



### Fourth session

### PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

#### Report of the Secretary-General

1. The present report is submitted in order to bring to the attention of the General Assembly the recent developments concerning the implementation of Articles 104 and 105 of the Charter which deal with the privileges and immunities of the United Nations.
2. The annual report of the Secretary-General on the work of the Organization contains a digest of information\* available at the time of preparation of the report relating to this subject.\*\*

#### General Convention

3. In his report to the third regular session of the General Assembly,\*\*\* the Secretary-General indicated the measures which had been taken to implement the Agreement between the United Nations and the United States of America regarding the Headquarters, and drew attention to the fact that, despite measures taken to hasten accession, there were still many Member States which had not yet acceded to the Convention on the Privileges and Immunities of the United Nations. After having again discussed the problem of privileges and immunities, the General Assembly, by resolution 259 (III) of 8 December 1948, stated that if the United Nations were to achieve its purposes and perform its functions effectively it was essential that the States Members should unanimously approve the provisions of the Convention, and invited those States Members which had not yet acceded to the Convention to deposit their instruments of accession with the Secretary-General at the earliest possible moment. In pursuance of this resolution the Secretary-General, on 11 February 1949, addressed to all Member Governments which had not as yet acceded to the Convention a letter

\* A/930, pages 135 - 136.

\*\* 30 June 1949.

\*\*\* A/626.

calling their attention to the decision of the Assembly and requesting these Governments to consider the terms of the resolution and the invitation contained therein. Since the date when the Secretary-General presented his report on privileges and immunities to the third session of the General Assembly, the following States have acceded to the Convention:

Egypt	17 September 1948
Pakistan	22 September 1948
Belgium	25 September 1948
Chile	15 October 1948
Luxembourg	14 February 1949
Australia	2 March 1949
Lebanon	10 March 1949

4. Although it is three years since the General Assembly approved the Convention on privileges and immunities, accessions to the Convention have not as yet been received from the following Member States:

Argentina	Paraguay
Bolivia	Peru
Brazil	Saudi Arabia
*Burma	Syria
Byelorussian Soviet Socialist Republic	Thailand
China	Turkey
Colombia	Ukrainian Soviet Socialist Republic
Costa Rica	Union of South Africa
Cuba	Union of Soviet Socialist Republics
Czechoslovakia	United States of America
Ecuador	Uruguay
Iraq	Venezuela
*Israel	Yemen
Mexico	Yugoslavia

5. From the above list, it will be seen that as many as twenty-eight Members have not yet acceded to the Convention. This situation cannot be said to be satisfactory, since, in the words of General Assembly resolution 93 (I)\*\*:

"It is essential for the efficient exercise of the functions of the Organization and the fulfilment of its purposes that the provisions of the Convention be brought into force in all Member States. So long as the Convention is not fully in effect there is danger of confusion, of a lack of co-ordination between the rules applied in various States, and the probability of judicial decisions and administrative acts adversely affecting the position

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\* It is to be noted that Burma and Israel did not become Members until 19 April 1948 and 11 May 1949 respectively.

\*\* Resolution 93(I) was adopted unanimously by the General Assembly at its fifty-fifth plenary meeting on 11 December 1946.

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of the United Nations in the country of the headquarters and elsewhere."

6. It is to be noted, however, that Member States have extended some of the privileges and immunities outlined in the Convention although the accessions of their Governments have not as yet been deposited with the Secretary-General.

7. By resolution 239 (III) C of 18 November 1948, the General Assembly requested Members which had not acceded to the Convention on the Privileges and Immunities of the United Nations, or which had acceded to it with reservations as to its section 18 (b) regarding taxation, to take the necessary action, legislative or other, to exempt their nationals employed by the United Nations from national income taxation with respect to their salaries and emoluments paid to them by the United Nations, or in any other manner to grant relief from double taxation to such nationals.

8. The instruments of accession to the General Convention deposited by the Governments of Canada and New Zealand both contain a reservation to section 18 (b) of the Convention. No notice has yet been received by the Secretary-General as to whether steps have been taken in connexion with tax equalization by either of the above-mentioned countries in pursuance of the General Assembly resolution.

