

Foundation Agreement
Annex III, Attachment 3

**Federal Law on Conduct of
European Union Affairs**

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.

A Law to make provision for the rules and procedures to be followed by the federal public authorities in conducting European Union Affairs.

It is hereby provided as follows:

Section 1 *Short title*

This Law may be cited as the “Federal Law on European Union Affairs”.

Section 2 *Interpretation*

In this Law –

“Committee” means the Ministerial Committee of European Affairs established by virtue of section 6;

“Council” means the Council of the European Union;

“Group” means the Coordination Group established by virtue of article 5 of the Cooperation Agreement between the Federal Government and the Constituent States in European Union Affairs;

“member of the Committee” means a member of the Committee or his/her representative, where such representative is appointed by virtue of section 6;

“Minister of European Union Affairs” means the Member of the Presidential Council responsible for the federal Department, having, for the time being, responsibility in respect of European Union Affairs;

“Minister of Foreign Affairs” means the Member of the Presidential Council responsible for the federal Department, having, for the time being, responsibility in respect of Foreign Affairs.

Section 3 *Election of representatives of Cyprus to the European Parliament*

1) In accordance with the Protocol to the Treaty of Accession of Cyprus, the representatives of Cyprus in the European Parliament, shall be elected on a proportional basis. The constituent states shall be the electoral precincts; each constituent state shall elect no less than one third of the representatives of Cyprus in the European Parliament.

2) All citizens of the United Cyprus Republic and other European Union Member States shall, in accordance with Article 3 of the Council Directive 93/109/EC of 6 December 1993, exercise their right to vote and to stand as candidates at their place of permanent residence in Cyprus.

Section 4 *Position of Cyprus determined by the federal government*

In respect of European Union matters which fall, exclusively or predominantly, into an area of competence of the federal government, the federal government shall determine the position that Cyprus adopts within the institutions and organs of the Union.

Section 5 *Duty to inform Members of the Presidential Council*

- 1) The Department of European Union Affairs shall inform the Members of the Presidential Council without delay on all issues relating to European Union affairs in their respective areas of competence. This duty shall include the transmission of:
 - a) the agenda of the meetings of the Committee;
 - b) the agenda of the meetings of the Group, irrespective of whether the group meets under its consultative capacity or as a decision making body;
 - c) The agenda of the meetings of the IMCEUA¹;
 - d) documents, reports and notices of the institutions and organs of the European Union;
 - e) documents, reports and notices on informal meetings at ministerial level;
 - f) 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 judgments rendered by these Courts in such cases;
 - g) reports prepared by the Permanent Representation of Cyprus to the European Union;
 - h) documents, reports and notices communicated by the federal government to the institutions and organs of the European Union; and
 - i) instructions and, wherever possible, draft instructions to the representatives of Cyprus in the Council of the European Union or in any of the said Council's preparatory bodies, on the position to be supported by Cyprus, where such position is to be determined in accordance with subsections (1) and (2) of section 8.

Section 6 **Departmental** *Committee of European Affairs*

- 1) A Departmental Committee of European Affairs is hereby established.
- 2) The Committee is composed, in addition to the Minister of European Union Affairs, who presides over it, of the Minister of Foreign Affairs and of one or two other members, who are appointed by the Presidential Council from among its own members, according to the agenda of the Committee.

Section 7 *Participation of public officers in meetings of the Committee*

Each member of the Committee may be represented by an officer of his/her Department and may be assisted by officers of any Department or public body concerned with an item on the Committee's agenda.

Section 8 *Meetings of the Committee*

- 1) The Committee meets as often as necessary and, in any case, at least once every two weeks and at any rate before any session of the Council.

¹ As defined in the Cooperation Agreement between the Federal Government and the Constituent States on European Union Affairs

- 2) The meetings of the Committee are convened by the Minister of European Union Affairs. The Minister of European Union Affairs shall promptly convene a meeting of the Committee when so requested by any Member of the Presidential Council.

