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INFORMATION CIRCULAR

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To: Members of the Staff

Subject: VISA STATUS OF NON-UNITED STATES STAFF MEMBERS SERVING IN THE
UNITED STATES

JAN 21 1954

1. Staff members have already been informed (by Information Circular ST/AFS/SER.A/214 of 26 June 1953) of the provisions relevant to United Nations staff members of the United States Immigration and Nationality Act which came into effect on 24 December 1952. They were also told of certain proposals the Secretary-General expected to make to the General Assembly. The General Assembly has now considered the matter, and their conclusions, recorded for the guidance of the Secretary-General, are brought to the attention of the staff in this circular, together with certain necessary changes in the staff rules and other appropriate directives.

2. United States Immigration and Nationality Act of 1952

The Information Circular of 26 June 1953 summarized the relevant provisions of the new Act as follows:

"Under this Act, the United States authorities shall adjust to non-immigrant status any non-United States citizen in permanent residence (immigrant) visa status who has an occupational status which would entitle him to a diplomatic or international organization visa (G-4). The Attorney-General will cancel the record of such person's admission for permanent residence, and his immigrant status will therefore be terminated. The adjustment of status which is thus required is made inapplicable by the Act, however, if the individual files with the Attorney-General a written waiver of all rights, privileges, exemptions, and immunities under any law or any executive order which would otherwise accrue to him because of his having an occupational status entitling him to the non-immigrant status.

"According to regulations issued by the United States Attorney-General, no such staff member will have his status changed to G-4 visa until he has received formal notice in writing from the United States Authorities. The staff member will then have ten days from the receipt of that notice in which to execute the waiver of his privileges and immunities. Some holders of permanent residence visa may be faced with the decision before the time of the notification, for example, if they apply for a re-entry permit before proceeding on travel outside the United States.

"An opinion by the Attorney-General of the United States on the effect of these waivers has been received, and staff members who wish to read the full text will find it available in the executive office of their department.

"According to this opinion, a staff member who signs the waiver can enjoy, under United States law, the same privileges and exemptions as are available to a United States citizen employed by United Nations, but cannot assert privileges not available to a United States citizen. Specifically, he would remain immune from suit and legal process in relation to his official United Nations functions, but he would become liable to United States income taxation on his United Nations income."

3. Decisions of the General Assembly

After considering the recommendations of the Secretary-General and the comments of the Advisory Committee, the General Assembly has reached decisions on the following points:

4. The General Assembly has decided that, except as stated in paragraph 6 below, any staff member opting for permanent residence status in the country of his duty station and thereby rendering himself liable to national income taxation should receive reimbursement of such taxation, subject to the decision of the General Assembly to appropriate funds annually for this purpose.

5. On the other hand, such staff members would:

- (i) Lose any entitlement for home leave.
- (ii) Lose any entitlement to payment of non-resident's allowance from the date on which the staff rules are changed or from the end of the month in which he signs the waiver of immunities and privileges, whichever is later.
- (iii) Lose any entitlement to education grant after the completion of the 1953-1954 academic year.
- (iv) Lose any entitlement to repatriation grant.
- (v) Lose any entitlement for return transportation for himself or his dependents, and for removal of household effects which is based on "place of home leave".

6. The General Assembly further decided that any internationally recruited staff member who hereafter asks for and receives authority to change from a G-4 (or equivalent) visa status to a permanent residence status should not thereby acquire any entitlement to reimbursement of national income taxes, provided that the Secretary-General, in exceptional and compelling circumstances, may grant permission to a staff member to change his status and still be entitled to tax reimbursement.

7. Finally, the General Assembly decided that, for purposes of applying the criterion of equitable geographical distribution as required by Article 101 of the Charter, staff members of a nationality other than that of the host country who acquire permanent residence status in the host country should be classified in a special category. (For the purposes of establishing the geographical distribution of the staff, staff members in salary level G-5, in the Professional category and above, but not including those recruited specifically for language service, are taken into account.)

8. During the discussions, several delegations expressed the hope that the Secretary-General would submit definite proposals in due course for dealing with the problem that had arisen with regard to the application of the principle of geographical distribution. The view was widely shared that international officials should be true representatives of the culture and personality of the

country of which they were nationals and that those who elected to break their ties with that country could no longer claim to fulfil the conditions governing employment in the United Nations. It was stated by the representative of the Secretary-General that definite proposals had not yet been submitted since the Secretary-General had as yet no clear knowledge of how large the problem would be. Should any considerable number of internationally recruited staff members decide to retain their permanent residence status, the Secretary-General undertook to report the matter to the General Assembly at its next session, together with specific proposals for dealing with the situation.

Implementation of the Decisions of the General Assembly

9. Amendments in the Staff Rules

The necessary amendments of the relevant staff rules are shown in ST/AFS/SGB/94/Rev.2 which is attached to this circular. These amendments are effective as of 1 February 1954. They provide that:

- (i) Staff members who have already signed the waiver of privileges and immunities will lose entitlement to the international allowances and benefits from 1 February 1954.
- (ii) Staff members who have not yet signed the waiver will lose entitlement to these allowances and benefits from the date on which they sign the waiver. Non-resident's allowance will be cut off from the end of the month in which the waiver is signed.
- (iii) In any case, staff members remaining in permanent residence status will lose all entitlement to international benefits on 1 July 1954, even if they have not yet signed the waiver by that date.
- (iv) Staff members in permanent residence status who alter their status to that of the G-4 visa before 1 July 1954 will regain entitlement to the international benefits to which they are otherwise entitled without any break in continuity of service credits; non-resident's allowance will however be re-established only from the end of the month in which the staff members move to G-4 visa status, and payment will not be made for the intervening period during which the staff member was ineligible for the allowance.

