

HEADQUARTERS AGREEMENT  
BETWEEN THE KINGDOM OF BELGIUM  
AND  
THE AFRICAN CARIBBEAN AND  
PACIFIC GROUP OF STATES

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The Kingdom of Belgium

and

The African, Caribbean and Pacific Group of States,

Whereas the Georgetown Agreement of 6 June 1975 established the African, Caribbean and Pacific Group of States, hereinafter referred to as "the ACP Group of States", and set up a council of ACP Ministers and a Committee of Ambassadors,

Whereas the fourth ACP-EEC Lomé Convention, hereinafter referred to as "the Convention", to which Belgium is a party, was signed in Lomé on 15 December 1989,

Considering Protocol no 3 on Privileges and Immunities annexed to the Lomé Convention, and the Community Declaration on Protocol no 3, Annex LXXI,

Considering the ACP Secretariat, hereinafter referred to as 'the Secretariat', is responsible for the running of the organs of the ACP Group.

Desirous to conclude an agreement specifying the privileges and immunities necessary for the performance of the functions of the ACP Secretariat in Belgium,

Have agreed as follows :

## TITLE I

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### Privileges and Immunities of the Secretariat

#### CHAPTER I : Legal Personality

##### Article 1

The Secretariat shall have the most extensive legal capacity accorded to legal persons. It shall, in particular, have the capacity to contract , to acquire and dispose of movable and immovable property and to institute and use a party to legal proceedings.

#### CHAPTER II : Property of the Secretariat

##### Article 2

The Secretariat as well as property and assets of the Secretariat used by the latter exclusively in the exercise of its official functions, shall enjoy immunity from jurisdiction, save where the President of the Council of ACP Ministers set up under the Convention expressly waives such immunity in an individual case. A separate waiver shall be necessary for each measure of enforcement.

##### Article 3

The premises used exclusively for the exercise of the Secretariat's functions shall be inviolable.

The consent of the President of the Council of ACP Ministers shall be required for access to such premises. However, his consent shall be deemed to have been given in the event of fire or other accident necessitating immediate protective action.

Belgium shall take all appropriate steps to protect the premises of the Secretariat from intrusion or damage, and to prevent the peace of the Secretariat from being disturbed or its dignity impaired.

#### Article 4

The headquarters, constituted by the immovables and the land used exclusively for the exercise of the Secretariat's functions shall be considered as the premises of the Secretariat.

#### Article 5

The official residence of the Secretary-General shall enjoy the same inviolability and protection as the premises of the Secretariat.

#### Article 6

Save when required for the purpose of investigating an accident caused by a motor vehicle belonging to or operated on behalf of the said Secretariat, or in respect of a traffic offence or an accident involving such a vehicle, the property and assets of the Secretariat shall not be the subject of any requisition, confiscation, sequestration or any other form of seizure or constraint, even for purposes of national defence or public utility, without an authorisation from the President of the ACP Council of Ministers.

If an expropriation becomes necessary for the same purposes, all appropriate measures shall be taken to prevent the functioning of the Secretariat from being hindered, and immediate and adequate compensation shall be paid to it.

#### Article 7

The archives of the Secretariat and, in general, all documents belonging to the Secretariat or held by it or by one of its officials shall be inviolable, wherever they are.

#### Article 8

The Secretariat may hold funds, gold or any currency and have accounts in any currency to the extent necessary for carrying out the operations falling within its objectives.

In the exercise of the rights granted to it under this Agreement, the Secretariat shall take into account any representation made by Belgium in so far as it deems it possible to act upon it without prejudicing its own interests.

Belgium undertakes to grant the Secretariat the necessary authorizations for carrying out, in accordance with the procedures laid down by national laws and applicable international agreements, any transfers and movements of funds necessitated by the establishment and operation of the Secretariat.

#### Article 9

The Secretariat, its assets, income and other property shall be exempt from all direct taxes.

#### Article 10

Where the Secretariat purchases large quantities of movable or immovable property or orders the performance of services on a large scale which are strictly necessary for the exercise of its official activities and the price of which includes indirect duties or sales taxes, appropriate measures shall be taken wherever possible to remit or refund the amount of such duties and taxes.