Section 9 *Determination of the position of Cyprus*

- 1) Without prejudice to the provisions of subsection (3) and of sections 10 to 12 and 15, the position of Cyprus in the matters referred to in section 4 shall be decided by the Minister of European Union Affairs, acting in person or through officers of his/her department, who shall be acting under and in accordance with his/her instructions.
- 2) In determining the position of Cyprus as provided in subsection (1), the Minister of European Union Affairs shall request in due time the opinion of-
 - a) the federal authorities or public bodies, which are competent in respect of the matter under consideration; and
 - b) the constituent states, in accordance with the provisions of section 12.The Minister of European Union Affairs shall take into account such opinions given in due time.
- 3) The Minister of European Union Affairs may refer to the Committee any matter referred to in section 4. S/he shall refer to the Committee promptly any such matter, when so requested by another Member of the Presidential Council.

Section 10 *Decision-making process within the Committee*

If, in a given case –

- a) consensus is achieved among the members of the Committee, the case is forwarded by the Committee to the Presidential Council for decision;
- b) consensus is not achieved in time among the members of the Committee, the case is forwarded by the Committee to the Presidential Council for decision, with a report mentioning the discordant views and, where possible, solutions suggested to overcome them.

Section 11 *Procedure in case of urgency*

In case of urgency, the members of the Committee may consult with each other and achieve consensus without a formal meeting of the Committee. In such case, the decision shall be circulated and be signed.

Section 12 *Presidential Council may delegate power to take decisions*

The Presidential Council may delegate to the Committee the power to take final decisions on any of the matters referred to in section 4.

Section 13 *Procedure if a position decided by the Minister needs to be urgently adapted*

In matters referred to in section 4, the constituent states shall be consulted as follows:

- a) All matters for which the position of Cyprus is to be determined in accordance with the provisions of sections 9, 10 and 12, shall be included, under the heading "For Consultation", on the agenda of a meeting of the Group to be held prior to the date on which such position has to be determined. Due notice of such meeting shall be given to the constituent state by the Department of European Union Affairs. The representatives of each constituent state shall be given the opportunity, if present, to express their opinion on the subjects appearing on the agenda.
- b) In case of urgency, the constituent states may be consulted without a formal meeting of the Group.

Section 14 *Procedure for adaptation in the course of a meeting*

When the position of Cyprus is decided in accordance with the provisions of subsections (1) and (2) of section 9, and it needs to be urgently adapted in the course of a meeting of a European Union institution or organ, the respective representative of Cyprus shall immediately inform the Minister of European Union Affairs or a competent officer of the Department of European Union Affairs. If a revised decision cannot be obtained in time, the representative of Cyprus shall abstain, except in cases where s/he has received from the Minister of European Union Affairs and the Minister of Foreign Affairs or an officer of their respective Departments acting under and in accordance with their instructions, clear freedom to choose the position that will more likely address the general interests of Cyprus. In such circumstances, the vote given by the Cyprus representative shall be final.

Section 15 *Procedure if a position decided by the Presidential Council or the Group needs to be urgently adapted*

When the position of Cyprus is decided by the Presidential Council or, upon delegation, by the Committee, and it needs to be urgently adapted in the course of a meeting of a European Union institution or organ, the respective representative of Cyprus shall immediately inform the members of the Committee. If a consensus among the members of the Committee cannot be obtained in time on the position to be adopted, the representative of Cyprus shall abstain, except in cases where s/he has received from the Presidential Council or, upon delegation, from the Committee, clear freedom to choose the position that will more likely address the general interests of Cyprus. In such circumstances, the vote given by the Cyprus representative shall be final.

Section 16 *Representative of Cyprus in the Council of the European Union*

- 1) By virtue of Article 19.3 of the Constitution and in compliance with Article 203, paragraph 1, of the Treaty establishing the European Community, Cyprus shall be

represented in the Council by a Member of the Presidential Council, where the matters to be discussed in the Council are among those mentioned in section 4².

- 2) Such representative shall be appointed by the Presidential Council.
- 3) The representatives of Cyprus in the Council shall be notified to the said Council's Secretariat General. Such representatives attending meetings of the Council or, in their absence, the Permanent Representative of Cyprus to the European Union or any officer of the Permanent Representation acting under and in accordance with the Permanent Representative's instructions, shall have the exclusive right to make legally binding declarations as mandated.

