

**PROTOCOL No 3****ON THE SOVEREIGN BASE AREAS OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND IN CYPRUS****THE HIGH CONTRACTING PARTIES,**

RECALLING that the Joint Declaration on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus annexed to the Final Act of the Treaty concerning the Accession of the United Kingdom to the European Communities provided that the arrangements applicable to relations between the European Economic Community and the Sovereign Base Areas will be defined within the context of any agreement between the Community and the Republic of Cyprus,

TAKING ACCOUNT of the provisions concerning the Sovereign Base Areas set out in the Treaty concerning the Establishment of the Republic of Cyprus (hereafter referred to as the "Treaty of Establishment") and the associated Exchanges of Notes dated 16 August 1960,

NOTING the Exchange of Notes between the Government of the United Kingdom and the Government of the Republic of Cyprus concerning the administration of the Sovereign Base Areas, dated 16 August 1960, and the attached Declaration by the United Kingdom Government that one of the main objects to be achieved is the protection of the interests of those resident or working in the Sovereign Base Areas, and considering in this context that the said persons should have, to the extent possible, the same treatment as those resident or working in the Republic of Cyprus,

NOTING FURTHER the provisions of the Treaty of Establishment regarding customs arrangements between the Sovereign Base Areas and the Republic of Cyprus and in particular those of Annex F to the said Treaty,

NOTING ALSO the commitment of the United Kingdom not to create customs posts or other frontier barriers between the Sovereign Base Areas and the Republic of Cyprus and the arrangements made pursuant to the Treaty of Establishment whereby the authorities of the Republic of Cyprus administer a wide range of public services in the Sovereign Base Areas, including in the fields of agriculture, customs and taxation,

CONFIRMING that the accession of the Republic of Cyprus to the European Union should not affect the rights and obligations of the parties to the Treaty of Establishment,

RECOGNISING therefore the need to apply certain provisions of the Treaty establishing the European Community and related EC law to the Sovereign Base Areas and to make special arrangements regarding the implementation of these provisions in the Sovereign Base Areas,

**HAVE AGREED UPON THE FOLLOWING PROVISIONS:****ARTICLE 1**

Article 299(6)(b) of the Treaty establishing the European Community shall be replaced by the following:

"(b) This Treaty shall not apply to the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus

except to the extent necessary to ensure the implementation of the arrangements set out in the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus annexed to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union and in accordance with the terms of that Protocol."

## **ARTICLE 2**

1. The Sovereign Base Areas shall be included within the customs territory of the Community and, for this purpose, the customs and common commercial policy acts listed in Part One of the Annex to this Protocol shall apply to the Sovereign Base Areas with the amendments set out in the Annex.
2. The acts on turnover taxes, excise duties and other forms of indirect taxation listed in Part Two of the Annex to this Protocol shall apply to the Sovereign Base Areas with the amendments set out in the Annex as well as the relevant provisions applying to Cyprus as set out in the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union.
3. The acts listed in Part Three of the Annex to this Protocol shall be amended as set out in the Annex to enable the United Kingdom to maintain the reliefs and exemptions from duties and taxes on supplies to its forces and associated personnel which are granted by the Treaty of Establishment.

## **ARTICLE 3**

The following Treaty and related provisions shall apply to the Sovereign Base Areas:

- (a) Title II of Part Three of the EC Treaty, on agriculture, and provisions adopted on that basis;
- (b) Measures adopted under Article 152(4)(b) of the EC Treaty.

## **ARTICLE 4**

Persons resident or employed in the territory of the Sovereign Base Areas who, under arrangements made pursuant to the Treaty of Establishment and the associated Exchange of Notes dated 16 August 1960, are subject to the social security legislation of the Republic of Cyprus shall be treated for the purposes of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self employed persons and to members of their families moving within the Community as if they were resident or employed in the territory of the Republic of Cyprus.

## **ARTICLE 5**

1. The Republic of Cyprus shall not be required to carry out checks on persons crossing their land and sea boundaries with the Sovereign Base Areas and any Community restrictions on the crossing of external borders shall not apply in relation to such persons.
2. The United Kingdom shall exercise controls on persons crossing the external borders of the Sovereign Base

Areas in accordance with the undertakings set out in Part Four of the Annex to this Protocol.

## **ARTICLE 6**

The Council, acting unanimously on a proposal from the Commission, may, in order to ensure effective implementation of the objectives of this Protocol, amend Articles 2 to 5 above, including the Annex, or apply other provisions of the EC Treaty and related Community legislation to the Sovereign Base Areas on such terms and subject to such conditions as it may specify. The Commission shall consult the United Kingdom and the Republic of Cyprus before bringing forward a proposal.

