



Treaty Series No. 29 (2012)

Headquarters Agreement

between the Government of the United Kingdom of Great Britain and
Northern Ireland and the European Banking Authority

London, 8 May 2012

[The Agreement entered into force on 8 May 2012]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
May 2012*

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**HEADQUARTERS AGREEMENT BETWEEN THE GOVERNMENT OF
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND AND THE EUROPEAN BANKING AUTHORITY**

The Government of the United Kingdom of Great Britain and Northern Ireland (“Government”) and the European Banking Authority (“EBA”);

Having regard to Regulation (EU) No. 1093/2010 of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority) for the supervision of banking services, amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC;

Having regard to Protocol (No 7) on the Privileges and Immunities of the European Union (the “Protocol”) and the detailed rules for the application of certain Articles of the Protocol contained in the Administrative Agreement dated 8 May 2012 from the Director of Protocol and Vice-Marshal of the Diplomatic Corps to the Executive Director of the EBA;

Desiring to define the status, privileges and immunities of the EBA;

Have agreed as follows:

ARTICLE 1

Use of Terms

For the purpose of this Agreement:

- (a) “EBA” means the European Banking Authority;
- (b) “Government” means the Government of the United Kingdom of Great Britain and Northern Ireland (the “United Kingdom”);
- (c) “the Archives of the EBA” means all records, correspondence, documents, manuscripts, photographs, films, recordings, computer programmes, video tapes, discs and data held in any other media belonging to or held by the EBA and all information therein contained;
- (d) “the Premises of the EBA” means the buildings or parts of buildings and the land ancillary thereto used for the Official Activities of the EBA;
- (e) “Members of Staff” means the staff of the EBA;
- (f) “Official Activities of the EBA” means those activities carried out by the EBA pursuant to Articles 8 and 9 of the Regulation or any legally

binding act of the European Union which confers powers or tasks on the EBA ;

- (g) “the Regulation” means Regulation (EU) No 1093/2010 of the European Parliament and of the Council.

ARTICLE 2

Interpretation

This Agreement shall be interpreted in the light of the primary objective of enabling the EBA at its Headquarters in the United Kingdom fully and efficiently to discharge its responsibilities and fulfil its objectives and tasks. In case of any conflict between the Regulation and this Agreement the Regulation shall prevail.

ARTICLE 3

Legal Personality

The EBA shall have legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property and to be a party to legal proceedings.

ARTICLE 4

Inviolability of Archives

The Archives of the EBA shall be inviolable.

ARTICLE 5

Immunity from Judicial Proceedings

1. Within the scope of its Official Activities the EBA shall enjoy immunity from jurisdiction, except that the immunity of the EBA shall not apply:

- (a) to the extent that the EBA shall have expressly waived such immunity in a particular case;
- (b) in respect of a civil action by a third party for damage caused by a motor vehicle belonging to, or operated on behalf of, the EBA or in respect of a motor traffic offence involving such a vehicle;

- (c) in respect of a civil action relating to death or personal injury caused by an act or omission in the United Kingdom;
 - (d) in respect of the enforcement of an arbitration award made against the EBA as a result of an express submission to arbitration by or on behalf of the EBA;
 - (e) in respect of any counter-claim directly connected with court proceedings initiated by the EBA;
 - (f) in respect of proceedings relating to a contract of employment between the EBA and a Member of Staff.
2. The property and assets of the EBA shall, wherever located and by whomsoever held, be immune from all forms of restraint, seizure, attachment or execution except upon the delivery of a final judgment against the EBA.

ARTICLE 6

The Premises of the EBA

1. The EBA will be responsible for security and preservation of order within the Premises of the EBA. The Authority may appoint its own security for that purpose.
2. The Premises of the EBA shall be inviolable and shall be under the control and authority of the EBA, which may establish any regulations necessary for the exercise of its functions therein.
3. The appropriate authorities shall take such measures as they consider necessary for the protection of the Premises of the EBA against any intrusion or damage and to prevent any disturbance of the peace of the Premises of the EBA.
4. No official of the Government or person exercising any public authority, whether judicial, administrative, military or police, shall enter the Premises of the EBA except with the consent of and under conditions approved by the Executive Director of the EBA. In case of fire or other emergency warranting immediate measures of protection, or in the event that the competent authorities of the United Kingdom have reasonable cause to believe that such an emergency has occurred or is about to occur in the Premises of the EBA, the consent of the Executive Director on behalf of the EBA to entry into the Premises shall be presumed if the Executive Director cannot be reached in time.
5. Without prejudice to the terms of this Agreement, the EBA shall prevent the Premises of the EBA from becoming a refuge from justice for persons subject to extradition or deportation, or who are avoiding arrest or service of legal process under the law of the United Kingdom.

