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SIXTH COMMITTEE

SUB-COMMITTEE 1 ON PRIVILEGES AND IMMUNITIES

CO-ORDINATION OF THE PRIVILEGES AND IMMUNITIES
OF THE UNITED NATIONS AND OF THE SPECIALIZED
AGENCIES

New Draft of the Proposed Convention presented by the
Rapporteur

Proposed Resolution relating to the Unification of the Privileges
and Immunities of Specialized Agencies brought into relationship
with the United Nations, in accordance with the provisions
of Articles 57 and 63 of the Charter.

The General Assembly approves the annexed Convention on the
Privileges and Immunities of the Specialized Agencies and proposes 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.

SUGGESTED REDRAFT OF THE PROPOSED CONVENTION ON THE
PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED
AGENCIES

WHEREAS the General Assembly of the United Nations adopted on
13 February 1946 a resolution contemplating the unification as far as
possible of the privileges and immunities enjoyed by the United Nations
and by the various Specialized Agencies; and

WHEREAS consultations concerning the implementation of the aforesaid
resolution have taken place between the United Nations and the
Specialized Agencies;

CONSEQUENTLY, by a resolution adopted on _____, the
General Assembly has approved the following Convention: which is submitted
to the Specialized Agencies for acceptance and to every Member of the
United Nations and to every other State Member of one or more of the
Specialized Agencies for accession.

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/ARTICLE I

ARTICLE I

Scope

Section 1

This Convention relates to the privileges and immunities of the following agencies which are hereinafter described as the Specialized Agencies:

- (a) The International Labour Organization;
- (b) The Food and Agriculture Organization of the United Nations;
- (c) The United Nations Educational, Scientific and Cultural Organization;
- (d) The International Civil Aviation Organization;
- (e) The International Monetary Fund;
- (f) The International Bank for Reconstruction and Development;
- (g) The World Health Organization;
- (h) The Universal Postal Union;
- (i) The International Telecommunication Union; and
- (j) Any other agency brought into relationship with the United Nations in accordance with Articles 57 and 63 of the Charter.

Section 2

The Specialized Agencies shall enjoy the privileges and immunities set forth in Articles II to VIII of this Convention subject to the modifications specified in the final texts of the Annexes thereto.

ARTICLE II

Juridical Personality

Section 3

The Specialized Agencies shall possess juridical personality. They shall have the capacity (a) to contract, (b) to acquire and dispose of immovable and moveable property, (c) to institute legal proceedings.

ARTICLE III

Property, Funds and Assets

Section 4

The specialized agencies, their property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case they have expressly waived their immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

Section 5

The premises of the specialized agencies shall be inviolable. The
/property

property and assets of the specialized agencies, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

Section 6

The archives of the specialized agencies, and in general all documents belonging to them or held by them, shall be inviolable wherever located.

Section 7

Without being restricted by financial controls, regulations or moratoria of any kind:

- (a) the specialized agencies may hold funds, gold or currency of any kind and operate accounts in any currency;
- (b) the specialized agencies shall be free to transfer their funds, gold or currency from one country to another or within any country and to convert any currency held by them into any other currency.

Section 8

Each specialized agency shall, in exercising its rights under Section 7 above, pay due regard to any representations made by the Government of any State party to this Convention insofar as it is considered that effect can be given to such representations without detriment to interests of the agency.

Section 9

The specialized agencies, their assets, income and other property shall be:

- (a) exempt from all direct taxes; it is understood, however, that the specialized agencies will not claim exemption from taxes which are, in fact, no more than charges for public utility services;
- (b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the specialized agencies for their official use; it is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country;
- (c) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of their publications.

Section 10

While the specialized agencies will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the specialized agencies are making important purchases for official use of property on which such taxes have been charged or are chargeable, acceding States will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE IV

Facilities in respect of communications

Section 11

The specialized agencies shall enjoy in the territory of each State party to this Convention for their official communications treatment not less favourable than that accorded by the Government of such State to any other Government including its diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications, and press rates for information to the press and radio.

