



IHB File No. S1/0210

**CIRCULAR LETTER 34/2007
23 March 2007**

IHB TERRACE

Dear Hydrographer,

1 On 6th November 2006 the IHB received a brief letter from Mr Fissore, the Minister of Foreign Affairs of Monaco stating that the Government had decided to proceed with building some additional floors on top of N° 6 and 8 Quai Antoine 1^{er}, adjacent to the IHB and that the Organization's "occasional use" of the terrace, which is on the roof of N° 6 Quai Antoine 1^{er}, could therefore no longer continue.

2 The Directing Committee replied on 13 November, indicating surprise at these two statements, rejecting the comment that the terrace had been given to the IHO for "occasional use" and requesting that no work be started before discussing this matter with the Directing Committee, who was available at any time for such discussions. Our letter emphasized that the terrace had always been considered by the IHO to be an integral part of the new premises that were offered in exchange for the old building, that the use was not "occasional" but continuous and that the loss of the terrace would have a significant effect on the proper functioning of the Organization. We explicitly mentioned the following points on which we based our position:

1. The minutes of the meeting held on 29 March 1993 between the Directing Committee, at that time headed by the President, Rear Admiral C. Andreasen, the then Minister of Public Works of Monaco Mr. B. Fautier and the architect Mr. M. Sosso. The scope of the meeting was "to discuss proposals by the Monaco Government to provide new premises for the IHB at 4 Quai Antoine 1^{er}". In discussing the need for a terrace for the proper functioning of the Organization, a decision was taken and was reflected in paragraph 7 of the report of this meeting where it states: "It was stated that the "penthouse" was under a long term lease to a private company and was not available. Furthermore the roof above the proposed IHB site was not available but the IHB could have the roof of the building adjacent to seaward with convenient access". This is the terrace that we now have and which is located above 6 Quai Antoine 1^{er}. The Report of this meeting in

English and French, reflecting the discussions and decisions taken, was sent to Mr. Fautier on 5th April 1993 with IHB letter No S1/1205, and was accepted without any comments.

For those who may remember, the old building had a terrace on the roof and a terrace outside the Library which were used for different events;

2. The Government of Monaco, for the eleven years that we have occupied the new premises, has never questioned the ownership or use of the terrace where many events, some in the presence of Prince Rainier and Prince Albert, have taken place;

3. Some Agencies in the building have asked permission from the Directing Committee to make use of the terrace on occasions;

4. Based on the decision of 29 March 1993, a special exit with an appropriate staircase was constructed giving direct access to the terrace from the main premises of the Bureau;

5. A special electric system for illuminating the terrace was installed within the Bureau's premises;

6. The flags of both Monaco and the IHO fly from the terrace, based on an agreement reached between the Government and the Directing Committee;

7. Two large plates from the inauguration of the previous building by Prince Louis II in 1931 have been permanently installed on the wall of the staircase leading to the terrace;

8. The Bureau has acquired tables, chairs, tents, and other materials to be used during different events, particularly receptions, held on the terrace;

3 In early December Minister Fissore visited the Bureau. The Directing Committee explained again to him the arguments on which our position was based i.e. that the terrace had been given to the Organization as part of the premises offered in exchange of the old building and rejecting the Government's position that it was given for "occasional use", for which there is no evidence. Together we visited the terrace and the Directing Committee proposed two options that the Government might wish to consider; (i) to reduce the width of the terrace that we currently occupy so that it will be rectangular in shape, or (ii) to occupy that part of the terrace directly above the Bureau, which has never been used by the private company. The Directing Committee was informed that a terrace over the new construction is not possible. Following his visit Minister Fissore informed the Directing Committee on 27 December that the terrace would be at our disposition until the end of May, for use during the Conference, and that they would then start work. There were no comments on the options offered by the Directing Committee or on the points that had been raised.

4 On 10 January 2007 Minister Fissore informed the Directing Committee that the Prime Minister had discussed this issue with H.S.H Prince Albert and asked the Directing Committee to communicate with the Prime Minister in order to be informed on the Government's position. The Directing Committee on 12 January 2007 wrote to Prince Albert informing him of the problem with the terrace and explaining the position of the Directing Committee. On 26 January 2007 the Directing Committee wrote to the Prime Minister informing him that the Directors were at his disposition to discuss the matter. No replies to these communications have been received.

