

PREPARATORY COMMISSION OF THE UNITED NATIONS

COMMITTEE 5:

IMMUNITIES AND PRIVILEGES
GRANTED TO THE ORGANIZATION, TO REPRESENTATIVES OF THE
MEMBERS, AND TO THE OFFICIALS
IN ACCORDANCE WITH THE CONSTITUTIONS OF
THE INTERNATIONAL MONETARY FUND -
THE INTERNATIONAL BANK OF RECONSTRUCTION AND DEVELOPMENT -
UNITED NATIONS RELIEF AND REHABILITATION AND ADMINISTRATION -
FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS -
AND EUROPEAN CENTRAL INLAND TRANSPORT ORGANIZATION.

I. STATUS OF THE ORGANIZATION

1. Purposes

International Monetary Fund (Article IX - Section 1)
International Bank for Reconstruction and Development
(Article VII - Sect. 1)

"To enable the Fund/Bank to fulfil the
functions with which it is entrusted the
status, immunities and privileges set forth
in this Article shall be accorded to the
Fund in the territories of each member."

United Nations Relief and Rehabilitation Administration
(Resolution 32)

"WHEREAS the Council is desirous of insuring
to the Administration and its agents the
independence necessary for the efficient
performance of the duties entrusted to them,
and of avoiding the imposition of financial
burdens upon the funds contributed by member
governments to the Administration;"

2. Legal Status of the Organization

International Monetary Fund (Section 2 of Article IX)
International Bank for Reconstruction and Development
(Sect. 2 - Art. VII)

"The Fund/Bank shall possess full juridical
personality, and, in particular, the capacity:
(i) to contract; (ii) to acquire and dispose
of immovable and movable property; (iii) to
institute legal proceedings."

Food and Agriculture Organization (Article XV)

"1. The Organization shall have the capacity
of a legal person to perform any legal act
appropriate to its purpose which is not beyond
the powers granted to it by this Constitution."

European Central Inland Transport Organization (Article 8-
paras. 1 & 3)

"Every member Government shall recognize the
international personality and legal capacity
which the Organization possesses."

3. Immunities of the Organization

(i) from judicial process

International Monetary Fund (Article IX - Section 3)

"The Fund, its property and its assets, wherever
located and by whomsoever held, shall enjoy
immunity from every form of judicial process
except to the extent that it expressly waives its
immunity for the purpose of any proceedings or by
the terms of any contract."

International Bank for Reconstruction and Development
(Article VIII - Section 3)

"Actions may be brought against the Bank only in a
court of competent jurisdiction in the territories
of a member in which the Bank has an office, has
appointed an agent for the purpose of accepting
service or notice of process, or has issued or
guaranteed securities. No actions shall however,
be brought by members or persons, acting for or
deriving claims from members. The property and
assets of the Bank shall, wheresoever located and
by whomsoever held, be immune from all forms of
seizure, attachment or execution before the
delivery of final judgment against the Bank."

United Nations Relief & Rehabilitation Administration
(Resolution 32 - Para. I - point 1(a))

"That the Council recommends:

1. That the member governments accord to the
Administration the facilities, privileges,
immunities, and exemptions which they accord to
each other, including: (a) Immunity from suit and
legal process except with the consent of, or so
far as is provided for in any contract entered
into by or on behalf of, the Administration."

Food and Agriculture Organization (Article XV - para. 2)

"Each Member nation undertakes, insofar as it may
be possible under its constitutional procedure, to
accord to the Organization all the immunities and
facilities which it accords to diplomatic missions,
including inviolability of premises and archives,
immunity from suit, and exemptions from taxation."

European Central Inland Transport Organization
(Article 8 - para. 3(c))

"Every member Government shall accord to the Organization the privileges, immunities, and facilities which they grant to each other, including in particular: (a) immunity from every form of legal process."

- (ii) from search, requisition, confiscation, expropriation, or any other form of seizure,

International Monetary Fund (Article IX - Section 4)
International Bank for Reconstruction and Development
(Article VII - Section 4)

"Property and assets of the Fund/Bank, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation, or any other form of seizure by executive or legislative action."

United Nations Relief and Rehabilitation Administration
(Resolution 32)

"I. That the Council recommends:

1. That the member governments accord to the Administration the facilities, privileges, immunities and exemptions which they accord to each other including: (b) inviolability of premises occupied by and of the archives of the Administration."

