggage;
 - b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their presence at the seat of the Mechanism, which immunity shall continue to be accorded even after they are no longer present at the seat of the Mechanism;
 - c) inviolability of all papers and documents in whatever form and materials relating to their presence at the seat of the Mechanism;
 - d) exemption from immigration restrictions and alien registration when they travel to and from the Mechanism for purposes of their presence at the seat of the Mechanism;
 - e) for the purpose of their communications in connection with their presence at the seat of the Mechanism, the right to receive and send papers in whatever form; and
 - f) the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention.
2. Persons referred to in this Article shall be provided by the Registrar with a document certifying that their presence is required at the seat of the Mechanism and specifying a time period during which such presence is necessary. Such document shall be withdrawn prior to its expiry if their presence at the seat of the Mechanism is no longer required.
3. The privileges, immunities and facilities referred to in paragraph 1 of this Article, except for that referred to in paragraph 1(b) of this Article, shall cease to apply after 15 consecutive days following the date on which the presence of the person concerned is no longer required by the Mechanism, provided that the person had an opportunity to leave the host State during that period.
4. The privileges, immunities and facilities provided for in paragraphs 1(d) and 1(f) and the provision relating to seizure of personal baggage provided for in paragraph 1(a) of this Article do not apply to such other persons required to be present at the seat of the Mechanism who are nationals or permanent residents of the host State.
5. Persons referred to in this Article shall not be subjected by the host State to any measures which may affect their presence at the seat of the Mechanism.



PART IV. WAIVER OF PRIVILEGES AND IMMUNITIES

Article 24. Waiver of privileges, immunities and facilities

The privileges, immunities and facilities provided for in Articles 15, 16, 17, 18, 20, 21, 22, and 23 of this Agreement are granted in the interests of the Mechanism and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and duty to waive the immunity of any such person in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Mechanism.

PART V. COOPERATION BETWEEN THE MECHANISM AND THE HOST STATE

SECTION 1: GENERAL

Article 25. General cooperation between the Mechanism and the host State

1. Whenever this Agreement imposes obligations on the competent authorities, the ultimate responsibility for the fulfilment of such obligations shall rest with the Government of the host State.
2. The host State shall promptly inform the Mechanism of the office designated to serve as the official contact point and to be primarily responsible for all matters in relation to this Agreement, as well as of any subsequent changes in this regard.
3. The Registrar, or an official designated by him or her, shall serve as the official contact point for the host State and shall be primarily responsible for all matters in relation to this Agreement. The host State shall be informed promptly about this designation and of any subsequent changes in this regard.

Article 26. Cooperation with the competent authorities

1. The Mechanism shall cooperate at all times with the competent authorities to facilitate the proper administration of justice and secure the observance of police regulations as applicable to the Mechanism, and to prevent the occurrence of any abuse in connection with the privileges, immunities and facilities accorded under this Agreement.
2. The Mechanism and the host State shall cooperate on security matters, taking into account the public order and national security interests of the host State and the security needs of the Mechanism.
3. Without prejudice to their privileges, immunities and facilities, it is the duty of all persons enjoying such privileges, immunities and facilities to respect the laws and regulations of the host State and not to interfere in the internal affairs of the host State.



4. The Mechanism shall cooperate with the competent authorities responsible for fire prevention.
5. The Mechanism shall observe all security directives as well as all directives of the competent authorities responsible for fire prevention regulations as agreed with the host State.

Article 27. Notification and Identification Cards

1. The Registrar, or an official designated by him or her, shall promptly notify the host State of:
 - a) the appointment of officials of the Mechanism, the date of their arrival or commencement of their functions with the Mechanism and their final date of departure or termination of their functions with the Mechanism;
 - b) the members of their family forming part of the household of the persons referred to in subparagraph 1(a) of this Article, the date of their arrival and departure, where appropriate, and the fact that a person has ceased to form part of the household; and
 - c) private servants of persons referred to in subparagraph 1(a) of this Article, the date of their arrival and departure, where appropriate, and the fact that they are leaving the employ of such persons.
2. The host State shall issue to officials of the Mechanism, and members of their family forming part of the household and their private servants, experts on mission for the Mechanism, defence counsel and persons assisting defence counsel, interns and legal researchers, and other persons required to be at the seat of the Mechanism, an identity card bearing the photograph of the holder certifying their status under this Agreement. This card shall serve to identify the holder in relation to the competent authorities.
3. The Mechanism shall make appropriate arrangements with the host State regarding administrative issues related to the issuance of cards referred to in paragraph 2 of this Article.
4. At the final departure of the person(s) referred to in paragraph 2 of this Article or when the relevant person has ceased to perform his or her functions, the identity card referred to in paragraph 2 of this Article shall be promptly returned by the Mechanism to the Ministry of Foreign Affairs.
5. The Security Service of the Mechanism shall maintain photographic and other appropriate records of suspects and accused persons.

