

**Agreement between the Government of Sweden and the Secretariat of the Northern Dimension Partnership in Public Health and Social Well-being (NDPHS) concerning the immunity and privileges of the Secretariat and its staff**

The Secretariat of the Northern Dimension Partnership in Public Health and Social Well-being and

the Government of Sweden

RECALLING that the Northern Dimension Partnership in Public Health and Social Well-being (NDPHS) was established on 27 October 2003 in accordance with the “Declaration concerning the establishment of a NDPHS”

NOTING the desire of NDPHS Partner Countries to establish the Secretariat as an international legal entity in Sweden as proclaimed in the Agreement on the establishment of the Secretariat of the Northern Dimension Partnership in Public Health and Social Well-being concluded on 25 November 2011

HAVING REGARD to the Terms of Reference for the NDPHS Secretariat adopted on 27 October 2011,

have agreed as follows:

**Article I**

*Definitions*

Whenever used in this Agreement, the following words and expressions shall have the meaning assigned to them hereunder:

- a) “*Government*” means the Government of Sweden;
- b) “*Organisation*” means the Northern Dimension Partnership in Public Health and Social Well-being (NDPHS);
- c) “*CSR*” means the Committee of Senior Representatives of the NDPHS;
- d) “*Secretariat*” means the Secretariat of the NDPHS;
- e) “*Parties*” means the Government of Sweden and the Secretariat of the NDPHS
- f) “*Director*” means the Director of the Secretariat and any other official specifically designated to act on his or her behalf;
- g) “*Officials*” means persons employed or contracted by the Secretariat for its regular tasks;
- h) “*Emoluments*” means all sums in respect of employment by the Secretariat, paid to, vested in or accruing to an official in any form whatsoever;
- i) “*Taxes being charges for public services*” means such taxes which are paid in connection with the provision by a state or municipal authority of a particular service in direct relation to providing such a service;
- j) “*Family members*” means:
  - i) the spouse of the person concerned;
  - ii) the partner of the same sex, if the two persons have officially registered their relationship;
  - iii) a person comparable to a spouse, i.e. a person who continuously shares a household and cohabits in a relationship resembling marriage with the person concerned; the sex of the cohabitant is of no relevance;

iv) children of the person in question and of his/her spouse or a person defined in point ii and iii, who are under the age of 18 years or dependant on his/her care.

## **Article II**

### *Legal capacity*

The Secretariat shall possess full legal capacity pursuant to Article 1 of the Agreement on the establishment of the Secretariat of the Northern Dimension Partnership in Public Health and Social Well-being, signed at the ministerial-level Partnership Annual Conference in St Petersburg on 25 November 2011. In particular it shall possess such capacity as is necessary for the exercise of its functions and possess capacity to contract, acquire and dispose of movable and immovable property, and to institute and participate in legal proceedings.

## **Article III**

### *Property, funds and assets*

1. The Secretariat, its property and assets shall enjoy immunity from any form of legal proceedings. The property and assets held by the Secretariat in order to fulfill its objectives shall be exempt from requisition, confiscation, expropriation, and any other form of interference by an executive, administrative or judicial authority. The Director has the right to waive this immunity in any particular case.

2. The Secretariat, its property and assets, income and revenue shall be exempt from:

- a) all direct taxes; the Secretariat shall not, however, demand exemption from taxes being charges for public services;
- b) indirect taxes on goods purchased or services performed for the benefits of the activities of the Secretariat, in accordance with the rules regarding tax privileges for international organisations stipulated in the Swedish legislation concerning indirect taxation;
- c) payroll taxes, social security contributions and wage taxes for officials of the Secretariat;
- d) customs and import charges.

3. The Secretariat may possess funds and currencies of all kinds and may have accounts in any currency whatsoever.

4. The Secretariat shall not be subject to any legal provisions concerning import and export restrictions with regard to goods imported or exported by the Secretariat for official use. Goods brought into Sweden may not be sold in Sweden except on conditions approved by the Government.

## **Article IV**

### *Premises and services*

1. The Government undertakes to assist the Organisation in obtaining suitable premises for its office and reimburse the Secretariat the costs for office rent. Modalities of reimbursement will be periodically agreed upon by the Parties.