#### Article 11

Without prejudice to the obligations arising for Belgium from Community provisions and to the application of legal or statutory prohibitive or restrictive provisions governing public order or security, health or morality, the Secretariat may import free of all indirect taxation any goods or publications intended for its official use.

#### Article 12

The Secretariat shall be exempt from all indirect taxation in respect of its official publications which it distributes free of charge.

## Article 13

The property of the Secretariat may not be sold or otherwise disposed of in return for payment, or by way of gift, in Belgium except under conditions laid down by Belgian laws and regulations.

## Article 14

The Secretariat shall not request exemption in respect of taxes, charges and duties which represent more payment for public utility services.

## CHAPTER III : Communication Facilities

### Article 15

Belgium shall guarantee the Secretariat's freedom of communication for its official purposes.

The correspondence of the Secretariat shall be inviolable.

## TITLE II

### Persons

#### CHAPTER I : Persons taking part in the work of the Secretariat

### Article 16

The representatives of the Member States party to the Convention participating in the work of the European Communities' institutions and/or in the work of the Secretariat, as well as their advisers and technical experts shall enjoy the customary privileges, immunities and facilities during the performance of their duties.

### Article 17

The Secretary-General, the Deputy Secretary-General and other permanent members of staff of senior rank in the Secretariat - designated by the ACP States - as well as their spouse and children

under age forming part of their household shall enjoy the immunities, privileges and facilities accorded to diplomatic staff of diplomatic missions.

#### Article 18

Permanent members of staff other than persons referred to in Article 17, shall be exempt from all tax on salaries, emoluments and allowances paid to them by the ACP States, as from the date on which such income is subject to tax payable to the ACP States.

Belgium shall, however, reserve the right to take the said incomes into account when assessing the amount of tax to be applied to the beneficiaries' taxable incomes from other sources.

The tax exemption referred to in this Article shall not apply to pensions and annuities paid by the ACP States to their former staff of senior rank and other staff members or their beneficiaries.

#### Article 19

The permanent members of the Secretariat shall enjoy

- a) immunity from jurisdiction in respect of acts done in their official capacity including words spoken or written ; such immunity shall continue after the termination of their duties ;
- b) inviolability in respect of all their official papers and documents ;
- c) together with the members of their family forming part of their household, the same exemptions from the provisions restricting immigration as those generally accorded to staff members of international organizations.

#### Article 20

Permanent members of staff of the Secretariat shall enjoy the usual facilities granted to officials of international organizations in respect of monetary or exchange regulations.

## Article 21

Without prejudice to the obligations arising for Belgium from the provisions of the Treaty establishing to European Economic Community and to the application of the legal provisions and regulations, the Secretariat's staff shall. enjoy the right to import free of duty at the time of first taking up their duties in Belgium, their furniture, including motor cars, as well as the personal effects they possessed and used in the country of their previous residence ; and the right, on the termination of their functions in Belgium, to export free of duty objects and effects in their possession.

## Article 22

. . . Permanent members of staff of the Secretariat not engaged in any gainful employment other than that involved in their duties at the Secretariat, and any members of their families forming part of their household not engaged in any gainful private occupation in Belgium shall not be subject to Belgian legislation governing the employment of foreign labour and the exercise, by foreigners, of independent professional activities.

The Secretariat shall provide the Ministry of Foreign Affairs, before 1 March of each year, the required information or any changes in the information set out hereafter regarding its permanent and other members of staff, namely :

1. Name and forename ;
2. Place and date of birth ;
3. Sex ;
4. Nationality ;
5. Principal residence (commune, street and number) ;
6. Civil status ;
7. Composition of household ;
8. Date when took office in Belgium
9. Date when terminated service.

These persons and members of their families forming part of their household shall be entitled to a special identity card.



## Article 23

As far as social security is concerned, permanent members of **the** Secretariat who are neither nationals of nor permanent residents in Belgium and who are not engaged in Belgium in a gainful private occupation other than that involved in their official duties may choose to be subject to Belgian law.

