

[ ENGLISH TEXT — TEXTE ANGLAIS ]

AGREEMENT BETWEEN THE PREPARATORY COMMISSION FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY ORGANIZATION AND THE GOVERNMENT OF THE COOK ISLANDS ON THE CONDUCT OF ACTIVITIES, INCLUDING POST-CERTIFICATION ACTIVITIES, RELATING TO INTERNATIONAL MONITORING FACILITIES FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY

In accordance with paragraph 12(b) of the Text on the Establishment of a Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, as annexed to the resolution establishing the Preparatory Commission for the Comprehensive Nuclear-Test Ban Treaty Organization ("Preparatory Commission"), adopted by the meeting of States Signatories of the Comprehensive Nuclear-Test-Ban Treaty ("CTBT") on 19 November 1996 at New York, the Preparatory Commission and the Government of the Cook Islands, hereinafter referred to as "the Parties", with the goal of facilitating the activities of the Provisional Technical Secretariat ("PTS") in:

- a) Conducting an inventory of existing monitoring facilities;
- b) Conducting site surveys;
- c) Upgrading or establishing monitoring facilities; and/or
- d) Certifying facilities to International Monitoring System standards,

and with the goal of facilitating the continued testing, provisional operation, as necessary, and maintenance of the International Monitoring System ("IMS") in pursuit of the goal of an effective Treaty, have agreed, pursuant to the provisions of the CTBT, in particular Articles I to IV and Part I of the Protocol, as follows:

*Article 1*

The Government of the Cook Islands and the PTS shall cooperate to facilitate the implementation of the provisions of this Agreement. The activities to be carried out by or on behalf of the PTS in the Cook Islands are or will be set forth in the Appendix or Appendices to this Agreement. Additional Appendices may be added or removed from time to time by mutual agreement of the Parties.

*Article 2*

The activities to be carried out on behalf of the PTS pursuant to the provisions of this Agreement shall be performed according to the terms and conditions of a contract or contracts awarded by the PTS in accordance with the provisions of the Financial Regulations and Rules of the Preparatory Commission. For each activity carried out on behalf of the PTS, the PTS shall designate a Representative and the Government of the Cook Islands shall designate an Executive Agent who shall be the points of contact between the PTS and the Government of the Cook Islands. The PTS shall inform the Government of the Cook

Islands of the name and title of the Representative as soon as possible following his or her designation. The Government of the Cook Islands shall inform the Executive Secretary of the Preparatory Commission of the name and title of the Executive Agent as soon as possible following his or her designation. The Government of the Cook Islands shall be entitled to refuse a PTS Representative on the understanding that the PTS shall be entitled to propose a new Representative to replace him or her. Subject to considerations of commercial confidentiality, a copy of any contract or contracts awarded pursuant to this paragraph may be provided to the Executive Agent.

*Article 3*

Where activities pursuant to the provisions of this Agreement are to be carried out by the PTS, the activities shall be conducted by a PTS Team which shall consist of the personnel that shall, after consultations with the Government of the Cook Islands, be designated by the PTS. The Government of the Cook Islands shall be entitled to refuse particular PTS Team members on the understanding that the PTS shall be entitled to propose new Team members to replace them. For each activity carried out by the PTS, the PTS shall designate a Team Leader and the Government of the Cook Islands shall designate an Executive Agent who shall be the points of contact between the PTS and the Government of the Cook Islands. The PTS shall inform the Government of the Cook Islands of the name and title of the Team Leader as soon as possible following his or her designation. The Government of the Cook Islands shall inform the Executive Secretary of the Preparatory Commission of the name and title of the Executive Agent as soon as possible following his or her designation.

*Article 4*

No less than 14 days in advance of the proposed arrival of a PTS Team or Representative at the point of entry, the PTS Team Leader or the PTS Representative shall consult with the Executive Agent for the purpose of facilitating the conduct of activities that shall be undertaken in accordance with the provisions of this Agreement, including consultations regarding the equipment to be brought into the Cook Islands by the PTS Team or Representative. For post-certification activities, such equipment should be in accordance with the relevant IMS Operational Manuals adopted by the Preparatory Commission without prejudice to Article II paragraph 26(h) of the CTBT. In the course of these consultations, the Government of the Cook Islands shall inform the PTS of the points of entry and exit through which the PTS Team or Representative and equipment shall enter and exit the territory of the Cook Islands.

