

Foundation Agreement
Annex IV, Attachment 2

**Cooperation Agreement on European
Union**

The text of this Law is as provisionally agreed (subject to agreement of the political leaders) in the Technical Committee on Laws, save for highlighted parts which represent the suggestions of the United Nations to resolve outstanding issues.

Article 1 *Preliminary provisions*

In this Agreement -

“Agreement” refers to the present Cooperation Agreement between the federal government and the constituent states on European Union Affairs

“Constitution” means the Constitution of the United Cyprus Republic;

“Group” means the Coordination Group;

“IMCEUA” means the Inter-Ministerial Committee on European Union Affairs;

“Council” means the Council of the European Union;

“European Union Treaties” means the Treaty on European Union and the Treaties establishing the European Communities in their consolidated version, as well as the Protocols that are annexed thereto; and

“European Union Courts” means the Court of Justice and the Court of First Instance of the European Communities.

Article 2 *Scope of Agreement*

This Agreement regulates policy formulation, decision-making, representation and legal actions concerning European Union affairs which fall exclusively or predominantly into an area of competence of the constituent states, while providing for consultation in the areas of competence of the federal government.

Article 3 *General Rules*

- 1) This Agreement is concluded by virtue of Article 2.2 of the Foundation Agreement and Articles 16.2 and 19.6 of the Constitution.
- 2) This Agreement is made in full respect of the Foundation Agreement, the Constitution, the European Union Treaties as well as the European Union *acquis* in general.
- 3) The federal government and the constituent states shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations of the United Cyprus Republic arising out of European Union membership and shall abstain from any measure which could impede the full and timely fulfilment of these obligations or could jeopardize the capacity of Cyprus as a whole to effectively promote its interests in the European Union.

Article 4 *Duty to inform*

The federal government shall inform the constituent states without delay on all issues relating to European Union matters. This duty shall include the transmission of:

- a) Documents, reports, and notices of the institutions and organs of the European Union;
- b) Documents, reports, and notices on informal meetings at ministerial level;
- c) Documents and information on cases pending before the Court of Justice and the Court of First Instance of the European Communities where Cyprus is one of the parties, as well as the judgments rendered by the Court in such cases;
- d) Reports of the Permanent Representation of the United Cyprus Republic to the European Union; and
- e) Documents, reports and notices communicated by the federal government to the institutions and organs of the European Union.

Article 5 *Decision-making*

- 1) There shall be established a Coordination Group composed of a representative of the two Members of the Presidential Council in charge of Foreign Affairs and European Union Affairs, and a representative of the government of each constituent state, selected according to the Group's agenda.
- 2) A member from the Permanent Representation of Cyprus to the European Union may participate in the work of the Group. Such member shall not have the right to vote.
- 3) Members of the Group may be assisted by officers of any Department or service of the federal or constituent state governments concerned with an item on the Group's agenda. Such officers shall not have the right to vote.
- 4) The Department of European Union Affairs shall chair and provide the secretariat of the meetings.
- 5) Meetings of the Group shall be carried out in principle once a week and at any rate before every session of the Council across all areas of responsibility and jurisdiction, regardless of the specific area of competence concerned.
- 6) The Minister of European Union Affairs or his/her representative shall refer to the Group without delay any matter which predominantly or exclusively falls within the competence of the constituent states, when so requested by the government of a constituent state. The Group shall also decide upon any dispute regarding whether a matter falls exclusively or predominantly within the competence of the constituent states.