This choice may be exercised only once and must be made within three months from the date on which duties are taken up in Belgium.

The Secretariat shall apply the Belgian social security regulations to those persons who have adhered to the Belgian social security scheme.

The Secretariat must ensure that persons who have chosen not to adhere to the Belgian scheme are actually covered by an adequate social security scheme and Belgium may obtain from the Secretariat the reimbursement of the costs incurred in respect of any assistance of a social nature.

## Article 24

Belgium shall not be bound to grant to its own nationals or permanent residents the advantages, privileges and immunities of this Agreement, save those laid down under Article 18.

However, they shall enjoy immunity from jurisdiction in respect of acts performed by them in their official capacity, including their words spoken or written ; such immunity shall continue after the termination of their duties.

### TITLE III

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#### General Provisions

##### Article 2.5

The privileges and immunities are granted to the members of the Secretariat solely in the interest of the Secretariat and not for their personal advantage. The President of the Council of ACP Ministers shall have the right to waive immunity in all cases where such immunity may hinder the course of justice and where such waiver is possible without prejudicing the interests of the Secretariat.

##### Article 26

The persons referred to in Article 19 shall not be entitled to any immunity from jurisdiction in respect of road traffic offences or of damage caused by a motor vehicle.

##### Article 27

The Secretariat and its staff shall comply with all obligations imposed by Belgian laws and regulations concerning third party liability for the use of any motor vehicle.

##### Article 28

The Secretariat and its staff shall cooperate at all times with the competent Belgian authorities in order to facilitate the proper administration of justice, to ensure that police regulations are complied with and to prevent any abuse which could arise out of the privileges, immunities and facilities provided for in this Agreement.

##### Article 29

By 1 March of each year the Secretariat shall forward to all beneficiaries a sheet specifying, in addition to their name and address, the amount of all salaries, emoluments, allowances, pensions or annuities which it paid to them during the previous year.

This sheet shall also indicate the amount of tax levied, to the benefit of the ACP States on the salaries, emoluments and allowances liable to such tax.

A duplicate of this sheet shall be forwarded by the Secretariat, before this date, directly to the Ministry of Foreign Affairs.

From the day the staff members referred to in Article 18 become liable to tax to the benefit of the ACP States, it will no longer be necessary to forward information as provided for by paragraph 2 of this Article, save for staff members who are engaged in a .gainful activity other than that resulting from their duties with the ACP Secretariat.

#### Article 30

Without prejudice to their privileges and immunities, the Secretariat and its staff shall be bound to respect Belgian laws and regulations.

#### TITLE IV

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#### Final Provisions

#### Article 31

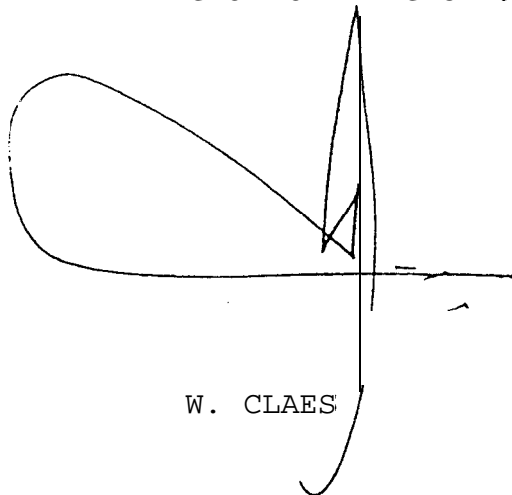
This Agreement shall be ratified by Belgium and approved by the Group of ACP States. The instruments of ratification shall be exchanged in Brussels.

It shall remain in force until the Secretariat is moved from Belgium, or until the expiry of a period of one year from the date on which one of the Parties informs the other Party of its intention to terminate it.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Agreement.

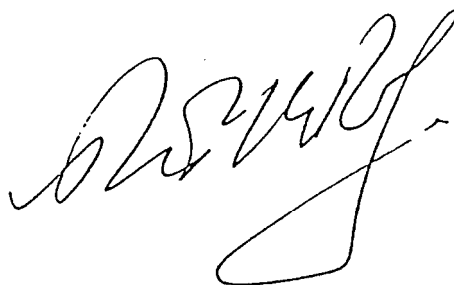
Done in Brussels on the 26th day of April 1993 , in duplicate, in French, Dutch and English, all three texts being equally authentic.