2. The premises of the Secretariat and the living quarters of the Director shall be inviolable and shall be exempt from house search. Swedish authorities may not gain access to the same without consent of the Director. Such consent may, however, be deemed to have been given in the event of an outbreak of fire or some other severe accident necessitating immediate measures.
3. The Swedish authorities concerned shall take appropriate measures for the safety and protection of the premises and the personnel of the Secretariat.
4. The archives of the Secretariat, in common with all other documents, manuscripts, information for computer storage and retrieval, recordings, photographs and films belonging to or held by the Secretariat, shall be inviolable.
5. The Swedish authorities concerned shall take appropriate measures to ensure that the Secretariat obtains access to necessary public services and that these services are provided on reasonable terms. With regard to telephone, radio/telegraph, telefax and postal services the Secretariat shall enjoy the same privileges as are usually accorded to diplomatic missions.

## **Article V**

### *Visa formalities and border control*

1. The Government undertakes to issue visa to Sweden without visa charges, in accordance with the Regulation (EC) No 819/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), to the following persons for as long as they have business at the Organisation:
  - a) The Chairperson of the NDPHS Committee of Senior Representatives;
  - b) Members of the Partnership Annual Conference, the Committee of Senior Representatives and any other committee established by the Organisation;
  - c) Persons appointed by Partner States and Partner Organisations to represent them on official business at the Secretariat;
  - d) Officials of the Secretariat and members of their families, if included in their respective households;
  - e) Experts on assignment at the Secretariat; and
  - f) Persons invited to the Secretariat by the Director.
2. The provisions of paragraph 1 shall apply regardless of the relations between the government of the persons concerned and the Government of Sweden. They shall not preclude the stipulation of reasonable proof that persons claiming the above mentioned rights belong to the categories indicated, nor the reasonable implementation of international rules of quarantine of public health regulations.

3. The Director shall as far as possible before their arrival in Sweden, notify the Government of the names of persons in the categories mentioned in paragraph 1 of this Article, to facilitate implementation by the Government of the provisions of this Agreement.

4. Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) is applicable regarding the crossing of the external borders and conditions for entry.

## **Article VI**

### *The Director and other officials of the Secretariat*

1. The Director and other officials of the Secretariat who are not Swedish citizens or residents of Sweden immediately prior to the employment by the Secretariat shall enjoy:

a) Immunity from legal action of any kind in relation to verbal or written statements which they have made in their official capacity and measures which they have taken in that capacity. This immunity shall continue to apply when the persons concerned have left the service of the Secretariat;

b) Inviolability in respect of all papers, documents, manuscripts, information for computer storage and retrieval, recordings, photographs and films relating to the activities of the Secretariat;

c) Exemption from tax and general social security contributions on emoluments and indemnities paid by the Secretariat;

d) Personal exemptions for themselves and members of their families included in their households from immigration restrictions and provisions concerning the registration of aliens;

e) Exemption from national service obligations;

f) The same currency exchange privileges as are accorded to officials holding corresponding positions with diplomatic missions. In particular, officials of the Secretariat shall be entitled, on terminating their employment in Sweden, legally and without hindrance, to transfer money from Sweden in the same currency and up to the same amount as they brought into Sweden, together with other money which they can show themselves to be in lawful possession of;

g) The same protection and opportunities of repatriation for themselves personally and for members of their families included in their households as during international crises are accorded to officials holding corresponding positions with diplomatic missions;

h) The right, when taking up their appointment, and without liability for customs and other import dues, to import furniture and other personal belongings, including one vehicle per official and spouse/partner; importation can be effected in one or more shipments.

2. The Director and other officials of the Secretariat who are Swedish citizens or residents of Sweden immediately prior to the employment by the Secretariat shall enjoy the privileges and

immunities indicated in section 1 a), b), d) and e) of this Article. Furthermore, they shall enjoy exemption from paying general social security contributions.

3. In addition to the immunities and privileges indicated in paragraph 1 of this Article, the Director of the Secretariat together with members of his or her family included in his or her household, insofar as he or she is not a Swedish citizen or a resident of Sweden when appointed, shall enjoy the privileges and immunities usually accorded to diplomatic envoys of corresponding status by the Vienna Convention on diplomatic relations. There shall, however, be no immunity in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle or other means of transport belonging to or driven by them, or in respect of a traffic offence involving such a vehicle and caused by them.

4. The Government undertakes that it will make a financial contribution to the Secretariat additional to and separate from its other contributions, equaling the amount of income tax on emoluments and indemnities from the Secretariat payable by officials who are not exempt from tax under this Article, which is deducted and remitted to the Swedish tax authorities by the Secretariat.

5. For the purposes of this Article, a person shall not be considered as resident of Sweden if he or she has immediately prior to the employment by the Secretariat been in the employment of another international organisation.