Section 12

No censorship shall be applied to the official correspondence and other official communications of the specialized agencies.

The specialized agencies shall have the right to use codes and to despatch and receive correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

Nothing in this Section shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between an acceding State and a specialized agency.

ARTICLE V

The representatives of Members

Section 13

Representatives of Members at conferences and committees convened by a specialized agency shall, while exercising their functions and during their journeys to and from the place of meeting, enjoy the following privileges and immunities:

(a) immunity from personal arrest or detention and from seizure of their personal baggage, and in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind;

/(b) inviolability

Section 22

The officials of the specialized agencies shall be exempt from national service obligations, provided that, in relation to the States of which they are nationals, such exemption shall be confined to officials of the specialized agencies whose names have, by reason of their duties, been placed upon a list compiled by the Executive head of the specialized agency and approved by the State concerned.

Should other officials of specialized agencies be called up for national service, the State concerned shall, at the request of the specialized agency concerned, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption in the continuation of essential work.

Section 23

In addition to the immunities and privileges specified in Sections 21 and 22, the Executive head and such other principal officers of the specialized agencies as are specified in the Annexes shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

Section 24

Privileges and immunities are granted to officials in the interests of the specialized agencies only and not for the personal benefit of the individuals themselves. The Executive head of each specialized agency shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the specialized agency. In the case of the Executive head, the governing body of the specialized agency shall have the right to waive immunity.

Section 25

Each specialized agency shall co-operate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuses in connection with the privileges, immunities and facilities mentioned in this Article.

ARTICLE VII

Experts on Missions for the Specialized Agencies

Section 26

Experts (other than officials coming within the scope of Article VI)
/performing

performing missions for a specialized agency shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular they shall be accorded:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for a specialized agency;
- (c) inviolability for all papers and documents;
- (d) for the purpose of their communications with the specialized agency concerned, the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

Section 27

Privileges and immunities are granted to experts in the interests of the specialized agencies and not for the personal benefit of the individuals themselves. The Executive head of each specialized agency concerned shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the specialized agency.

ARTICLE VIII

Laissez-Passer

Section 28

Officials of the specialized agencies shall be entitled to use the United Nations laissez-passer in conformity with administrative arrangements to be concluded between the Secretary-General of the United Nations and the competent authorities of the specialized agencies to which agencies special powers to issue laissez-passer may be delegated. The Secretary-General of the United Nations shall notify each acceding State of each administrative arrangement so concluded.

/Section 29

Section 29

States acceding to this Convention shall recognize and accept the United Nations laissez-passer issued to officials of the specialized agencies as valid travel documents.

Section 30

Applications for visas, where required, from officials of specialized agencies holding United Nations laissez-passer, when accompanied by a certificate that they are travelling on the business of a specialized agency, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

Section 31

Similar facilities to those specified in Section 29 shall be accorded to experts and other persons who, though not the holders of United Nations laissez-passer, have a certificate that they are travelling on the business of a specialized agency.

Section 32

The Executive heads, Assistant Executive heads, heads of departments and officials of comparable rank of the specialized agencies travelling on United Nations laissez-passer on the business of the specialized agencies shall be granted the same facilities as are accorded to diplomatic envoys.

ARTICLE IX

Settlement of Disputes

Section 33

Each specialized agency shall make provision for appropriate modes of settlement of:

- (a) disputes arising out of contracts or other disputes of a private law character to which the specialized agency is a party;
- (b) disputes involving any official of a specialized agency who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of Section 23.

Section 34

All differences arising out of the interpretation or application of the present Convention shall be referred to the International Court of Justice, unless in any case it is agreed by the parties to have recourse to another mode of settlement. If a difference arises between one of the specialized agencies on the one hand, and a Member on the other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court and the relevant provisions of the agreements concluded between the United Nations and the specialized agency concerned. The opinion given by the Court shall be accepted as decisive by the parties.