ARTICLE 7

Public Utilities and Services in the Premises of the EBA

1. The Government shall assist the EBA as far as practicable with accessing necessary public services. In case of any interruption or threatened interruption to such services, the Government shall take reasonable steps to ensure that the Official Activities of the EBA are not prejudiced.
2. The Executive Director on behalf of the EBA shall, upon request, make suitable arrangements to enable duly authorised representatives of the appropriate public service bodies to inspect, repair, maintain, reconstruct or relocate utilities, conduits, mains and sewers within the Premises of the EBA under conditions which will not unreasonably disturb the carrying out of the Official Activities of the EBA.

ARTICLE 8

Exemption from Taxation

1. Within the scope of its Official Activities the EBA, its property, assets and income shall be exempt from all direct taxes.
2. The EBA shall have relief by way of refund of value added tax paid on purchase of new vehicles which are necessary for the Official Activities of the EBA and of value added tax paid on the supply of any other goods and services of £1000 or more which are necessary for the Official Activities of the EBA.
3. The EBA shall have relief by way of refund of duty (whether customs or excise) paid on imported hydrocarbon oil within the meaning of the Hydrocarbon Oil Duties Act 1979 or value added tax paid on the importation of such oil which is bought in the United Kingdom by the EBA and necessary for the exercise of its Official Activities.
4. The EBA, within the scope of its Official Activities, shall be granted relief from non-domestic rates, or any other local taxes or duties or rates in substitution therefor or in addition thereto, levied on the Premises of the EBA with the exception of the proportion which, as in the case of diplomatic missions, represents a charge for public services. The rates, or any other local taxes or duties or rates levied in substitution therefor or in addition thereto, referred to in this paragraph shall in the first instance be paid by the Government, which shall recover from the EBA the proportion which represents a charge for public services.
5. The EBA shall have relief by way of refund of insurance premium tax, Climate Change Levy and air passenger duty paid by the EBA in the exercise of its Official Activities.

ARTICLE 9

Customs Provisions

1. The EBA shall have exemption from duties (whether customs or excise) and taxes on the importation of goods imported by the EBA and necessary for the exercise of its Official Activities, such exemption to be subject to compliance with such conditions as the Commissioners for Her Majesty's Revenue and Customs may prescribe for the protection of the Revenue.
2. The EBA shall have exemption from prohibitions and restrictions on importation or exportation of goods by the EBA and necessary for the exercise of its Official Activities except where the prohibitions or restrictions arise from European Union law.

ARTICLE 10

Resale

Goods belonging to the EBA which have been acquired under Article 8 or imported under Article 9 shall not be sold, given away, hired out or otherwise disposed of in the United Kingdom unless the Government has been notified in advance and the relevant taxes and duties are paid.

ARTICLE 11

Communications

1. With regard to the official communications of the EBA and the transfer of all its documents, the EBA shall enjoy treatment not less favourable than that accorded by the Government to other international organisations.
2. The Government shall permit and protect unrestricted communication on the part of the EBA for all the Official Activities of the EBA.
3. The EBA shall have the right to use codes and to dispatch and receive official correspondence and other official communications by courier or in sealed bags which shall have immunities and privileges not less favourable than those accorded to diplomatic couriers and bags.

ARTICLE 12

Members of Staff

1. Members of Staff shall:
 - (a) have, even after they have left the service of the EBA, immunity from jurisdiction in respect of acts, including words written and spoken, done by them in the exercise of their functions; this immunity shall not apply, however, in the case of a motor traffic offence committed by a Member of Staff, nor in the case of damage caused by a motor vehicle belonging to or driven by a Member of Staff;
 - (b) enjoy inviolability for all their official papers and documents;
 - (c) be exempt, together with their spouses and dependent members of their families, from immigration restrictions and alien registration and from registration formalities for the purposes of immigration control;
 - (d) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations in the United Kingdom;
 - (e) have the right to import duty-free their furniture and personal effects (including one motor vehicle each acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country) at the time of first taking up their post and the right on the termination of their functions to export free of duty their furniture and personal effects, subject in both cases to the conditions governing the disposal of goods imported into the United Kingdom free of duty and to the general restrictions applied in the United Kingdom to all imports and exports.
2. The privileges and immunities set out in sub-paragraphs (c), (d) and (e) of paragraph 1 of this Article shall not apply to Members of Staff who are nationals or permanent residents of the United Kingdom.
3. Members of Staff shall be subject to a tax imposed by the European Union for its benefit on salaries and emoluments paid by the EBA. Such emoluments shall be exempt from United Kingdom income tax.

ARTICLE 13

Notification of Appointments and Departures; Cards

1. The EBA shall inform the Government when a Member of Staff takes up or relinquishes his or her duties at the EBA. Furthermore the EBA shall every six

months send to the Government a list of all Members of Staff assigned to the EBA indicating in each case whether or not the individual is a national or permanent resident of the United Kingdom.