5 On 6 March 2007 the Directing Committee wrote to Minister Fissore requesting details of the construction work on the terrace in order to assess the potential impact on the work,

equipment and security at the Bureau. Minister Fissore in his response informed the Directing Committee that the Head of Sovereign Prince's Cabinet indicated to him that the State could meet the cost of the official receptions of the IHB and that we should communicate directly with Mr Calcagno, the Minister for Public Works in order to be briefed on the construction work that will take place on the terrace. On 12 March 2007 the Directing Committee wrote to Mr Calcagno, as yet without any response.

6 Paragraph I of Article 3 of the Host Agreement states that "The headquarters of the Organization shall comprise the premises it now occupies or may occupy for the fulfillment of its duties" and paragraph II, which was amended to reflect "basically just the change of address of the Bureau" as stated in CL 46/1996 dated 14 August 1996, says "The premises currently occupied by the Bureau of the Organization in the building located at Quai Antoine 1er (No. 4),". Of course the terrace provided by the Government lying above No. 6 Quai Antoine 1^{er}, because the one directly over the main premises was not available, as reflected in the minutes of the meeting on 29 March 1993 and explained above, is not specifically referred to in the Host Agreement. The Directing Committee believes that the small difference in the number of the address where the terrace lies was not noticed by anybody at the time nor considered in the amendment of the Host Agreement and does not constitute an issue of substance affecting the discussions and decisions that have been agreed between the Government of Monaco and the IHO. It must be considered as a small "editorial" oversight from both sides of no importance. The Directing Committee believes that the Government must approach this issue on a friendly, cooperative and understandable way based on what was decided rather than speaking of "occasional use of the terrace", which does not reflect the decisions taken or the practice over eleven years.

7 The Directing Committee has tried earnestly to communicate with the appropriate persons in the Government in order to discuss this issue and find ways of overcoming the problem; unfortunately with little response from the Government's side. Minister Fissore, to whom the Directing Committee expresses its thanks, has acted as an intermediary between the Government and the Bureau and has not been in a position to provide explanations to the arguments presented by the Bureau and to explain how the Government determined its view regarding the "occasional use" of the terrace.

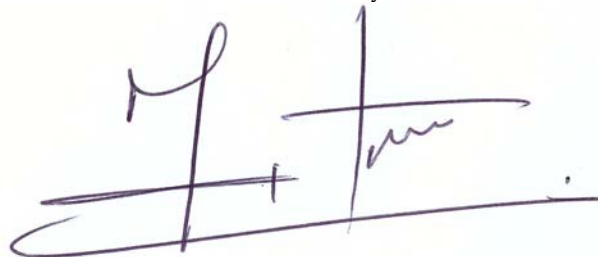
8 In the old text of paragraph II of Article 3, the word "premises" was very clear, because it referred to a unique building, and there was no need to define details or parts of the "premises". The "premises" now occupied are parts of a larger Building. The "main premises", the entrance, the terrace and the elevator(s) are at different levels and other Agencies and services co-exist with the Bureau. This is why, if you look into the archives that we maintain at the Bureau, you will see that there were separate discussions and decisions for the status of the entrance, for the elevator(s), for the main "premises" and of course for the terrace and the access to the terrace. These discussions and decisions have not been reflected in defining the "premises", but as it was stated in CL 46/1996, the amendment of this paragraph was to "indicate the change of address of the Bureau".

9 The possible loss of the terrace shrinks the "premises" of the Bureau at a time when more space is needed for the various functions of the Organization. Some Hydrographic Offices, with which we have discussed this issue, have expressed displeasure at the possibility of losing the terrace. The Directing Committee feels that this long letter is necessary in order to provide a detailed account concerning the issue of the "terrace and premises" for Member States to have a clear understanding of the matter. Based on the current developments two options are available. Either to lose the terrace with all the consequences and accept the offer from the Government to hold official receptions elsewhere (we speak of the receptions that the Bureau organize for the

WHD and during the Conferences), or make use of Article 15 of the Host Agreement, to solve the difference of opinion on the issue of the terrace between the Government of Monaco and the IHO through arbitration.

10 Although, reluctant to make use of Article 15 of the Host Agreement, the Directing Committee will raise this matter for discussion on 6 May during the meeting of the Heads of Delegations at the Bureau and if needed during the Conference under "Any other business", where the Delegation of Monaco may be in a position to provide more details. The Directing Committee can provide more information if needed and would appreciate comments from Member States, before the discussions indicated above, in order to ascertain Member States' views on the matter and to consider any possible further actions needed before the Conference.

On behalf of the Directing Committee
Yours sincerely,

A handwritten signature in dark ink, consisting of a large, stylized 'M' followed by a vertical line and a horizontal stroke, and another vertical line with a horizontal stroke to its right, all connected by a long horizontal line at the bottom.

Vice Admiral Alexandros MARATOS
President