9. By resolution 22 (I) E adopted at the thirty-first plenary meeting on 13 February 1946, the General Assembly, with a view to preventing the occurrence of any abuse in connexion with privileges, immunities and facilities granted to the United Nations under Articles 104 and 105 of the Charter and the General Convention on Privileges and Immunities, instructed the Secretary-General to ensure that the drivers of all official motor cars of the United Nations and all members of the staff who own or drive motor cars, should be properly insured against third party risks.

10. In order to implement this resolution, the Secretary-General has insured all official cars of the United Nations, and all members of the staff who own or drive motor cars have been instructed to report to the Secretary-General on the third party risk insurance coverage of their vehicles.

#### Convention on the Privileges and Immunities of the Specialized Agencies

11. On 21 November 1947, the General Assembly approved the Convention on the Privileges and Immunities of the Specialized Agencies and proposed it for acceptance by the specialized agencies and for accession by all Members of the United Nations and by any other State member of a specialized agency. Since the Convention is divided into two parts, one

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part being standard clauses which define the standard privileges and immunities considered as necessary for all specialized agencies, and the other, a set of draft annexes each relating to one particular specialized agency, it is necessary for a specialized agency to accept the standard clauses and transmit approved draft annexes to the Secretary-General before accession on the part of a Government may take place in connexion with the specialized agency concerned.

12. At the present time, the final text of approved draft annexes and notices of the acceptance of the standard clauses has been transmitted and communicated to the Secretary-General by:

World Health Organization	6 August 1948
International Civil Aviation Organization	10 August 1948
International Labour Organisation	14 September 1948
Food and Agriculture Organization	13 December 1948
United Nations Educational, Scientific and Cultural Organization	7 February 1949
International Refugee Organization	4 April 1949
International Bank for Reconstruction and Development	29 April 1949
International Monetary Fund	9 May 1949
Universal Postal Union	11 July 1949

13. On 2 December 1948, the Netherlands acceded to the Convention in respect of ILO, ICAO and WHO, and on 21 July 1949 in respect of IRO, FAO, UNESCO, the Bank and the Fund. On 10 February 1949, India acceded in respect of ILO, FAO, UNESCO, ICAO and WHO, and on 16 August 1949 the United Kingdom acceded in respect of ILO, IRO, FAO, UNESCO, ICAO and WHO.

14. The Government of the United Kingdom, in communicating to the Secretary-General of the United Nations its above-mentioned accession to the Convention, drew to his attention the view of the United Kingdom Government that:

"It is not possible for any Government fully to comply with the requirements of section 11 of that Convention in so far as it requires the specialized agency to enjoy in the territory of a State party to the Convention treatment not less favourable than that accorded by the Government of that State to any other Government in the matter of priorities and rates on telecommunications, unless and until all other Governments collaborate in according this treatment to the agency in question. It is understood that this matter is being discussed in the International Telecommunications Union."

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15. In this connexion, it is to be noted that on 2 July 1949, at the International Telecommunications Union Conference in Paris, an "avis" was adopted to be submitted to the International Telecommunications Union Administrative Council, expressing the opinion that:

"The Administrative Council of the ITU should bring to the attention of all members and associate members of the ITU the recommendation that subject to any decisions by the appropriate authorities on the question of conflict of obligations, members and associate members of the ITU should either by appropriate reservations to article IV, section 11, of the Convention on the Privileges and Immunities of the Specialized Agencies, or by any other appropriate means, limit to the subsidiary organs of the United Nations the Government telecommunications privileges provided for in the Atlantic City Convention."

The Conference also expressed the opinion that:

"The Administrative Council should instruct the Secretary-General of the ITU to communicate concerning this matter with the Secretary-General of the United Nations with the proposal that the United Nations consider the abrogation of article IV, section 11, of the Convention on the Privileges and Immunities of the Specialized Agencies and that the Administrations present at the Paris Conference recommend to their respective Governments that their representatives at the United Nations support the proposal of the ITU that article IV, section 11, be abrogated;"

and:

"That in the eventuality that article IV, section 11, of the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations is not abrogated before the Buenos Aires Plenipotentiary Conference of 1952, the Administrative Council, at its last session before that Conference, make appropriate recommendations on the matter."

16. Article 36 of the International Telecommunication Convention of 1947 provides for "Priority of Government Telegrams and Telephone Calls". A definition of "Government Telegrams and Government Telephone Calls" is contained in Annex 2 of the said Convention, and telegrams and telephone calls originating with the specialized agencies are not included within this definition.