- 7) In such matters, the Group shall consider opinions of the constituent states given in due time in its decision-making. In case of consistent opinion by both constituent states given in due time in matters referred to in paragraph 6, this opinion shall determine the position of the United Cyprus Republic in negotiations and voting.
- 8) Upon confirming that the constituent states have received the relevant information, if one of the constituent states does not reply in due time, the opinion of the constituent state that has replied shall determine the position of the United Cyprus Republic. If both constituent states convey their position that they shall not reply to the policy at issue or fail to convey a position, the Minister of European Union Affairs will determine the position of the United Cyprus Republic.
- 9) In case of persistent inconsistencies between the positions of the constituent states in matters referred to in paragraph 6, a decision with respect to the position of Cyprus shall be taken by the Group.
- 10) If the coordination carried out by the Group as specified in paragraphs 6 to 9 fails to produce agreement by consensus, the Group shall refer the matter to the Secretariat of the IMCEUA.
- 11) The IMCEUA shall be composed of four representatives. In addition to the Ministers for European Union Affairs and External Relations, the IMCEUA shall comprise one representative from each constituent state. The IMCEUA shall strive to reach its decisions by consensus. If consensus cannot be achieved, decisions shall be reached by special majority which will include at least one member hailing from each constituent state. The decisions of the IMCEUA shall be final and determine the position of the United Cyprus Republic before the European Union.
- 12) The federal government may only deviate from this position if there are mandatory reasons with regard to foreign affairs, and provided the joint prior assent of the federal Ministers for Foreign Affairs and European Union Affairs.
- 13) In cases when the IMCEUA fails to reach a decision, the United Cyprus Republic shall abstain. In such a case, one representative from each constituent state shall attend the relevant meeting; these two representatives may, by common agreement, change the position of abstention.
- 14) In case of urgency, the members of the Group and the IMCEUA may consult with each other and strive to arrive at a consensus decision without a formal meeting of the Group and the IMCEUA. In such a case, the decision shall be circulated and be signed.
- 15) A record of each meeting shall be kept and sent to every member of the Group and IMCEUA.
- 16) The decisions of the Group and IMCEUA shall determine the position of the representative of Cyprus in the European Union regarding matters which have been duly coordinated in accordance with the provisions of

paragraph 6. Copies of the instructions of the Group and IMCEUA shall be delivered to the representatives of the federal government and the constituent states.

- 17) If the positions taken by the Group and IMCEUA need to be urgently adapted in the course of a meeting of a European Union institution, the respective representative shall immediately inform the Group. If a revised decision of the Group cannot be obtained in time by consensus and if the IMCEUA cannot decide by special majority which will include two votes hailing from each constituent state, the representative of Cyprus shall abstain, except in cases where s/he has received clear freedom from the Group or the IMCEUA to choose the position that will most likely address the general interests of the Cyprus in light of the discussions held during the respective decision-making mechanisms. It is understood that in such circumstances the vote given by the representative of the Cyprus shall be final.
- 18) On areas which fall exclusively or predominantly within the competence of the federal government, the Group shall be the forum within which regular consultations with representatives from ministries of the constituent states shall take place in accordance with the provisions of the Federal Law on European Union Affairs.

Article 6 *Representation*

- 1) Cyprus may be represented in the Council of the European Union by a Member of either the Presidential Council or a Member of Government of a constituent state.
- 2) Where the matters to be discussed in the Council are among those mentioned in article 6, the representative of Cyprus in the Council shall be appointed by the Presidential Council upon suggestion of the ICMEUA which will have due regard to the configurations of the Council and to the availability of expertise on each subject. The Presidential Council may also decide that the person representing Cyprus should be assisted by officials of the federal government or of one or both constituent states. In so doing, consideration may be given to the indicative list appearing in the Annex hereto.
- 3) Representatives of Cyprus in the Council shall be notified to its General Secretariat. Such representatives attending meetings or the Permanent Representative of Cyprus to the European Union or any officer of the Permanent Representation acting under the Permanent Representative's instructions shall have the exclusive right to make legally binding declarations as mandated.
- 4) Upon the decision of the Presidential Council that the seat in the Council of the European Union is to be occupied by a member of a constituent state Government, such representation shall ensure equal rotation between the representatives of the constituent states and shall be rotated

at equal intervals in accordance with a system designed to take account of the timetable of the European Union's work.