Article 28. Social security

1. Officials of the Mechanism shall be exempt from all compulsory contributions to the social security schemes of the host State. Consequently, officials of the



Mechanism shall not be covered against the risks described in the social security regulations of the host State.

2. The provisions of paragraph 1 of this Article shall apply *mutatis mutandis* to the members of their family forming part of the household of the persons referred to in paragraph 1 of this Article, unless they are employed or self-employed in the host State or receive social security benefits from the host State.

Article 29. Assistance in obtaining suitable accommodation

The Government of the host State shall assist officials of the Mechanism, experts on mission for the Mechanism, witnesses, defense counsel and persons assisting counsel in obtaining suitable accommodation in the host State. The said assistance shall be limited to locating suitable accommodation.

SECTION 2: VISAS, PERMITS AND OTHER DOCUMENTS

Article 30. Visas

1. Officials of the Mechanism, defence counsel and persons assisting defence counsel, witnesses and persons accompanying them, experts on mission for the Mechanism, suspects or accused, interns, legal researchers, and other persons required to be present at the seat of the Mechanism as notified as such by the Registrar, or an official designated by him or her, to the host State, shall have the right of unimpeded entry into, exit from and movement within the host State including unimpeded access to the premises of the Mechanism.
2. Visas, where required, shall be granted free of charge and as promptly as possible.
3. Applications for visas from members of their family forming part of the household and private servants of the persons referred to in paragraph 1 of this Article, where required, shall be processed by the host State as promptly as possible and granted free of charge.
4. At the request of the Mechanism, the host State shall renew promptly the visas of persons referred to in paragraph 1 of this Article.

Article 31. Visas for visitors of persons detained by the Mechanism

1. The host State shall make adequate arrangements by which visas for visitors of persons detained or acquitted by the Mechanism are processed promptly. Visas for visitors who are family members of a person detained or acquitted by the Mechanism shall be processed promptly and may be issued, where appropriate, free of charge or for a reduced fee.
2. Visas for the visitors referred to in paragraph 1 of this Article may be subjected to territorial limitations. Visas may be refused in the event that:
 - a) the visitors referred to in paragraph 1 of this Article cannot produce documents justifying the purpose and conditions of the intended stay and



demonstrating that they have sufficient means of subsistence, both for the period of the intended stay and for the return to the country of origin or transfer to a third State into which they are certain to be admitted, or that they are in a position to acquire such means lawfully;

- b) an alert has been issued against them for the purpose of refusing entry; or
 - c) they are considered a threat to public order or national security.
3. The host State may attach such conditions or restrictions to the visa as may be necessary to prevent violations of its public order or to protect the safety of the person concerned.
 4. Before applying paragraphs 2 or 3 of this Article, the host State will seek observations from the Mechanism.

Article 32. Laissez-passer and United Nations certificate

1. The host State shall recognize and accept the United Nations laissez-passer as a valid travel document. Where applicable, the host State further agrees to issue any required visas in the United Nations laissez-passer.
2. The host State shall recognize and accept in accordance with the provisions of Section 26 of the General Convention the United Nations certificate issued to persons travelling on the business of the Mechanism.
3. All persons referred to in this Agreement shall be granted facilities for speedy travel.

Article 33. Driving licence

1. During their period of employment with the Mechanism, officials of the Mechanism, as well as members of their family forming part of the household and their private servants, and defence counsel and persons assisting defence counsel, shall be allowed to obtain from the host State a driving licence on presentation of their valid foreign driving licence or to continue to drive using their own valid foreign driving licence, provided they are in possession of an identity card issued by the host State in accordance with Article 27 of this Agreement.
2. During their period of their assignment, those persons other than those covered under paragraph 1 of this Article, who are in possession of an identity card issued by the host State in accordance with Article 27 of this Agreement, shall be allowed to continue to drive using their own valid foreign driving license.