17. Before the above-mentioned action was taken by the International Telecommunications Union Conference in Paris, communications in this connexion had been exchanged between the Secretary-General of the United Nations and the Secretary-General of the International Telecommunications Union.

18. On 16 June 1948, the Secretary-General of the International Telecommunications Union transmitted to the Secretary-General of the United Nations a resolution adopted by the Administrative Council of the International Telecommunications Union in January 1948 referring to article IV of the Convention and in particular to section 11, and requesting the Secretary-General of the ITU to draw the attention of the

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Secretary-General of the United Nations to the fact that the Administrative Council of the ITU felt that article IV of the Convention on the Privileges and Immunities of the Specialized Agencies should be interpreted in conformity with the terms of the International Telecommunication Convention in so far as they apply to the privileges to be accorded to the telegrams and telephone calls of States. Paragraph 3 of the resolution of the Administrative Council requested the Secretary-General of the ITU to invite member Governments of the Union to interpret the terms of the Specialized Agencies Convention in conformity with the terms of the International Telecommunication Convention.

19. On 30 August 1948, the Secretary-General of the United Nations, in reply to the above-mentioned communication, informed the Secretary-General of the ITU that the Convention had been approved by the General Assembly of the United Nations on 21 November 1947 and had since become applicable to the International Civil Aviation Organization and the World Health Organization since the said agencies had accepted the standard clauses of the Convention and transmitted their approved annexes to the Secretary-General. The Secretary-General expressed the view that article IV, section 11, of the Convention includes the extension to specialized agencies of the treatment accorded to States in the matter of official communications in regard to telecommunications, since States parties to the Convention would have the duty to apply to the specialized agencies, in accordance with the terms of article IV of the said Convention, the terms which might be contained in all other international instruments to which these States were equally parties concerning the treatment to be accorded to foreign Governments for their official communications.

20. The Secretary-General of the United Nations also pointed out that the draft text of the Convention had been communicated to the International Telecommunications Conference at Atlantic City before its adoption by the General Assembly and that the competent authorities of the International Telecommunications Union had been invited to be represented at the meeting of the Sub-Committee of the Sixth Committee of the General Assembly which drew up this Convention, in order to participate in its work.

21. On 7 January 1949, the Secretary-General of the ITU, by a letter to the Secretary-General of the United Nations, stated that the Administrative Council of the ITU had again examined the question of the application of article IV, section 11, of the Convention at its third session in Geneva, September-October 1948, and requested the Secretary-General (in accordance with the above-mentioned resolution of the

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Administrative Council of the ITU) to inform him if the United Nations would contemplate modifying the terms of article IV, section 11, of the Convention, in order to correct the contradiction which existed between the terms of Annex 2 of the International Telecommunication Convention and the Specialized Agencies Convention. In lieu of this, the Secretary-General of the United Nations was requested to consider suspending the application of the terms of article IV, section 11, of the Specialized Agencies Convention until the question of the privileges and immunities to be accorded to specialized agencies in the matter of telecommunications could be decided by the next conference of the ITU in Buenos Aires in 1952.

22. In a letter dated 10 February 1949, the Secretary-General of the United Nations informed the Secretary-General of the ITU that the Convention had come into effect for some Member States which had acceded to the Convention in respect of certain of the specialized agencies which had deposited their annexes pursuant to section 37. The Secretary-General of the ITU was also informed that there are no provisions in the Convention for the suspension of any of the standard clauses, and that as regards revision, this would be possible only if, in accordance with section 48, one-third of the parties to the Convention were to request the Secretary-General to call a conference with a view to its revision.

#### Laissez-passer

23. By resolution 261 (III) of 11 December 1948, the General Assembly approved supplementary agreements concerning the use of the United Nations laissez-passer concluded between the United Nations and ICAO, UNESCO and FAO respectively. These agreements were also approved by the constitutional authorities of the agencies concerned as follows:

International Civil Aviation Organization	June 1948
Food and Agriculture Organization	November 1948
United Nations Educational, Scientific and Cultural Organization	December 1948

24. In accordance with the terms of the respective agreements, special arrangements were entered into between the United Nations and the agency concerned, and the laissez-passer of the United Nations is now issued to those agencies on a regular basis.