*Article 5*

During the consultations noted in Article 4 above, the Government of the Cook Islands shall inform the PTS of information required for the Cook Islands to issue documents to enable the PTS Team or Representative to enter and remain on the territory of the Cook Islands for the purpose of carrying out activities under this Agreement. The PTS shall provide

that information to the Government of the Cook Islands as soon as possible after the conclusion of those consultations. In accordance with the relevant laws and regulations of the Cook Islands, the PTS Team or Representative shall be entitled to enter the territory of the Cook Islands and remain there for the period of time necessary to carry out such activities. The Government of the Cook Islands shall grant or renew as quickly as possible such documentation as is required for the PTS Representative or members of the PTS Team to enter and remain on the territory of the Cook Islands.

*Article 6*

The activities of the PTS Team pursuant to the provisions of this Agreement shall be arranged in cooperation with the Cook Islands so as to ensure, to the greatest degree possible, the timely and effective discharge of its functions, and the least possible inconvenience to the Cook Islands and disturbance to any facility or area at which the PTS Team will carry out its activities.

*Article 7*

The provisions of the Convention on the Privileges and Immunities of the United Nations shall apply, *mutatis mutandis*, to the activities of the Preparatory Commission, its officials and experts in implementing the provisions of this Agreement.

*Article 8*

The Government of the Cook Islands shall make all reasonable efforts to ensure that local entities cooperate with the activities undertaken by the PTS. The PTS shall take all reasonable steps necessary to ensure that the Executive Agent of the Cook Islands is kept informed of progress or developments in relation to all of the activities set out in the Preamble of this Agreement.

*Article 9*

The Executive Agent and the PTS shall prepare in advance a list of equipment to be brought into the Cook Islands by the PTS Team or Representative. Items of equipment that require special handling or storage for safety purposes shall be so designated by the PTS and communicated to the Executive Agent prior to the arrival of the PTS Team or Representative at the point of entry. The Government of the Cook Islands shall assist the PTS in meeting the laws and regulations of the Cook Islands for importing such equipment into the Cook Islands, and, where appropriate, exporting such equipment out of the Cook Islands. The Government of the Cook Islands shall have the right to conduct an inspection of such equipment on arrival, in order to ensure that it is necessary and appropriate for carrying out the activities to be performed by the PTS Team or Representative. The Government of the Cook Islands shall conduct such inspection without the presence of the PTS Team Leader or PTS Representative, unless he or she decides that his or her presence is necessary. The

Government of the Cook Islands shall ensure that the PTS Team can store its equipment in a securable work space.

*Article 10*

Title to any equipment transferred by the PTS to the Cook Islands for permanent installation in monitoring facilities in accordance with the provision of this Agreement shall pass to the Government of the Cook Islands upon entry into the jurisdiction of the Cook Islands.

*Article 11*

The Preparatory Commission, its assets, income and other property shall be exempt from all direct taxes in the Cook Islands.

*Article 12*

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

*Article 13*

For post-certification activities:

1. The facilities shall also be tested, provisionally operated, as necessary, and maintained by the Government of the Cook Islands in accordance with procedures and arrangements agreed between the Parties, with costs to be met by the PTS in accordance with Article IV, paragraphs 19 to 21 of the CTBT, and relevant budgetary decisions of the Preparatory Commission. In order to ensure that the International Data Centre ("IDC") receives high quality data with a high degree of reliability, the procedures and arrangements referred to above should be consistent with IMS Operational Manuals as adopted by the Preparatory Commission without prejudice to Article II paragraph 26(h) of the CTBT.

2. In accordance with relevant laws and regulations of the Cook Islands, the Government of the Cook Islands shall facilitate the provision of all appropriate utilities, consistent with IMS Operational Manuals as adopted by the Preparatory Commission without prejudice to Article II paragraph 26(h) of the CTBT, for the testing, provisional operation, as necessary, and maintenance of the facilities, with costs to be met by the PTS in accordance with Article IV, paragraphs 19 to 21 of the CTBT, and relevant budgetary decisions of the Preparatory Commission.