- (v) Staff members who alter their status from permanent residence to non-immigrant status (G-4) after 1 July 1954 will become eligible for the international benefits from the time they enter on non-immigrant status and their service credits for these benefits will start to accrue from that time. In illustration, they would become eligible to take home leave two years later and their service for calculating payment of repatriation grant would start at the time of obtaining G-4 visa status.

10. An annex to the present circular contains information in respect of procedures established by United States authorities which may be followed by staff members wishing to change from permanent residence status to G-4 (international organization) visa status.

11. Transitory Arrangements Concerning Home Leave and Education Grant

As a transitional measure, staff members who would otherwise have been eligible for home leave during 1953 or 1954 will be permitted to take one final home leave during the year in which it would have fallen due.

Staff members who lose entitlement to education grant will do so after the completion of the 1953-1954 academic year. They will retain eligibility for one way travel for the dependent child between the home country and the duty station on the completion of the 1953-1954 academic year.

12. Comments to the Staff in the Matter of Permanent Residence Status and Change of Nationality:

The Secretary-General wishes to draw to the attention of the staff the importance of the steps they may wish to take concerning their visa (or residence) status in the country of their duty station or in any other country which is not the country of their nationality, and concerning change of nationality.

The decision of a staff member to remain on or acquire permanent residence status in such a country in no way represents an interest of the United Nations. On the contrary, this decision may adversely affect the interests of the United Nations in the case of internationally recruited staff members in the Professional category, and be specifically undesirable in the case of staff member recruited subject to the requirements of geographical distribution.

13. From the point of view of the application of the principle of geographical distribution, which, in accordance with the provisions of the Charter, constitutes one of the main considerations in the selection of the staff, a change of nationality may be for obvious reasons, an even more serious matter.

14. As a matter of practical policy during 1954, requests for permission to sign the waiver of privileges and immunities received from staff members who were in permanent residence status in the country of the duty station on 31 December 1953 will be considered on their merits, full regard being paid to the fact that this status was acquired before the administrative rules of the Organization had been developed on this subject.

Requests for permission to sign the waiver of privileges and immunities in order to change from non-immigrant to permanent residence status will be considered individually, with attention given to how such a change may ultimately affect the principle of geographical distribution. In general, staff members in salary category G-5 and above will be granted authorization to sign the waiver of privileges and immunities only when the Secretary-General is convinced that the exceptional and compelling circumstances of the case warrant such a decision.

15. Obligations of the staff

Since the Secretary-General has exclusive authority to waive privileges and immunities enjoyed by staff members of the United Nations, staff members may not sign such a waiver without obtaining the Secretary-General's permission to do so. Staff Regulation 1.8 applies.

Staff members are required (by Staff Rule 104.4) to notify the Secretary-General promptly, in writing, of any changes affecting their status under staff regulations and staff rules, specifically including any changes in visa status or nationality.

16. The attention of staff members is therefore called to the following instructions, which were issued in the circular of 26 June 1953, and are hereby reaffirmed:

(a) Staff members who are now in permanent residence status in the United States and who wish to sign the waiver of privileges and immunities shall request in writing, through the Bureau of Personnel, the Secretary-General's authorization of such signature; they shall also notify the Bureau of Personnel of any subsequent changes in their visa status.

(b) Staff members in permanent residence status who at any time alter their status to that of the G-4 visa shall notify the Bureau of Personnel of the fact.

(c) Staff members shall give to the Bureau of Personnel written notification of their intention to acquire permanent residence status in the United States before they acquire such status and must receive the Secretary-General's authorization before signing any waiver of personal privileges and immunities.

(d) Staff members shall give prior written notification to the Bureau of Personnel of their intention to change nationality upon making application for naturalization or filing a declaration of intention.

Procedures for Changing from Permanent Residence Status to
International Organization (G-4) Visa Status
under United States Law

Under the relevant section of the Immigration and Nationality Act described in paragraph 2 above, the Attorney-General will automatically order the adjustment to G-4 status of any staff member having permanent residence status who does not sign the prescribed waiver of immunities within 10 days of the receipt of notice from the immigration authorities. Staff members who do not wish to wait for the receipt of their 10-day notice, but wish to accelerate their adjustment to G-4 visa status in order to assure at once their continued entitlement to international benefits, should address a specific request to the Director of Immigration and Naturalisation, 70 Columbus Avenue, New York City, to have their adjustment arranged forthwith. So that their United Nations status may be clear at all times, staff members are invited to make this application in writing, and to give one copy of it to the Bureau of Personnel. The Bureau of Personnel will furnish, on the staff member's request, a certificate attesting to his employment with the United Nations.

While there is no specific regulation authorizing this accelerated adjustment of status, the United States immigration authorities have to date shown a willingness to comply with such requests for adjustment to G-4 status without requiring the staff member either to wait for eventual service of the 10-day notice on the initiative of the immigration authorities or to make a new entry into the United States. Once a staff member has signed the waiver, however, and thus confirmed the retention of his permanent residence status, it is assumed that he will be required to make a new entry into the United States if he then decides to seek G-4 visa status.