FOR THE GOVERNMENT OF  
THE KINGDOM OF BELGIUM :

A large, stylized handwritten signature in black ink, featuring a prominent loop on the left and a vertical stroke on the right.

W. CLAES

FOR THE AFRICAN CARIBBEAN  
AND PACIFIC GROUP OF  
STATES :

A large, stylized handwritten signature in black ink, featuring a prominent loop on the left and a vertical stroke on the right.

G. BERHANE

Brussels, 26 April 1993

-Excellency,

Upon signing the Headquarters Agreement between the ACP Group of States and the Kingdom of Belgium and in view of the international composition of the ACP Secretariat, I have the honour, on behalf of my Government, to submit the following proposal to you :

The expression "staff of senior rank" shall be deemed to mean the 'heads of the three technical divisions of the ACP Secretariat and the three senior staff members of similar rank, i.e. the heads of the legal administrative and financial supervision services.

In accordance with Article 17 of the Agreement, these persons as well as their spouses and children under age forming part of their household shall enjoy the immunities, privileges and facilities granted to members of the diplomatic staff of diplomatic missions.

Temporarily, all other staff members of the ACP Secretariat who currently hold diplomatic status, may retain this status for the duration of their employment at the Secretariat.

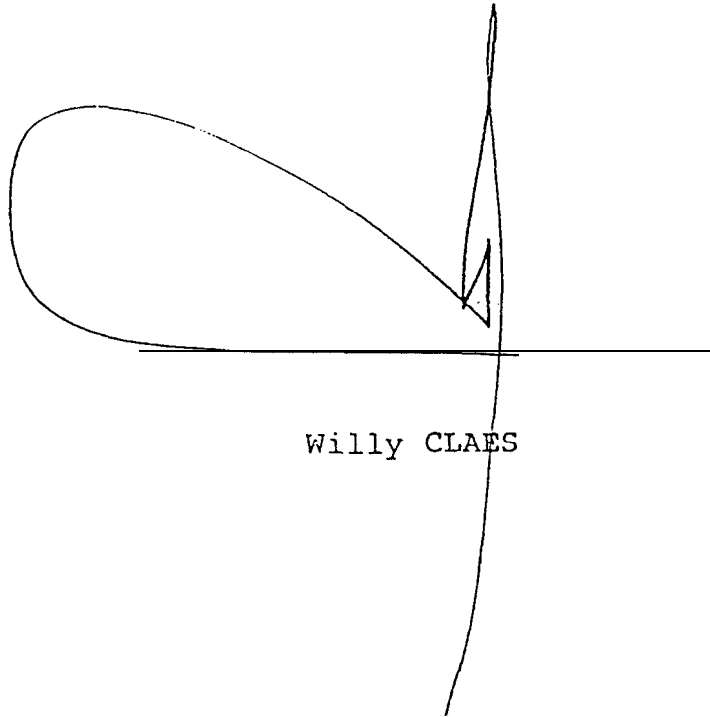
./.

His Excellency<sup>"</sup> Dr. G. BERHANE  
Secretary General  
African Caribbean and Pacific Group  
of States

BRUSSELS

If you agree with this interpretation, this letter and your reply will form an integral part of the Headquarters Agreement.

I avail myself of this opportunity, Excellency, to renew to you the assurance of my highest consideration.

A handwritten signature in dark ink, featuring a large, sweeping loop on the left side and a vertical stroke on the right that extends both above and below the main body of the signature. The signature is positioned above a horizontal line.

Willy CLAES

Brussels, 26 April 1993

Excellency,

I have the honour to acknowledge receipt of your letter which reads as follows :

"Upon signing the Headquarters Agreement between the ACP Group of States and the Kingdom of Belgium and in view of the international composition of the ACP Secretariat, I have the honour, on behalf of my Government, to submit the following proposal to you :

The expression "staff of senior rank" shall be deemed to mean the heads of the three technical divisions of the ACP Secretariat and the three senior staff members of similar rank, i.e. the heads of the legal administrative and financial supervision services.