3. The Government of the Cook Islands shall ensure that, upon request, suitable frequencies required for the necessary communications links are made available in accordance with national laws, regulations and the national frequency usage plan.

4. The Government of the Cook Islands shall transmit data recorded or acquired by any facility to the IDC using the formats and protocols to be specified in the Operational Man-

ual of the facility. Such transmission of data shall be by the most direct and cost efficient means available, whether directly from the relevant station or via the National Data Centre or via appropriate communications nodes. All communications of data to the PTS shall be free of fees and any other charges of the Government or any competent authority in the Cook Islands, except for charges directly related to the cost of providing a service, which shall not exceed the lowest rates, if any, accorded to governmental agencies in the Cook Islands.

5. Data and samples shall be stored for at least 7 days. When requested by the PTS, samples from radionuclide monitoring stations shall be transmitted to the laboratory or analytical facilities specified by the PTS.

6. The Government of the Cook Islands shall maintain physical security of the facilities and equipment associated with any facility, including data lines and field equipment and sensors, with costs to be met by PTS in accordance with Article IV, paragraphs 19 to 21 of the CTBT, and relevant budgetary decisions of the Preparatory Commission.

7. The Government of the Cook Islands shall ensure that the instruments at any facility are calibrated in accordance with IMS Operational Manuals as adopted by the Preparatory Commission without prejudice to Article II, paragraph 26(h) of the CTBT.

8. The Government of the Cook Islands shall notify the PTS when a problem occurs, informing the IDC of the nature of the problem and an estimate of the expected time to fix the problem. The Government of the Cook Islands shall also notify the PTS when an abnormal event occurs that affects the quality of the data originating from any facility.

9. The PTS shall consult with the Government of the Cook Islands on procedures for the PTS to access a facility for checking equipment and communications links, and to make necessary changes in the equipment and other operational procedures, unless the Government of the Cook Islands takes responsibility for making the necessary changes. The PTS shall have access to the facility in accordance with such procedures.

#### *Article 14*

The Government of the Cook Islands shall ensure that its station monitoring staff respond as soon as practicable to inquiries originating from the PTS and which are related to the testing and provisional operation, as necessary, of any facility, or to the transmission of data to the IDC. These responses shall be made in the format specified in the Operational Manuals of the relevant facility.

#### *Article 15*

The costs for all of the activities to implement this Agreement shall be met by the PTS in accordance with Article IV, paragraphs 19 to 21 of the CTBT, and relevant budgetary decisions of the Preparatory Commission.

*Article 16*

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

*Article 17*

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

*Article 18*

Changes to this Agreement shall be made by agreement of the Parties. The Parties may enter into supplemental Agreements as they mutually determine to be necessary.

*Article 19*

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

*Article 20*

This Agreement shall enter into effect upon signature by the Parties. This Agreement shall remain in force until conclusion of a new Facility Agreement between the Government of the Cook Islands and the Comprehensive Nuclear-Test-Ban Treaty Organization.

Signed at Vienna and Rarotonga, respectively on the 31st day of March and the 14th day April in the year two thousand.

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

WOLFGANG HOFFMANN  
Executive Secretary

For the Government of the Cook Islands:

ROBERT WOONTON  
Minister of Foreign Affairs and Immigration

APPENDIX TO THE AGREEMENT BETWEEN THE PREPARATORY COMMISSION FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY ORGANIZATION AND THE GOVERNMENT OF THE COOK ISLANDS ON THE CONDUCT OF ACTIVITIES, INCLUDING POST-CERTIFICATION ACTIVITIES, RELATING TO INTERNATIONAL MONITORING FACILITIES FOR THE CTBT

Monitoring Facilities of the International Monitoring System Hosted by the Cook Islands

Any or all of the following operations may be required at the international monitoring facilities listed below:

Inventory

Site Survey

Installation

Upgrade

Certification

Post-certification activities

1. Rarotonga

RAR

Auxiliary Seismological Station AS24

Type 3-C

2. Rarotonga

RAR

Radionuclide Station RN23