ARTICLE X

Annexes and application to individual Specialized Agencies

Section 35

In its application to each Specialized agency this Convention shall operate subject to any modifications set forth in the final text (as provided in Section 37) of an annex to this Convention relating to that agency.

Section 36

Draft annexes 1 to 9 are recommended to the specialized agencies named therein. In the case of any future specialized agencies not mentioned by name in Section 1, the Secretary-General shall transmit to the agency a draft annex approved by the Economic and Social Council.

Section 37

The final text of each annex shall be that approved by the specialized agency in question in accordance with its constitutional procedure. A copy of the annex as approved by each specialized agency shall be transmitted by the agency in question to the Secretary-General of the United Nations and shall thereupon replace the draft referred to in Section 36.

Section 38

The present Convention becomes applicable to each specialized agency when the specialized agency has transmitted to the Secretary-General the final copy of the annex and has informed him that it accepts the provisions of the Convention as modified by the annex and undertakes to give effect to Sections 20, 24, 25, 27, 33 and 34, and to any provisions of the annex placing obligations upon the agency. The Secretary-General shall communicate to all Members of the United Nations and other states members of specialized agencies certified copies of all annexes transmitted to him under this Section.

ARTICLE XI

Final Provisions

Section 39

Accession to this Convention by a Member of the United Nations and (subject to Section 40) by any state member of a specialized agency shall be effected by deposit of an instrument of accession with the Secretary-General of the United Nations.

Section 40

A specialized agency may communicate the text of this Convention to those of its members which are not Members of the United Nations and invite
/them to

them to accede thereto in respect of that agency by depositing with the Executive head of the said agency an instrument of accession to this Convention in respect thereof.

Section 41

Each State party to this Convention shall indicate in its instrument of accession the specialized agency or agencies in respect of which it undertakes to apply the provisions of this Convention as modified by the final text of any relevant annexes. Each State party to this Convention may be subsequent written notification to the Secretary-General of the United Nations undertake to apply the provisions of this Convention to a further specialized agency or agencies.

Section 42

This Convention shall enter into force for each state party to this Convention in respect of a specialized agency when it has become applicable to that agency in accordance with Section 38 and the State party has undertaken to apply the provisions of the convention to that agency in accordance with Section 41.

Section 43

The Secretary-General of the United Nations shall inform all Members of the United Nations, as well as all members of the specialized agencies, and Executive heads of the specialized agencies of the deposit of each instrument of accession and of subsequent notifications received under Section 41. The Executive head of a specialized agency shall inform the Secretary-General of the United Nations and the members of the agency concerned of the deposit of any instrument of accession deposited with him under Section 40.

Section 44

It is understood that, when an instrument of accession or a subsequent notification is deposited on behalf of any state, this state will be in a position under its own law to give effect to the terms of this Convention, as modified by the final texts of any annexes relating to the agencies covered by such accessions or notifications.

Section 45

1. Subject to the provisions of paragraph (2) of this Section, each State party to this Convention undertakes to apply this Convention and any relevant annex in respect of each specialized agency (covered by its accession or subsequent notification) until such time as a revised convention or annex shall have become applicable to that agency and the said State shall have become bound by the revised convention or annex.

/2. Each

2. Each State party to this Convention, however, which is not or has ceased to be a Member of a specialized agency, may address a written notification to the Secretary-General of the United Nations and the Executive head of the agency concerned to the effect that it intends to withhold from that agency the benefits of this Convention as from a specified date which shall not be earlier than three months from the date of receipt of the notification.
3. The Secretary-General of the United Nations shall inform all states parties to this Convention of any notification transmitted to him under the preceding paragraph.

Section 46

The provisions of this Convention shall not in any way limit or prejudice the privileges and immunities which have been or may hereafter be accorded by any state to any specialized agency by reason of the location in the territory of that state of its headquarters or regional offices.