In accordance with Article 17 of the Agreement, these persons as well as their spouses and children under age forming part of their household shall enjoy the immunities, privileges and facilities granted to members of the diplomatic staff of diplomatic missions.

Temporarily, all other staff members of the ACP Secretariat who currently hold diplomatic status, may retain this status for the duration of their employment at the Secretariat.

If you agree with this interpretation, this letter and your reply will form an integral part of the Headquarters Agreement."

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His Excellency Mr. Willy CLAES  
Minister of Foreign Affairs

BRUSSELS

Brussels, 26 April 1993

Excellency,

Upon signing the Headquarters Agreement between the Kingdom of Belgium and the African, Caribbean and Pacific Group of States, I have the honour to inform you of the following clarifications regarding the scope of Articles 18 (2) and 29 of the Headquarters Agreement.

The ACP Secretariat certifies that it has been paying its staff a net salary since it was set up in Belgium ; the internal tax, fixed in an autonomous and sovereign manner by the ACP States, is included in the Secretariat's resources.

The ACP Secretariat undertakes to communicate to the Belgian Government the internal tax system it has adopted in the year following the ratification of the Headquarters Agreement.

If you agree with this interpretation, this letter and your reply will form an integral part of the Headquarters Agreement.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to be 'G. Berhane', with a large, sweeping flourish at the end.

G. BERHANE

His Excellency Mr. Willy CLAES  
Minister of Foreign Affairs

BRUSSELS



Brussels , 26 April 1993

Excellency,

I have the honour to acknowledge receipt of your letter which reads as follows :

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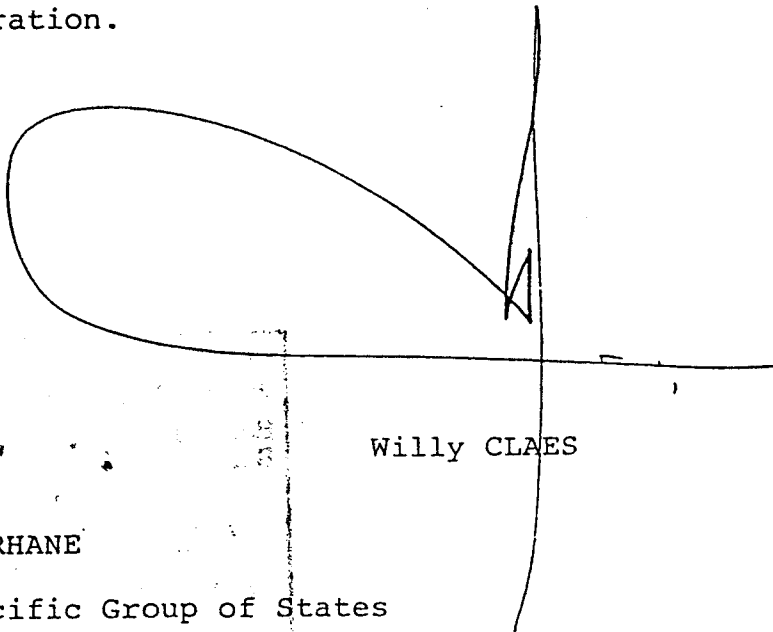
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The ACP Secretariat undertakes to communicate to the Belgian Government the internal tax system it has adopted in the year following the ratification of the Headquarters Agreement.

If you agree with this interpretation, this letter and your reply will form an integral part of the Headquarters Agreement."

I have the honour to inform you that I agree with your proposal and that your letter and my reply constitute an agreement which will form an integral part of the Headquarters Agreement.

Please accept, Excellency, the assurances of my highest consideration.

A large, stylized handwritten signature in black ink, consisting of a large loop and a vertical stroke, positioned above the printed name.

Willy CLAES

His Excellency Dr. G. BERHANE  
Secretary-General  
African Caribbean and Pacific Group of States  
BRUSSELS