## **ARTICLE 7**

1. Subject to paragraph 2, the United Kingdom shall be responsible for the implementation of this Protocol in the Sovereign Base Areas. In particular:

(a) the United Kingdom shall be responsible for the application of the Community measures specified in this Protocol in the fields of customs, indirect taxation and the common commercial policy in relation to goods entering or leaving the island of Cyprus through a port or airport within the Sovereign Base Areas;

(b) customs controls on goods imported into or exported from the island of Cyprus by the forces of the United Kingdom through a port or airport in the Republic of Cyprus may be carried out within the Sovereign Base Areas;

(c) the United Kingdom shall be responsible for issuing any licences, authorisations or certificates which may be required under any applicable Community measure in respect of goods imported into or exported from the island of Cyprus by the forces of the United Kingdom.

2. The Republic of Cyprus shall be responsible for the administration and payment of any Community funds to which persons in the Sovereign Base Areas may be entitled pursuant to the application of the common agricultural policy in the Sovereign Base Areas under Article 3 of this Protocol and the Republic of Cyprus shall be accountable to the Commission for such expenditure.

3. Without prejudice to paragraphs 1 and 2, the United Kingdom may delegate to the competent authorities of the Republic of Cyprus, in accordance with arrangements made pursuant to the Treaty of Establishment, the performance of any functions imposed on a Member State by or under any provision referred to in Articles 2 to 5 above.

4. The United Kingdom and the Republic of Cyprus shall cooperate to ensure the effective implementation of this Protocol in the Sovereign Base Areas and, where appropriate, shall conclude further arrangements concerning the delegation of the implementation of any of the provisions referred to in Articles 2 to 5 above. A copy of any such arrangements shall be submitted to the Commission.

## **ARTICLE 8**

The arrangements provided for in this Protocol shall have the sole purpose of regulating the particular situation of the Sovereign Base Areas of the United Kingdom in Cyprus and shall not apply to any other territory of the Community, nor serve as a precedent, in whole or in part, for any other special arrangements which either already exist or which might be set up in another European territory provided for in Article 299 of the Treaty.

## ARTICLE 9

The Commission shall report to the European Parliament and the Council every five years on the implementation of the provisions of this Protocol.

## ANNEX

References in this Protocol to Directives and Regulations shall be interpreted as references to those Directives and Regulations as amended or substituted from time to time and their implementing acts.

## PART ONE

1. Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code of which Article 3(2) shall be replaced by the following:

"2. The following territories situated outside the territory of the Member States shall, taking the conventions and treaties applicable to them into account, be considered to be part of the customs territory of the Community:

### (a) FRANCE

The territory of the principality of Monaco as defined in the Customs Convention signed in Paris on 18 May 1963 (Official Journal of the French Republic of 27 September 1963, p. 8679)

### (b) CYPRUS

The territory of the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia as defined in the Treaty concerning the Establishment of the Republic of Cyprus, signed in Nicosia on 16 August 1960 (United Kingdom Treaty Series No 4 (1961) Cmnd. 1252)";

2. Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff;

3. Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty;

4. Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code;

5. Council Regulation (EEC) No 3677/90 of 13 December 1990 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances;

6. Council Directive 92/109/EEC of 14 December 1992 on the manufacture and the placing on the market of certain substances used in the illicit manufacture of narcotic drugs and psychotropic substances;

7. Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods;

8. Council Regulation (EC) No 3295/94 of 22 December 1994 laying down measures concerning the entry into the Community and the export and re-export from the Community of goods infringing certain intellectual property rights;
9. Commission Regulation (EC) No 1367/95 of 16 June 1995 laying down provisions for the implementation of Council Regulation (EC) No 3295/94 laying down measures concerning the entry into the Community and the export and re-export from the Community of goods infringing certain intellectual property rights;
10. Council Regulation (EC) No 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology.

## **PART TWO**

1. Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment of which:

(a) Article 3(4), first subparagraph, shall be replaced by the following:

"By way of derogation from paragraph 1, in view of:

- the conventions and treaties which the Principality of Monaco and the Isle of Man have concluded respectively with the French Republic and the United Kingdom of Great Britain and Northern Ireland,

- the Treaty concerning the Establishment of the Republic of Cyprus,

the Principality of Monaco, the Isle of Man and the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia shall not be treated for the purpose of the application of this Directive as third territories."