Food and Agriculture Organization (Article XV - Section 2)

"Each Member nation undertakes, in so far as it may be possible under its constitutional procedure, to accord to the Organization all the immunities and facilities which it accords to diplomatic missions, including inviolability of premises and archives immunity from suit and exemptions from taxation."

European Central Inland Transport Organization
(Article 8 - para. 3(c))

"Every member Government shall accord to the Organization the privileges, immunities and facilities which they grant to each other, including in particular: (c) inviolability of premises occupied by, and of the archives and communications of the Organization."

(iii) of archives

International Monetary Fund (Article IX - Section 5)
International Bank for Reconstruction and Development
(Article VII - Section 5)

"The archives of the Fund/Bank shall be inviolable."

United Nations Relief & Rehabilitation Administration
(Resolution 32)

"I. That the Council recommends:

1. That the member governments accord to the Administration the facilities, privileges, immunities and exemptions which they accord to each other including: (b) Inviolability of premises occupied by and of the archives of the Administration."

Food and Agriculture Organization (Article XV - section 2)

"Each member nation undertakes, in so far as it may be possible under its constitutional procedure, to accord to the Organization all the immunities and facilities which it accords to diplomatic missions, including inviolability of premises and archives, immunity from suit, and exemptions from taxation."

European Central Inland Transport Organization
(Article 8 - para. 4(c))

"Every member Government shall accord to the Organisation the privileges, immunities and facilities which they grant to each other, including in particular: (c) inviolability of premises occupied by, and of the archives and communications of the Organization".

(iv) of assets from restrictions

International Monetary Fund (Article IX - Section 6)

"To the extent necessary to carry out the operations provided for in this Agreement, all property and assets of the Fund shall be free from restrictions, regulations, controls and moratoria of any nature."

International Bank for Reconstruction & Development.
(Article VII - Section 6)

"To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature."

(v) from taxation

International Monetary Fund (Article IX - Section 9a and c)

"(a) The Fund, its assets, property, income and its operations and transactions authorized by this agreement, shall be immune from all taxation and from all customs duties. The Fund shall also be immune from liability for the collection of payment of any tax or duty.

(c) No taxation of any kind shall be levied, on any obligation or security issued by the Fund, including any dividend or interest thereon, by whomsoever held (i) which discriminates against such obligations or security solely because of its origin; or (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued made payable or paid, or the location of any office or place of business maintained by the Fund."

International Bank for Reconstruction and Development (Article VII - Section 9a c, d.)

"(a) The Bank its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from liability for the collection or payment of any tax or duty."

"(c) No taxation of any kind shall be levied on any obligation or security issued by the Bank (including any dividend or interest thereon) by whomsoever held (i) which discriminates against such obligation or security solely because it is issued by the Bank; or (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank."

"(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Bank (including any dividend or interest thereon) by whomsoever held (i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank."

United Nations Relief & Rehabilitation Administration (Resolution 32)

"I. That the Council recommends:

1. That the member governments accord to the Administration the facilities, privileges, immunities, and exemptions which they accord each other, including:
- (c) Exemptions from taxation, including customs duties."

Food and Agriculture Organisation (Article XV - para. 2)

"Each Member nation undertakes, insofar as it may be possible under its constitutional procedure, to accord to the Organization all the immunities and

facilities which it accords to diplomatic missions including inviolability of premises and archives, immunity from suit, and exemptions from taxation."

European Central Inland Transport Organisation (Article 8 - para. 3b)

"Every member Government shall accord to the Organization the privileges, immunities and facilities which they grant to each other, including in particular; (b) exemption from taxation and customs duties."

(vi) from Foreign Exchange Controls

International Monetary Fund (Article VII - Section 6)

International Bank for Reconstruction & Development
(Article VII - Section 6)

"To the extent necessary to carry out the operations provided for in this Agreement all property and assets of the Fund/Bank shall be free from restrictions, regulations, controls and moratoria of any nature."

United Nations Relief & Rehabilitation Administration
(Resolution 32)

"I. That the Council recommends:

1. That the member governments accord to the Administration the facilities, privileges, immunities, and exemptions which they accord to each other, including: (d) exemptions from or facilities in respect of foreign exchange controls.