6. On applying paragraph 1c) of this Article on exemption from tax and general social security contributions on emoluments and indemnities paid by the Secretariat, the concept "resident of Sweden" shall imply resident of Sweden for tax purposes in accordance with Swedish national legislation.

## **Article VII**

### *Purpose of immunities and privileges*

1. Privileges and immunities under this Agreement are granted solely in order for the objectives and purposes of the Secretariat to be achieved efficiently. The Director of the Secretariat may waive the immunity of an official if, in his or her opinion, the immunity would impede the course of justice and can be suspended without detriment to the interests of the Secretariat. The Committee of Senior Representatives may waive the immunity of the Director in corresponding circumstances.

2. All persons enjoying immunity and privileges are obliged to respect Swedish law if this does not impinge on the immunities and privileges granted under this Agreement.

## **Article VIII**

### *Social security*

1. The Secretariat shall provide its officials and members of their families forming part of their respective households with appropriate social security protection.

2. However, members of a family of an official shall be entitled to Swedish social security benefits, if such family members were residents in Sweden immediately prior to the employment of the official by the Secretariat.

3. The provisions of this Article shall not apply to social security benefits related to income from gainful occupation in Sweden outside the Secretariat.

### **Article IX**

#### *Health care*

Officials of the Secretariat and members of their families forming part of their respective households and who are registered in the population registry as residents have access to health care on the same terms as other Swedish residents. Other officials of the Secretariat and members of their families forming part of their respective households shall be covered by appropriate arrangements made by the Secretariat.

### **Article X**

#### *Access to municipal preschool activities and childcare organised by municipalities*

The children of an official of the Secretariat, who is registered in the population registry as a resident of Sweden, have access to preschool activities and school-age childcare organised by Swedish municipalities on the same terms as other children in their home municipality.

### **Article XI**

#### *Access to the Swedish compulsory education and upper secondary education*

The family members of an official of the Secretariat, who is registered in the population registry as a resident of Sweden, have access to compulsory education and to upper secondary education in accordance with Swedish legislation.

### **Article XII**

#### *Communications*

1. The official correspondence of the Secretariat shall be inviolable.
2. The Government shall permit and protect unrestricted communication on the part of the Secretariat for all official purposes. The Secretariat may employ all appropriate means of communication, including couriers and messages in code and cipher.
3. Sealed bags containing documents or articles for official use and bearing external marks of their character shall not be opened or detained.
4. A courier of the Secretariat shall be provided with an official document indicating his or her status and the number of packages constituting the sealed bag. The appropriate authorities shall assist him or her in the performance of his or her functions, in which he or she shall

enjoy personal inviolability and he or she shall not be subjected to any form of arrest or detention.

### **Article XIII**

#### *General provisions*

1. The Secretariat shall establish the terms of contract and necessary employment regulations for its staff and the contract of employment shall prescribe for a legal mechanism to solve any dispute between the Secretariat and its staff regarding the contracts of their employment. The Secretariat undertakes to implement any decision made in accordance with such legal mechanism. The Secretariat shall further be entitled to establish any regulations necessary for the execution of the functions of the Secretariat, including rules of international administrative law.
2. This Agreement shall be interpreted with reference to its primary purpose of enabling the Secretariat to perform completely and efficiently its duties and achieve its purposes.

### **Article XIV**

#### *Settlement of disputes*

Any dispute between the Government and the Secretariat concerning the interpretation or application of this Agreement or any question effecting the relations between the Government and the Secretariat which cannot be settled by negotiation or by some other agreed method shall be referred for final decision to a panel consisting of three arbitrators. One of the arbitrators shall be selected by the Government, one shall be selected by the Secretariat, and the third, who shall act as chairperson of the arbitration panel, shall be chosen by the first two arbitrators. Should they fail to agree upon a choice of the third arbitrator within one year of their first appointment, the third arbitrator shall at the request of either Party be chosen by the President of the International Court of Justice.

### **Article XV**

#### *Final provisions*

1. Consultations on alterations to this Agreement shall be held at the request of either Party. Any such alterations shall be made by mutual consent.
2. Either of the Parties may terminate this Agreement at any time by giving 12 months notice to the other Party. In the event of the Secretariat being transferred from Swedish territory, the Agreement shall cease to apply after the length of time reasonably required for such relocation and for disposal of the Secretariat's property in Sweden.
3. This Agreement shall be approved by the Parties in accordance with their procedures. It shall enter into force on the first day of the month following the month when the Parties have notified each other that the requisite procedures have been completed.