SECTION 3: SECURITY AND OPERATIONAL ASSISTANCE

Article 34. Security, safety and protection of persons referred to in this Agreement

1. Without prejudice to the privileges, immunities and facilities provided for in this Agreement, the competent authorities shall take effective and adequate action which may be required to ensure the security, safety and protection of persons referred to in this Agreement, indispensable for the proper functioning of the Mechanism, free from interference of any kind.
2. Without prejudice to the privileges, immunities and facilities provided for in this Agreement, the Mechanism and all persons referred to in this Agreement shall cooperate with the competent authorities to ensure their security and safety.

Article 35. Transport of persons in custody

1. The transport, pursuant to the Statute and the Rules of Procedure and Evidence, of a person in custody from the point of arrival in the host State to the premises of the Mechanism shall be carried out by the Mechanism, or at the request of the Mechanism, be carried out by the competent authorities of the host State in consultation with the Mechanism.
2. The transport, pursuant to the Statute and the Rules of Procedure and Evidence, of a person in custody from the premises of the Mechanism to the point of departure from the host State shall be carried out by the Mechanism, or at the request of the Mechanism, be carried out by the competent authorities of the host State in consultation with the Mechanism.
3. Any transport of persons in custody in the host State outside the premises of the Mechanism shall be carried out by the Mechanism, or at the request of the Mechanism, be carried out by the competent authorities of the host State in consultation with the Mechanism.
4. The Mechanism shall give reasonable notice to the competent authorities of the host State of the arrival of persons referred to in this Article. Whenever possible, 72 hours advance notice will be given.
5. Where the host State receives a request under this Article and identifies problems in relation to the execution of the request, it shall consult with the Mechanism, without delay, in order to resolve the matter. Such problems may include, *inter alia*:
 - a) insufficient time and/or information to execute the request;
 - b) the impossibility, despite best efforts, to make adequate security arrangements for the transport of the persons; or
 - c) the existence of a threat to public order and security in the host State.



6. A person in custody shall be transported directly and without impediment to the destination specified in paragraphs 1 and 2 of this Article or to any other destination as requested by the Mechanism under paragraph 3 of this Article.
7. The Mechanism and the host State shall, as appropriate, make practical arrangements for the transport of persons in custody in accordance with this Article.

Article 36. Transport of persons appearing before the Mechanism on a basis other than a warrant of arrest

The provisions of Article 35 of this Agreement shall apply, *mutatis mutandis*, to the transport of persons appearing before the Mechanism voluntarily or pursuant to an order of the Mechanism other than a warrant for arrest.

Article 37. Cooperation in detention matters

1. The host State shall cooperate with the Mechanism to facilitate the detention of persons and to allow the Mechanism to perform its functions within its detention centre.
2. Where the presence of a person in custody is required for the purpose of giving testimony or other assistance to the Mechanism and where, for security reasons, such a person cannot be maintained in custody in the detention centre of the Mechanism, the Mechanism and the host State shall consult and, where necessary, the host State shall make arrangements for detention in another prison facility or other place made available by the host State.

Article 38. Provisional release

1. The host State shall facilitate the transfer of persons granted provisional release into a State other than the host State.
2. The host State shall facilitate the re-entry into the host State of persons granted provisional release and their stay in the host State for any purpose related to proceedings before the Mechanism.
3. The Mechanism and the host State shall make practical arrangements as to the implementation of this Article.

Article 39. Release

1. Where a person is released from the custody of the Mechanism following the person's acquittal at trial or on appeal, or for any other reason, the Mechanism shall, as soon as possible, make such arrangements as it considers appropriate for the transfer of the person, taking into account the views of the person, to another State.
2. The provisions of Article 35 of this Agreement shall apply, *mutatis mutandis*, to the transport of persons referred to in this Article within the host State.



3. A person referred to in this Article shall not permanently remain on the territory of the host State except with the latter's consent. The host State shall facilitate the temporary stay of the person on its territory until the transfer under paragraph 1 of this Article takes place.

Article 40. Enforcement of sentences

1. Imprisonment shall be served in a State designated by the Mechanism from among those States with which the United Nations has agreements for this purpose in accordance with Article 25 of the Statute. The Mechanism shall begin the process of designating a State of enforcement as soon as possible.
2. In the event that it is no longer possible or appropriate for convicted persons to continue serving their sentence in the designated enforcement State, the Mechanism may temporarily transfer such persons back to the Mechanism detention facilities pending transfer to a new enforcement State.