- 5) The representation of the federal government and the constituent states shall take place in accordance with the following principles:
 - a) rotation shall be with a proportion of one member of one constituent state to one member of the other constituent state;
 - b) representation shall be synchronized with the Council Presidency;
 - c) due to the more frequent meetings of some Council configurations which is more than once in a half-year, the Minister empowered for that half-year will remain authorised for the different Council meetings of the period;
 - d) certain Council configurations will meet only irregularly. The Minister empowered for that half-year will be automatically authorised for the following session if no Council meeting has taken place during the half-year.
- 6) Cyprus shall have one representative throughout the session of the Council who shall be the Minister, or in his/her absence, the Permanent Representative of Cyprus to the European Union or, in the absence of both, any officer of the Permanent Representation acting in accordance with the instructions of the Permanent Representative. The assigned representative shall have the right to vote and shall be the only authorised spokesperson.
- 7) The Minister appointed to represent Cyprus in a given configuration of the Council shall attend informal Ministerial meetings, which may be called on any matter covered by the set configuration, unless the convening Presidency allows the participation of more than one Minister per Member State.
- 8) At informal Councils on matters on which the constituent state authorities are empowered to represent the Member State in an official or formal Council, the system of rotation will be the same as for the official Councils.
- 9) Cyprus will be represented in the Economic and Social Committee according to proportional representation, provided that no less than one third of the seats is attributed to persons hailing from each constituent state. The members of the Economic and Social Committee to be nominated by Cyprus shall be selected by the Presidential Council after consulting with the constituent state authorities.
- 10) The seats of Cyprus in the Committee of Regions shall be occupied in equal proportion by representatives of the two constituent states. The members of the Committee of Regions are to be nominated by the Presidential Council upon the proposal of each constituent state.

Article 7 *Implementation of European Union law*

- 1) The Department of European Union Affairs is entrusted with ensuring coordination **of European Union affairs** between the federal government and the constituent states, in particular with the obligation to:
 - a) ensure that European Community law is transposed fully and in time,
 - b) ensure that the European Union's *acquis* is not infringed, and
 - c) inform the Group and the IMCEUA on the progress of the implementation of the obligations of the Cyprus arising out of European Union membership.
- 2) If a constituent state fails to fulfill the obligations of the United Cyprus Republic vis-à-vis the European Union within its area of competence and the United Cyprus Republic may be held responsible by the Union, the federal government shall, after notification of no less than 90 days (or a shorter period if indispensable according to European Union requirements), take necessary measures after duly informing and consulting with the defaulting constituent state, to be in force until such time as that constituent state discharges its responsibilities.
- 3) If the United Cyprus Republic is condemned by a judgment of the Court of Justice of the European Communities because one of the constituent states or an authority or body thereof has failed to fulfill the obligations of the United Cyprus Republic vis-à-vis the European Union within its area of competence, the Presidential Council shall invite the said constituent state to proceed, within 90 days, or within a shorter period if indispensable according to the Court's requirements, to the enforcement of the judgment. If the constituent state does not comply, the Presidential Council shall take the necessary measures in lieu of the defaulting constituent state, to be in force until such time as the constituent state discharges its responsibilities. The federal government can only take such measures if it has taken appropriate measures in order to involve the concerned constituent state in the proceedings before the Court in conformity with Article 8 of this Agreement.
- 4) Any expenses incurred by, fines imposed on or compensation claimed from the United Cyprus Republic by European Union Courts shall be borne by the federal government or the relevant constituent state which by failing to implement the obligations of Cyprus led to the condemning decision.

Article 8 *Legal action in which the United Cyprus Republic is a party*

- 1) The federal government may bring an action before the European Union Courts in areas of competence of the constituent states upon duly informing and consulting the constituent states about its wish to do so.
- 2) Whenever the federal government is a party to proceedings involving exclusively or predominantly the competences of the constituent states, the competent federal authorities shall take appropriate measures in order to inform and involve the concerned constituent states in the proceedings

before the court in a manner compatible with the relevant rules of that court.

- 3) In case of disagreement whether a proceeding involves exclusively or predominantly the competences of the constituent states, the Group shall decide by consensus. In case of persistent disagreement, the matter may be resolved by the Supreme Court.