(b) Article 3(4), second subparagraph, shall be amended by the addition of a third indent as follows:

"- the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia are treated as transactions originating in or intended for the Republic of Cyprus."

2. Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products: Article 2(4) shall be amended by the addition of a fifth indent as follows:

"- the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia are treated as transactions originating in or intended for the Republic of Cyprus."

## **PART THREE**

1. Article 135 of Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty shall be amended by the addition of a new point (d), as follows:

"(d) by the United Kingdom of the reliefs on importations of goods for the use of its forces or the civilian staff accompanying them or for supplying their messes or canteens resulting from the Treaty of Establishment concerning the Republic of Cyprus, dated 16 August 1960".

2. Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment, shall be amended:

(a) by the insertion of a fourth indent in Article 14(1)(g), as follows:

"- the exemptions set out in the third indent shall extend to imports by and supplies of goods and services to the forces of the United Kingdom stationed in the island of Cyprus pursuant to the Treaty of Establishment concerning the Republic of Cyprus, dated 16 August 1960, which are for the use of the forces or the civilian staff accompanying them or for supplying their messes or canteens."

(b) by the replacement of Article 17(3)(b) with the following:

"(b) transactions which are exempt under Article 14(1)(g) and (i) and under Articles 15, and 16(1)(B) and (C), and paragraph 2".

3. Article 23(1), first subparagraph, of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products shall be amended by the addition of a new indent, as follows:

"- for the armed forces of the United Kingdom stationed in the island of Cyprus pursuant to the Treaty of Establishment concerning the Republic of Cyprus dated 16 August 1960, for the use of those forces, for the civilian staff accompanying them or for supplying their messes or canteens".

## **PART FOUR**

1. In this Protocol :

(a) "external borders of the Sovereign Base Areas" means their sea boundaries and their airports and seaports, but not their land or sea boundaries with the Republic of Cyprus;

(b) "crossing points" shall mean any crossing point authorised by the competent authorities of the United Kingdom for the crossing of external borders.

2. The United Kingdom shall only allow the external borders of the Sovereign Base Areas to be crossed at crossing points.

3. (a) Nationals of third countries shall only be permitted to cross the external borders of the Sovereign Base Areas if –

(i) they possess a valid travel document;

(ii) they are in possession of a valid visa for the Republic of Cyprus, if required;

(iii) they are engaged in defence-related activity or are the family member of a person who is engaged in such activity; and

(iv) they are not a threat to national security.

(b) The United Kingdom may only derogate from these conditions on humanitarian grounds, on grounds of

national interest or in order to comply with its international obligations.

(c) For the purpose of the undertaking in letter (a)(ii) members of a force, civilian component and dependants, as defined in Annex C to the Treaty of Establishment, shall be treated as not requiring a visa for the Republic of Cyprus.

4. The United Kingdom shall carry out checks on persons crossing the external borders of the Sovereign Base Areas. These checks shall include the verification of travel documents. All persons shall undergo at least one such check in order to establish their identity.

5. The competent authorities of the United Kingdom shall use mobile units to carry out external border surveillance between border crossing points and at crossing points outside of normal opening hours. This surveillance shall be carried out in such a way as to discourage people from circumventing the checks at crossing points. The competent authorities of the United Kingdom shall deploy enough suitably qualified officers to carry out checks and surveillance along the external borders of the Sovereign Base Areas.

6. The United Kingdom authorities shall maintain constant close cooperation with the authorities of the Republic of Cyprus with a view to the effective implementation of checks and surveillance.

7. (a) An applicant for asylum who first entered the island of Cyprus from outside the European Community by one of the Sovereign Base Areas shall be taken back or readmitted to the Sovereign Base Areas at the request of the Member State of the European Community in whose territory the applicant is present.

(b) The Republic of Cyprus, bearing in mind humanitarian considerations, shall work with the United Kingdom with a view to devising practical ways and means of respecting the rights and satisfying the needs of asylum seekers and illegal migrants in the Sovereign Base Areas, in accordance with the relevant Sovereign Base Area Administration legislation.

## **DECLARATION BY THE EUROPEAN COMMISSION**

The European Commission confirms its understanding that the provisions of Community law applicable to the Sovereign Base Areas pursuant to Article 3(a) of this Protocol include:

(a) Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products;

(b) Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds, to the extent required by Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agriculture Guidance and Guarantee Fund (EAGGF) for the purpose of financing rural development measures in the Sovereign Base Areas under the EAGGF Guarantee Section.

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