Article 41. Limitation to the exercise of jurisdiction by the host State

1. The host State shall not exercise its jurisdiction or proceed with a request for extradition from another State with regard to persons surrendered to the Mechanism, persons granted provisional release or persons who appear before the Mechanism voluntarily or pursuant to a summons for any acts, omissions or convictions prior to their surrender or transfer to or the appearance before the Mechanism except as may be provided for in the Rules of Procedure and Evidence.
2. The immunity provided for in this Article shall cease when the person, having been acquitted, released or is otherwise no longer required by the Mechanism and having had for a period of 15 consecutive days from that date an opportunity of leaving, has nevertheless remained in the territory of the host State, or having left it, has returned.

PART VI. FINAL PROVISIONS

Article 42. Supplementary arrangements and agreements

The Mechanism and the host State may, for the purpose of implementing this Agreement or of addressing matters not foreseen in this Agreement, make supplementary arrangements and agreements as appropriate.

Article 43. Settlement of disputes with third parties

The Mechanism shall make provisions for appropriate modes of settlement of:

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



- b) disputes involving any person referred to in this Agreement who, by reason of his or her official position or function in connection with the Mechanism, enjoys immunity, if such immunity has not been waived by the Secretary-General.

Article 44. Settlement of differences on the interpretation or application of this Agreement or supplementary arrangements or agreements

1. All differences arising out of the interpretation or application of this Agreement or supplementary arrangements or agreements between the Parties shall be settled by consultation, negotiation or other agreed mode of settlement.
2. If the difference is not settled in accordance with paragraph 1 of this Article within three months following a written request by one of the Parties to the difference, it shall, at the request of either Party, be referred to a Tribunal of three arbitrators. Each Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint a third, who shall be the chairperson of the Tribunal. If, within 30 days of the request for arbitration, a Party has not appointed an arbitrator, or if, within 15 days of the appointment of two arbitrators, the third arbitrator has not been appointed, either Party may request the President of the International Court of Justice to appoint the arbitrator referred to. The Tribunal shall determine its own procedures, provided that any two arbitrators shall constitute a quorum for all purposes, and all decisions shall require the agreement of any two arbitrators. The expenses of the Tribunal shall be borne by the Parties as assessed by the Tribunal. The arbitral award shall contain a statement of the reasons on which it is based and shall be final and binding on the Parties.

Article 45. Amendments and termination

1. This Agreement may be amended by mutual consent of the Parties.
2. This Agreement shall cease to be in force by mutual consent of the Parties, if the seat of the Mechanism is removed from the territory of the host State or if the Mechanism is dissolved, except for such provisions as may be applicable in connection with the orderly termination of the operations of the Mechanism at its seat in the host State and the disposition of its property therein, as well as provisions granting immunity from legal process of every kind in respect of words spoken or written or all acts performed in an official capacity under this Agreement.

Article 46. Interpretation of agreements

The provisions of this Agreement shall be complementary to the provisions of the General Convention and the Vienna Convention, the latter Convention only insofar as it is relevant for the diplomatic privileges, immunities and facilities accorded to the appropriate categories of persons referred to in this Agreement. Insofar as any provision of this Agreement and any provisions of the General Convention and the Vienna Convention relate to the same subject matter, each of these provisions shall be applicable and neither shall narrow the effect of the other.



Article 47. No less favourable treatment provision

If and to the extent that the host State, at any time in the future, accords privileges, immunities and treatment more favourable to any international organization or tribunal than comparable privileges, immunities and treatment in this Agreement, the Mechanism or any person entitled to privileges and immunities under this Agreement shall enjoy these more favourable privileges, immunities and treatment.

Article 48. Entry into force

1. The provisions of this Agreement shall be applied provisionally as from the date of signature.
2. This Agreement shall enter into force on the first day of the second month after both Parties have notified each other in writing that the legal requirements for entry into force have been complied with.
3. Upon entry into force of this Agreement, the Agreement between the United Nations and the United Republic of Tanzania Concerning the Headquarters of the International Tribunal for Rwanda signed on 31 August 1995 shall terminate and this Agreement shall apply *mutatis mutandis* to the ICTR.

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

DONE at Dar es Salaam on the 26th day of November in the year Two Thousand and Thirteen, in duplicate, in the English language.

For the United Nations:

For the Government of the United
Republic of Tanzania:

Mr. MIGUEL DE SERPA SOARES

Under-Secretary-General for Legal Affairs and
United Nations Legal Counsel

Hon. BERNARD K. MEMBE (MP)

Minister for Foreign Affairs and
International Co-operation