



Chairmanship of Kazakhstan

**EXPLANATORY NOTE
ON AMENDMENTS TO THE CICA HOST COUNTRY AGREEMENT**

(with the attached draft Protocol on Amendments to the Host Country Agreement submitted for approval of the CICA Member States)

The launch of the process of transformation of CICA into a full-fledged regional international organization by the Sixth CICA Summit on 13 October 2022 was a breakthrough in the evolution of CICA. In implementation of this historic decision, the CICA Ministerial Council endorsed the Road Map for CICA Transformation (RMT) on 21 September 2023, which sets eight major directions of future reforms. Cluster 4 of the RMT is “*Defining the international status of the Secretariat contracted personnel, including amendments to the Host Country Agreement*” (HCA).

The CICA Chairmanship and the host country is pleased to inform all Member States that Kazakhstan has made a considerable effort in implementation of Cluster 4 of the RMT and concluded internal approval procedures of the draft Protocol on Amendments to the HCA by relevant government agencies. The draft Protocol is now ready for endorsement by the CICA Member States and co-signing by the CICA Secretary General.

The amendments to the HCA will define the international character of functions of the CICA personnel by providing the status of “*international civil servants*” to all CICA Secretariat staff who do not enjoy diplomatic status on the territory of Kazakhstan. The contracted staff of any citizenship and seconded Kazakh citizens will be granted the following two basic privileges and immunities of international civil servants.

These are the exemption of the CICA salaries from the national income tax of Kazakhstan and functional legal immunity for actions done in the capacity of CICA personnel while exercising official functions. Such basic privileges are provided by the host countries of other full-fledged international organizations and are granted to the UN staff worldwide.

These privileges do not bear any financial or other implications for the CICA Member States except Kazakhstan, are cost-neutral for the CICA budget and, hence, do not affect the size of voluntary contributions of the Member States.

These privileges will significantly improve conditions of service in the CICA Secretariat, making it attractive for citizens of all CICA Member States. This in turn will broaden the geographic diversity among staff and make the Secretariat more professional and effective in its service to the Member States.

Granting international status to the CICA personnel is the demonstration of Kazakhstan's strong commitment and continued support to CICA and a tangible contribution to the CICA transformation.

The CICA Chairmanship hereby calls on all Member States to extend their full and expedient support to this initiative of Kazakhstan and kindly invites them to approve the enclosed draft Protocol on Amendments to the HCA through the silence procedure with the deadline of ***Friday, 19 July 2024, 12 noon by the Astana time.***

Following the approval by the CICA Member States, the document will be submitted for formal adoption by a decree of the Government of Kazakhstan. It will thereafter be co-signed by the host country and the CICA Secretary General and submitted for ratification by the Parliament of Kazakhstan.

The entry into force of the Protocol on Amendments to the HCA will mark the successful completion of work on one of the eight clusters of the RMT and a significant milestone in the implementation of the tasks set by the CICA Summit in the Astana Statement on CICA Transformation.

Attachment: draft Protocol on Amendments to the Host Country Agreement

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PROTOCOL
on Amendments to the Host Country Agreement
between the Government of the Republic of Kazakhstan
and the Secretariat of the Conference on Interaction and Confidence
Building Measures in Asia regarding the Terms and Conditions of the
Secretariat's Location in the Territory of the Republic of Kazakhstan

The Government of the Republic of Kazakhstan and the Secretariat of the Conference on Interaction and Confidence Building Measures in Asia, which are the Parties that signed the Host Country Agreement between the Government of the Republic of Kazakhstan and the Secretariat of the Conference on Interaction and Confidence Building Measures in Asia regarding the Terms and Conditions of the Secretariat's Location in the Territory of the Republic of Kazakhstan of 26 June 2007 (*hereinafter – the Agreement*),

Wishing to improve the terms and conditions of hosting the Secretariat of the Conference on Interaction and Confidence Building Measures in Asia in the territory of the Republic of Kazakhstan for its proper functioning,

Guided by Article 7 (3) of the Agreement,

Have agreed as follows:

Article 1

1. The Parties have agreed to make the following amendments to the Agreement:

1) To delete subparagraphs (f) and (g) of Article 1 (2).

2) To consider subparagraph (h) of Article 1 (2) new subparagraph (f).

3) To consider subparagraph (i) of Article 1 (2) new subparagraph (g) and amend it to read as follows:

“(g) The “Secretary General” is the chief executive officer of CICA;”

4) To consider subparagraph (j) of Article 1 (2) new subparagraph (h) and amend it to read as follows:

“(h) The “members of the professional personnel” are persons seconded to the Secretariat by Member States other than the Secretary General and the Deputy Secretary General;”

5) To introduce new subparagraph (i) of Article 1 (2) to read as follows:

“(i) The “members of the general/support personnel” are persons employed by the Secretariat on a contractual basis from among the nationals of Member States, with the exception of those hired temporarily to provide certain services;”

6) To introduce new subparagraph (j) of Article 1 (2) to read as follows:

“(j) The “members of the Secretariat personnel” are the Secretary General, the Deputy Secretary General, members of the professional personnel and members of the general/support personnel;”

7) To amend subparagraph (k) of Article 1 (2) to read as follows:

“(k) The “family members” are the members of the family (spouse, parents and children under 18) of a member of the Secretariat personnel forming part of their household in the territory of the Host Country.”