4. Privileges of the Organization

(i) Communications

International Monetary Fund (Article IX - Section 7)

International Bank for Reconstruction & Development
(Article VII - Section 7)

"The official communications of the Fund/Bank shall be accorded by members the same treatment as the official communications of other members."

United Nations Relief & Rehabilitation Administration
(Resolution 34)

WHEREAS

The Council recognises the need for expenditure, economy and secrecy in the transmission of the official correspondence of the Administration; it is therefore

RESOLVED-

I. That the Council recommends:

1. That the member governments accord to the official correspondence of the Administration:

(a) the same treatment as is accorded by them to the official correspondence of other member governments, including:

- (i) Priorities for telephone and telegram communications, whether cable or radiom and for mail transmitted by pouch or by courier.
- (ii) Government rebates for official telegrams.
- (iii) Diplomatic status for couriers and pouches of the Administration.
- (iv) Under appropriate safeguards, exemption from censorship of the official correspondence of the Administration.
- (v) Appropriate arrangements for the use of codes and of cable addresses for the telegraphic correspondence of the Administration.

(b) appropriate postal facilities, including such franking privileges or arrangements for the use of specially printed or overprinted stamps as may be possible.

Food and Agriculture Organization (Article XV - Section 2)

"Each Member nation undertakes, insofar as it may be possible under its constitutional procedure, to accord to the Organization all the immunities and facilities which it accords to diplomatic missions, including inviolability of premises and archives, immunity from suit, and exemption from taxation."

European Central Inland Transport Organization (Article 8 para 3)

"Every member Government shall accord to the Organization the privileges, immunities and facilities which they grant to each other."

II. STATUS OF REPRESENTATIVES OF THE MEMBERS

United Nations Relief & Rehabilitation Administration (Resolution 32)

"I. 3 That member governments accord to representatives of member governments on the Council and its committees and to the officials and employees of the Administration when engaged on the business of the Administration, the following privileges and immunities in their respective territories:

- (a) immunity from legal process of any kind in respect of acts performed by them in their official capacity and falling within their functions as such;

(b) immunity from taxation on official salaries, allowances, or other emoluments as representatives, officials, or employees of the Administration;

(c) the same immunities from immigration restrictions, alien registration and military service obligations and the same facilities as regards exchange restrictions as are accorded to representatives, officials and employees of similar rank of other member governments;

(d) any further privileges and immunities that the Director General may request as necessary to safeguard representatives, officials or employees in the territories of any member Government where they are engaged and particularly those engaged in field operations in the areas in which the Administration may be undertaking relief and rehabilitation."

Provided that each member government shall determine to what extent the above recommendations shall apply to its own nationals, and to non-nationals in permanent residence in its territories."

European Central Inland Transport Organization (Article 8 para 4)

"Every member Government shall accord diplomatic privileges and immunities to persons appointed by other members as their representatives in or to the Organization, to the members of the Executive Board, and to the higher officials of the Organization not being their own nationals."

III. STATUS OF OFFICERS AND EMPLOYEES.

1. Immunity from legal process

International Monetary Fund (Article IX - Section 8 (i))

International Bank for Reconstruction & Development (Article VII - Section 8)

"All governors, executive directors, alternate officers and employees of the Fund/Bank (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Fund/Bank waives this immunity.

United Nations Relief & Rehabilitation Administration
(Resolution 32)

"I. 3. That member governments accord to representatives of member governments on the Council and its committees and to the officials and employees of the Administration the following privileges and immunities in their respective territories: (a) immunity from legal process of any kind in respect of acts performed by them in their official capacity and falling within their functions as such;.... Provided that each member government shall determine to what extent the above recommendations shall apply to its own nationals, and to non-nationals in permanent residence in its territories."

Food & Agriculture Organization (Article VIII - para. 4)

"Each Member nation undertakes insofar as it may be possible under its constitutional procedure, to accord to the Director General and senior staff diplomatic privileges and immunities and to accord to other members of the staff all facilities and immunities accorded to non-diplomatic personnel attached to diplomatic missions, or alternatively to accord to such other members of the staff the immunities and facilities which may hereafter be accorded to equivalent members of the staffs of other public international organizations."

European Central Inland Transport Organization (Article 8)

"Every member Government shall accord diplomatic privileges and immunities to persons appointed by other members as their representatives in or to the Organization, to the members of the Executive Board, and to the higher officials of the Organization not being their own nationals.