Section 17 Appointment of Member of the Commission

- 1) With due regard to Article 214 of the Treaty establishing the European Community, and in concert with the Governments of the Member States of the European Union, the Presidential Council shall indicate the name of the Cypriot nominee for appointment as Member of the Commission.
- 2) In so doing, the Presidential Council shall nominate persons from both constituent states in the proportion of two to one between the Greek Cypriot State and the Turkish Cypriot State respectively. The second Commissioner to be indicated by Cyprus shall not hail from the same constituent state as the first. Thereafter, no more than two consecutive Commissioners shall hail from the same constituent state.

Section 18 Appointment of Judges, Advocates-General and Members of the Court of Auditors

- 1) The procedure and proportion provided for in section 17 shall apply, with due regard to Articles 223 and 225 of the Treaty establishing the European Community, for the appointment of Judges and Advocates-General at the Court of Justice of the European Communities and the Court of First Instance of the European Communities and, with due regard to Article 247 of the same Treaty, for the appointment of the Members of the Court of Auditors of the European Communities. A Judge hailing from the Turkish Cypriot State shall, on a rotational basis, occupy the seat of Cyprus in each of the three Courts, with the Court of Auditors being last.
- 2) The Presidential Council shall suggest candidates for the European Court of the Communities and the European Court of First Instance. The candidates for Judgeship shall meet the requirements for appointment set out in the European Union Treaties (Treaty on European Union Article 223.5). Each constituent state shall send a list of their nominations for Judgeship and for the post of Advocate-General to the Presidential Council.

² Representation, where matters to be discussed in the Council fall predominantly or exclusively into an area of competence of the constituent states is governed by the Cooperation Agreement between the Federal Government and the Constituent States on European Union Affairs

Section 19 Department of European Union Affairs

- 1) The Department of European Union Affairs shall be composed of no less than eighty percent (80%) federal public officers and up to twenty per cent (20%) public officers seconded from time to time, in equal numbers, from the constituent states.
- 2) The authority of the Minister of European Union Affairs shall extend to all those on secondment at the Department from the federal government and the constituent states.

Section 20 Coordination of federal and constituent state public authorities

Subject to the provisions of the Cooperation Agreement between the Federal Government and the Constituent States on European Union Affairs, the Department of European Union Affairs shall coordinate the work of the public authorities and public bodies of the federal government and the constituent states in dealing with European Union matters.

Section 21 Permanent representation of Cyprus to the European Union

- 1) Postings to the Permanent Representation of Cyprus to the European Union shall be decided by the Presidential Council.
- 2) The Permanent Representation of Cyprus to the European Union shall comprise, in addition to members of the diplomatic service, public officers of the Department of European Union Affairs, as well as of other departments. It shall also comprise public officers from the constituent states, on secondment, in similar numbers from each constituent state.
- 3) Subject to the provisions of the Federal Law on External Relations, the Permanent Representative of Cyprus to the European Union shall be designated among the public officers of the Department of Foreign Affairs. S/he shall not hail from the same constituent state as the Minister of Foreign Affairs.
- 4) The Deputy Permanent Representative of Cyprus to the European Union shall be designated among the public officers of the Department of European Union Affairs. S/he shall not hail from the same constituent state as the Minister of European Union Affairs.
- 5) The Ambassador of Cyprus to the Political and Security Committee shall be designated among the public officers of the Department of Foreign Affairs.
- 6) When a change in the composition of the Presidential Council leads, by virtue of subsections (3) and (4), to a need to change the persons appointed as Permanent Representative and Deputy Permanent Representative of Cyprus to the European Union, the transfers thus required shall take place within a period of six months from the date of change in the composition of the Presidential Council.
- 7) Subject to the provisions of the Federal Law on External Relations, the Permanent Representation of Cyprus to the European Union shall receive

instructions from the Minister of European Union Affairs and the Presidential Council in accordance with the provisions of this Law.

Section 22 Regulations

The Presidential Council may make regulations to be published in the Gazette for the better application of the provisions of this Law.

Section 23 Transitional provision

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