8) To amend the first paragraph of Article 2 to read as follows:

“The Secretariat shall enjoy in the territory of the Host Country such legal capacity as is necessary for the exercise of its functions, the rights of a legal entity and, inter alia, may:”

9) To amend Article 2 (4) to read as follows:

“4. Open bank accounts and operate financial transactions, establish funds and other financial mechanisms to carry out its activities, create its own pension and social security systems for members of the Secretariat personnel.”

10) To amend Article 2 (6) to read as follows:

“6. The rights stipulated by this article shall be exercised on behalf of the Secretariat by the Secretary General or, during his/her absence, by the Deputy Secretary General or by a member of the Secretariat personnel authorized by the Secretary General.”

11) To amend Article 3 (1) to read as follows:

“1. The property of the Secretariat, including premises and vehicles, as well as its archives and documents, including the official correspondence, shall not be subject to search, requisition, confiscation, arrest or execution in any circumstances.”

12) To amend Article 3 (3) to read as follows:

“3. The Secretariat, its assets, funds, bank accounts, income and other property shall be:

i. Exempt from all the direct taxes and duties, value added tax (VAT) (including returns according to the laws of the Host Country), which are levied in the territory of the Host Country.

ii. Exempt from customs payments, fees and duties, import and export restrictions and prohibitions, while importing and exporting by the Secretariat of the items for official use. The imported items, which are exempt from general rules, shall not be sold in the Host Country, except on the conditions agreed on with the Government.

iii. Exempt from the customs payments, fees and duties, import and export restrictions and prohibitions, while importing and exporting printed products issued by the Secretariat.”

13) To amend Article 3 (5) to read as follows:

“5. The premises, property and assets of the Secretariat, including funds and bank accounts, shall be immune from any form of administrative or judicial interference except for the cases when the Senior Officials Committee upon the proposal of the Secretary General takes a decision on waiving the immunity.”

14) To amend Article 3 (6) to read as follows:

“6. The representatives of the appropriate bodies of local authorities of the Host Country may not enter the premises of the Secretariat except with the consent and on conditions approved by the Secretary General or, during his/her absence, by the Deputy Secretary General or by a member of the Secretariat personnel authorized by the Secretary General.”

15) To amend Article 3 (7) to read as follows:

“7. The representatives of authorized state agencies of the Host Country may not enter the premises of the Secretariat, except during force-majeure situations only with the consent of the Secretary General or, during his/her absence, of the Deputy Secretary General or a member of the Secretariat personnel authorized by the Secretary General.”

16) To amend Article 5 (1) to read as follows:

“1. The authorized state agencies of the Host Country on the request of the Secretary General or, during his/her absence, of the Deputy Secretary General or a member of the Secretariat personnel authorized by the Secretary General shall ensure the provision of utility services, which are necessary for the Secretariat, on the conditions not less favourable than those accorded by the Host Country to diplomatic missions of foreign states.”

17) To amend the title of Article 6 to read as follows:

“Privileges and Immunities of the Members of the Secretariat Personnel”

18) To amend Article 6 (1) to read as follows:

“1. The members of the Secretariat personnel shall be independent and free from influence from any Member State and/or a government, organization or private person. Therefore, they shall not receive instructions from them.”

19) To amend Article 6 (2) to read as follows:

“2. The Host Country shall always treat with respect the international nature of the functions of the members of the Secretariat personnel, the status of diplomatic agent of the Secretary General, Deputy Secretary General and members of the professional personnel and the status of international civil servant of the members of the general/support personnel, and not to exert influence on them while they exercise their official functions.”

20) To amend Article 6 (3) to read as follows:

“3. The members of the Secretariat personnel in the territory of the Host Country shall:

i. Be immune from criminal, civil and administrative jurisdiction in respect of words spoken or written and all acts done by them in the capacity of the members of the Secretariat personnel while exercising their official functions, except in the case of:

a. Claims for damages arising from road accidents caused by the vehicles belonging to the Secretariat or members of the Secretariat personnel or vehicles driven by them.

b. Claims for damages arising from the death or personal injury caused by actions of members of the Secretariat personnel or vehicles driven by them.

ii. Be exempt from taxation on salaries and other emoluments, indemnities, retirement and social benefits that they receive from the Secretariat for their current or former service with the Secretariat.

iii. Be immune from the national service obligations of the Host Country.

iv. Be immune, together with their family members, from immigration restrictions and alien registration.

v. Be accorded the same privileges in respect of exchange facilities as are accorded to diplomatic agents in the territory of the Host Country.

vi. Be given, together with their family members, the same repatriation facilities in times of international crises as diplomatic agents.

vii. Upon the initial arrival in the Host Country for the purpose of taking up a post and upon departure from the Host Country due to the termination

of a mission or employment contract, have the right to import/export their effects, including personal-use vehicles, free of customs duties, taxes and fees, in accordance with the laws of the Host Country, except for those that are payments for specific services.

viii. The members of the Secretariat personnel shall not engage in professional or commercial activities for personal gain or the benefit of others, except for scientific, intellectual or educational activities.”