"Every member Government shall accord to all officials and employees of the Organization: (a) immunity from suit and legal process relating to acts performed by them in their official capacity....."

2. Immunity from immigration restrictions, alien registration, national service obligations, and exchange restrictions.

International Monetary Fund (Article IX - Section 8)

International Bank for Reconstruction & Development
(Article VII - Section 8)

"All governors, executive directors, alternate officers and employees of the Fund/Bank... (ii) not being local nationals, shall be granted the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials and employees of comparable rank of other members."

United Nations Relief & Rehabilitation Administration
(Resolution 32)

1. 3. That member governments accord to representatives of member Governments on the Council and its committees and to the officials and employees of the Administration when engaged on the business of the Administration, the following privileges and immunities in their respective territories:..... (c) the same immunities from immigration restrictions, alien registration and military service obligations and the same facilities as regards exchange restrictions as are accorded to representatives, officials and employees of similar rank of other member governments.....

Provided that each member government shall determine to what extent the above recommendations shall apply to its own nationals, and to non-nationals in permanent residence in its territories."

Food and Agriculture Organization (Article VIII)

"4. Each Member nation undertakes, insofar as it may be possible under its constitutional procedure, to accord to the Director-General and senior staff diplomatic privileges and immunities and to accord to other members of the staff all facilities and immunities accorded to non-diplomatic personnel attached to diplomatic missions, or alternatively to accord to such other members of the staff the immunities and facilities which may hereafter be accorded to equivalent members of the staffs of other public international organizations."

European Central Inland Transport Organization (Article 8)

"Every member Government shall accord diplomatic privileges and immunities to persons appointed by other members as their representatives in or to the Organization, to the members of the Executive Board, and to the higher officials of the Organization not being their own nationals."

3. Travel Facilities.

International Monetary Fund (Article IX - Section 8)

"All governors, executive directors, alternate officers and employees of the Fund... (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank or other members."

International Bank for Reconstruction & Development (Article VII - Section 8)

"All Governors, executive directors, alternates, officers and employees of the Bank... (iii) shall be granted the same treatment in respect of travelling facilities, as is accorded by members to representatives, officials and employees of comparable rank or other members".

United Nations Relief & Rehabilitation Administration
(Resolution 36)

WHEREAS

the Council has in mind the importance of securing the expeditious and unhindered travel of officials and employees of the Administration necessary to permit the prompt fulfilment by the Administration of the urgent tasks entrusted to it; it is therefore

RESOLVED

1. That the Council recommends:

1. That the Director General issue to officials and employees of the Administration for use when travelling on official business a document identifying the official or employee and requesting in the name of the

Administration that all appropriate facilities be granted to the bearer.

2. That all member governments give full recognition to such documents and instruct their diplomatic, consular, customs, and immigration services and any other services which may be concerned to recognise such documents as entitling the bearer to all appropriate facilities.

3. That in respect to passports and visas, the member governments accord to the officials and employees of the Administration the same treatment as is accorded to the officials and employees of comparable rank of their own or other governments.

4. That all member governments take the necessary steps to grant all appropriate and possible priorities for the travel of the officials of the Administration on official business and government rebates for such travel.

Food & Agriculture Organization (Article VIII - para. 4.)

"Each Member nation undertakes, insofar as it may be possible under its constitutional procedure, to accord to the Director General and senior staff diplomatic privileges and immunities and to accord to other members of the staff all facilities and immunities accorded to non-diplomatic personnel attached to diplomatic missions, or alternatively to accord to such other members of the staff the immunities and facilities which may hereafter be accorded to equivalent members of the staff of other public international organizations".

European Central Inland Transport Organization (Article 8)

"Every member Government shall accord to all officials and employees of the Organization:.....(b) all such facilities for their movements and for the execution of their functions, as are deemed necessary by the Organization for the speedy and effective fulfilment of their official duties....."

4. Immunity from taxation

International Monetary Fund (Article IX - Section 9)

"No tax shall be levied on or in respect of salaries and emoluments paid by the Fund to executive directors, alternates, officers or employees of the Fund who are not local citizens, local, or other local nationals."

International Bank for Reconstruction & Development (Article VII - Section 9)

"(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to executive directors, alternates, officials or employees of the Bank who are not local citizens, local subjects, or other local nationals."