Article 9 *Action brought before the European Union Courts upon request of the constituent states*

- 1) In case of an illegal act or decision on behalf of, or misuse of power or failure to act by, an institution of the European Union or another Member State concerning matters in the areas of competence of the constituent states, Cyprus shall bring an action before the Court of Justice of the European Communities upon the request of a constituent state or both constituent states. Such request is to be addressed to the IMCEUA and shall include all information relevant to a legal action before the Court of Justice of the European Communities. If the relevant rules of the Court permit direct legal action by the constituent states, constituent states may act freely without any interference from the federal government, provided that full and detailed information is transmitted to the federal government.
- 2) The request of the constituent states or either of them to the federal government to bring an action before the Court of Justice of the European Communities shall be in the form of a draft application. A Working Group established under the IMCEUA shall work on the issuance of the application. The Working Group shall be chaired by a representative of the Chairperson of the IMCEUA and shall consist of the Attorneys-General of the federal and the constituent states and/or their representatives as necessary, and, if necessary, of other representatives of the federal government and the constituent states. If the request emanates from one constituent state and provided that the other constituent state does not wish to participate, the Working Group shall comprise only representatives of the requesting constituent state and the federal government.
- 3) The Working Group shall determine, by consensus, within one week from submission of the draft application to the IMCEUA, whether the case relates to a dispute that falls exclusively or predominantly within the competence of the constituent states.
- 4) The consensus reached within the Group that the case relates to a dispute which exclusively or predominantly falls within the competence of the constituent states shall be notified to all members of the IMCEUA immediately. If no member of the IMCEUA raises any objections within two working days, this shall be deemed to be an approval of the decision of the Working Group by the IMCEUA.
- 5) In case a consensus is not reached within the Group, or if one or more members of the IMCEUA object, the matter shall be referred to the IMCEUA, which shall consider the matter within 3 working days.

- 6) When the matter is referred to the IMCEUA, it will decide by consensus whether the case relates to a dispute which falls exclusively or predominantly within the competence of the constituent states.
- 7) If the case relates to a dispute which falls exclusively or predominantly within the competence of the constituent states, the application shall be filed without further ado, unless the Ministers of External Affairs and European Union Affairs jointly agree that there are mandatory reasons with regard to foreign affairs not to do so, provided that such reasons cannot be invoked in cases against institutions of the European Union.
- 8) Upon the filing of the application with the Court of Justice of the European Communities, one representative from the federal government, and one from each of the constituent states concerned shall be designated to participate in and follow up the proceedings. Except when the rules of the Court accept the direct appearance of the constituent states, the federal competent authority shall be responsible for bringing and handling the matter before the Court.
- 9) The Working Group referred to in paragraph (2) shall be kept informed of all new developments in the proceedings instituted by the federal government.
- 10) Proceedings may be withdrawn upon the request of the constituent state that initiated the proceedings unless the other constituent state gives, within a period of two weeks, valid reasons for not doing so.
- 11) The costs of such legal action shall be borne by, and proportionally shared among, the constituent states requesting and intervening in the action.

Article 10 Adaptation

The federal government and the constituent states may add to, adapt or amend this Agreement by consensus. In particular, they shall adapt this Agreement to take account of further developments of European integration.

Article 11 Presidency

Prior to Cyprus exercising the Presidency of the Council, the Group shall make specific suggestions to the Presidential Council.

Article 12 Disputes resulting from the application of this Agreement

Any dispute resulting from the application of this Agreement shall be decided by the Supreme Court of Cyprus.

Article 13 *Transitional Period*

The provisions of this Agreement shall apply *mutatis mutandis* during the transitional periods provided for in the Foundation Agreement and the Constitution.

ANNEX

1. General Affairs and External Relations: federal representation only
2. Economic and Financial Affairs: federal with constituent state assistance
3. Justice and Home Affairs: federal with constituent state assistance
4. Employment, Social Policy, Health and Consumer Affairs: constituent state with federal government assistance
5. Competitiveness (Internal Market, Industry and Research): federal with constituent state assistance for the Internal Market; constituent state with federal assistance for Industry and Research.
6. Transport, Telecommunications and Energy: federal with constituent state assistance
7. Agriculture and Fisheries: constituent state with federal government assistance
8. Environment: constituent state with federal government assistance
9. Education, Youth and Culture: constituent state only