21) To amend Article 6 (4) to read as follows:

“4. The provisions of subparagraphs v, vi and vii of paragraph 3 of this article shall not apply to the members of the Secretariat personnel who are citizens of the Republic of Kazakhstan, and subparagraph iii shall apply to them as follows: at the request of the Secretary General, to ensure the continuity of the Secretariat’s main operations, the Government, represented by the Ministry of Foreign Affairs of the Republic of Kazakhstan, shall grant temporary deferments to the individuals called up for national service and may approve a full exemption from national service due to their official duties in the Secretariat.”

22) To amend Article 6 (5) to read as follows:

“5. In addition to the privileges and immunities specified in paragraph 3 of this article, the Secretary General, the Deputy Secretary General, members of the professional personnel and their family members shall enjoy other privileges and immunities accorded to diplomatic agents and their family members under international law.”

23) To amend Article 6 (6) to read as follows:

“6. The Secretariat shall provide adequate insurance coverage for the Secretariat vehicles, including the service vehicles of members of the Secretariat personnel. Members of the Secretariat personnel and their family members shall also provide adequate insurance coverage for personal vehicles.”

24) To amend Article 6 (7) to read as follows:

“7. The members of the Secretariat personnel and their family members shall enjoy the privileges and immunities under this Agreement from the moment they arrive in the territory of the Host Country on proceeding to their place of destination or, if already in its territory, from the moment a member of the Secretariat personnel assumes his/her duties.”

25) To amend Article 6 (8) to read as follows:

“8. Upon termination of the functions of a member of the Secretariat personnel, his/her privileges and immunities, as well as those of his/her

family members, shall cease at the moment he/she leaves the Host Country or one month after leaving his/her post.”

26) To amend Article 6 (9) to read as follows:

“9. In the event of the death of a member of the Secretariat personnel, his/her family members shall continue to enjoy the privileges and immunities accorded to them until the moment they leave the Host Country, but not more than two months from the date of death.”

27) To amend Article 6 (10) to read as follows:

“10. Privileges and immunities shall be accorded to the members of the Secretariat personnel not for the personal benefit of the individuals concerned, but for the efficient and independent exercise of their official functions in the interests of CICA.”

28) To amend Article 6 (11) to read as follows:

“11. Waiver of immunity.

i. The right to waive immunity with respect to the Secretary General and the Deputy Secretary General shall belong to the Council of Ministers of Foreign Affairs of the Member States upon submission by the Senior Officials Committee.

ii. The right to waive immunity with respect to members of the professional personnel and members of the general/support personnel of the Secretariat shall belong to the Secretary General with the approval of the Senior Officials Committee.

iii. Waiver of immunity must be express.”

29) To amend Article 6 (12) to read as follows:

“12. Without prejudice to the privileges and immunities under this Agreement, it is the duty of the members of the Secretariat personnel and their family members to respect the laws of the Host Country. They also have the duty not to interfere in the internal affairs of the Host Country.”

30) To amend Article 6 (13) to read as follows:

“13. Members of the Secretariat personnel shall have the right:

i. To have their visas processed as speedily as possible and free of charge subject to the letters of invitation to take up their posts or during their official travels;

ii. In cases, when necessary for CICA events and if it is consistent with the laws of the Host Country, to move freely within its territory.”

31) To amend Article 6 (15) to read as follows:

“15. Accreditation cards.

i. The Ministry of Foreign Affairs of the Republic of Kazakhstan, on behalf of its Government, at the official request of the Secretariat, shall issue the relevant accreditation cards to members of the Secretariat personnel and their family members.

ii. Upon the demand of an authorized official of the Government, the persons specified in subparagraph i of this paragraph shall present their accreditation cards.

iii. Upon the expiration of the term of office of members of the Secretariat personnel or their transfer to other posts/positions, the Secretariat shall ensure the timely return of all relevant accreditation cards to the Government represented by the Ministry of Foreign Affairs of the Republic of Kazakhstan.”

32) To supplement Article 7 with new paragraph 4 to read as follows:

“4. The Secretariat and the Government may conclude any necessary supplementary agreements.”

Article 2

1. This Protocol shall apply provisionally from the date of its signature.

2. This Protocol shall be subject to ratification by the Republic of Kazakhstan and enter into force on the date of receipt by the Secretariat of the instrument of ratification.

Done at _____ on _____ 202_, in duplicate, each in the Kazakh, English and Russian languages, all texts being equally authentic. The Secretariat shall send certified copies of this Protocol and the Agreement, as amended, to each Member State.

For the Government
of the Republic of Kazakhstan

For the Secretariat of the
Conference on Interaction and
Confidence Building Measures in
Asia