United Nations Relief & Rehabilitation Administration
(Resolution 32)

"3. That member Governments accord to representatives of member governments on the Council and its committees and to the officials and employees of the Administration when engaged on the business of the Administration, the following privileges and immunities in their respective territories.....(b) immunity from taxation on official salaries, allowances or other emoluments as representatives, officials, or employees of the Administration Provided that each member government shall determine to what extent the above recommendations shall apply to its own nationals, and to non-nationals in permanent residence in its territories."

Food & Agriculture Organization (Article VIII - Section 4)

"Each member nation undertakes, insofar as it may be possible under its constitutional procedure, to accord to the Director-General and senior staff diplomatic privileges and immunities accorded to non-diplomatic personnel attached to diplomatic missions, or alternatively to accord to such other members of the staff the immunities and facilities which may hereafter be accorded to equivalent members of the staffs of other public international organisations".

European Central Inland Transport Organization (Article 8)

"Every member Government shall accord diplomatic privileges and immunities to persons appointed by other members as their representatives in or to the Organization, to the members of the Executive Board, and to the higher officials of the Organization not being their own nationals.
Every member Government shall accord to all officials and employees of the Organization ... (c) except in the case of their own nationals, exemption from taxation of their official salaries and emoluments."

5. Further Privileges

United Nations Relief and Rehabilitation Administration
(Resolution 32)

"I. 3. That member governments accord to representatives of member governments on the Council and its committees and to the officials and employees of the Administration when engaged on the business of the Administration, the following privileges and immunities in their respective territories:.....(d) any further privileges and immunities that the Director General may request as necessary to safeguard representatives, officials, or employees in the territories of any member government where they are engaged and particularly those engaged in field operations in the areas in which the Administration may be undertaking relief and rehabilitation.

"Provided that each member government shall determine to what extent the above recommendations shall apply to its own nationals, and to non-nationals in permanent residence in its territories."

European Central Inland Transport Organization (Article 8)

"Every member Government shall accord to all officials and employees of the Organization.....(b) all such facilities for their movements and for the execution of their functions, as are deemed necessary by the Organization for the speedy and effective fulfilment of their official duties."

6. Disputes relating to the conditions and terms of appointment of members of the staff.

Food and Agriculture Organization (Article XV - para.3)

"The Conference shall make provision for the determination by an administrative tribunal of disputes relating to the conditions and terms of appointment of members of the staff."

IV. GENERAL OBLIGATIONS OF MEMBERS

United Nations Relief and Rehabilitation Administration
(Resolution 32)

I. 2. "That member governments take any steps that they may consider necessary to enable the Administration to exercise within their jurisdiction the powers conferred on it by Article I, paragraph 1, of the Agreement."

European Central Inland Transport Organization (Article 8)

"Every member Government shall respect the exclusively international character of the members of the Executive Board, the Chief officer and the staff of the Organization."

V. APPLICATION OF AFORESAID PROVISIONS

International Monetary Fund (Article IX - Section 10)

"Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Fund of the detailed action which it has taken."

United Nations Relief & Rehabilitation Administration

Resolution 32.

"1. 4. That the member governments make any necessary arrangements with the Director General for the application of the foregoing recommendations.

11. That the Council requests the Director General
1. To initiate immediate negotiations with member Governments to bring such arrangements into operation as rapidly as possible.

2. Wherever appropriate to approach non-member Governments with a view to their granting such of the above-mentioned facilities, privileges, immunities, exemptions as may be desirable to facilitate the work of the Administration."

Resolution 34.

"1. 2. That the member Governments make any necessary arrangements with the Director General for the application of the foregoing recommendations.

11. That the Council requests the Director General:

1. To initiate immediate negotiations with member governments to bring such arrangements into operation as rapidly as possible.

2. Wherever appropriate to approach non-member governments with a view to their granting such of the above-mentioned facilities, privileges, immunities, and exemptions as may be desirable to facilitate the work of the Administration."

Resolution 36.

"1. 5. That the member Governments make any necessary arrangements with the Director General for the application of the foregoing recommendations.

11. To initiate immediate negotiations with member governments to bring such arrangements into operation as rapidly as possible.

2. Wherever appropriate, to approach non-member governments with a view to their granting such of the above mentioned facilities, privileges, immunities and exemptions as may be desirable to facilitate the work of the Administration."