2. The Government shall issue to all Members of Staff (other than United Kingdom nationals or permanent residents of the United Kingdom), on notification of their appointment, a card bearing the photograph of the holder and identifying him or her as a Member of Staff of the EBA. The EBA shall ensure that when a Member of Staff relinquishes his or her duties at the EBA, his or her card is returned promptly to the Government for cancellation.

ARTICLE 14

Object of Privileges and Immunities; Waiver

1. The privileges, immunities and facilities accorded under the provisions of this Agreement are conferred in the interest of the EBA and not for the personal benefit of the individuals themselves. It is the duty of the EBA and all Members of Staff enjoying privileges, immunities and facilities to observe in all other respects the laws and regulations of the United Kingdom.

2. The Executive Director shall be required to waive any privilege or immunity in respect of the EBA and any Member of Staff when the privilege or immunity would prevent the carrying out of justice and when it is possible to dispense with the privilege or immunity without prejudicing the interests of the EBA. In similar circumstances and under the same conditions the Management Board of the EBA shall be required to waive any privilege or immunity of the Executive Director.

ARTICLE 15

Co-operation with United Kingdom Authorities

1. The EBA shall co-operate at all times with the appropriate authorities of the United Kingdom in order to facilitate the proper administration of justice, to ensure the observance of police, public health and labour regulations and to prevent any abuse of the privileges, immunities and facilities provided for in this Agreement.

2. In order to facilitate the application of this Agreement, the EBA shall closely co-operate with the representatives designated by the Government and with the local authorities.

3. Should the Government consider that an abuse of a privilege, immunity or facility conferred by this Agreement has occurred, the EBA shall, upon request, determine whether any such abuse has occurred. If a result satisfactory to the EBA and the Government is not achieved, the matter shall be settled in accordance with the procedure in Article 18.

ARTICLE 16

National Security

The provisions of this Agreement shall not affect the right of the Government to take measures it considers necessary for the security of the United Kingdom. If the Government consider it necessary to apply the preceding sentence, it shall approach the EBA as rapidly as circumstances allow in order to determine by mutual agreement the measures necessary to protect the interests of the EBA.

ARTICLE 17

Law and Authority and Liability for Damage

1. Except as otherwise provided in this Agreement or in the Regulation, the laws and regulations of the United Kingdom shall apply to and within the Premises of the EBA.
2. The EBA shall be responsible for any loss or damage arising from the activities of the EBA in the United Kingdom.

ARTICLE 18

Settlement of Disputes

1. Any dispute between the EBA and the Government concerning the interpretation or application of this Agreement or any question affecting the relations between the Government and the EBA which is not settled by negotiation or some other agreed method, shall be referred for final decision to a tribunal of three arbitrators, at the request of either Party. Each Party shall appoint one arbitrator. The third, who shall be Chair of the tribunal, shall be chosen by the first two arbitrators.
2. If one of the Parties fails to appoint an arbitrator within two months following a request from the other Party to make such an appointment, the other Party may request the President of the Court of Justice of the European Union, or, in his or her absence, the Vice President, to make such an appointment.
3. Should the first two arbitrators fail to agree upon the third within two months of their appointment, either Party may request the President of the Court of Justice of the European Union, or, in his or her absence, the Vice President, to make such an appointment.
4. Unless the Parties agree otherwise, the tribunal shall determine its own procedure.

5. The tribunal shall make its decision by a majority of votes. The Chairman shall have a casting vote. The decision shall be final and binding on the Parties.

ARTICLE 19

Amendments

The EBA and the Government shall enter into consultations with respect to the amendment of this Agreement at the request of either of them. Any agreement reached on amendment shall be given effect by an Exchange of Notes between authorised representatives of the Government and of the EBA.

ARTICLE 20

Entry into Force and Termination of this Agreement

1. This Agreement shall enter into force on signature by the Government and the EBA.
2. This Agreement may be terminated by Exchange of Notes between the Government and the EBA.
3. In the event of the Headquarters of the EBA being moved from the territory of the United Kingdom, this Agreement shall cease to be in force after the period reasonably required for such transfer and for the disposal of the property of the EBA.
4. Notwithstanding the preceding paragraphs, this Agreement shall remain in force in respect of any events which occurred before its date of termination.

In witness whereof, the respective representatives, duly authorised thereto, have signed this Agreement.

Done in duplicate at HM Treasury, London on the 8 day of May 2012.

**For the Government of the United
Kingdom of Great Britain and
Northern Ireland:**

**MARK HOBAN, MP,
FINANCIAL SECRETARY
TO THE TREASURY**

**For the European Banking
Authority:**

**ANDREA ENRIA,
CHAIRPERSON
OF THE EUROPEAN BANKING
AUTHORITY**



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