

29 November, 1945.

## PREPARATORY COMMISSION OF THE UNITED NATIONS

## COMMITTEE 5

COMMUNICATIONS FROM THE SWISS FEDERAL COUNCIL  
CONCERNING THE DIPLOMATIC IMMUNITIES TO BE  
ACCORDED TO THE STAFF OF THE LEAGUE OF  
NATIONS AND OF THE INTERNATIONAL LABOUR  
OFFICE.\*

Note by the Secretary-General, submitted to the Council on  
20 September, 1926.

Geneva, 18 September 1926.

The Secretary-General has the honour to submit to the Council the text of a new modus vivendi concerning the diplomatic immunities of the staff of the League organizations at Geneva. This text has been accepted both by the Federal Government and by the Secretary-General and the Director of the International Labour Office.

## I

The Swiss Federal Government recognizes that the League of Nations, which possesses international personality and legal capacity, cannot, in principle, according to the rules of international law, be sued before the Swiss Courts without its express consent.

## II

The premises in which the services of the League of Nations (Secretariat and International Labour Office) are installed (in the case of buildings entirely occupied by League offices, the buildings themselves, together with gardens and annexes) are inviolable, that is to say, no agent of the public authority may enter them, in the exercise of his duties, without the consent of the Secretariat or of the International Labour Office.

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\* League of Nations Official Journal, 7th year, No. 10, October, 1926, pp. 1422-1424.

III

The archives of the League of Nations are inviolable.

IV

The Secretary-General of the League of Nations and the Director of the International Labour Office are entitled to use couriers for the reception and despatch of official correspondence with the Members of the League of Nations and its agents outside Switzerland.

V

Customs exemption is granted to the League of Nations in respect of all objects, whether intended to form an integral part of a building or not, which are the absolute property of the League and are destined for its exclusive use.

VI

The League of Nations shall enjoy complete fiscal exemption in respect of its bank assets (current and deposit accounts) and its securities.

In particular, it shall be exempted from the stamp duty on coupons instituted by the Federal Law of 25 June, 1921. The exemption shall be effected by the repayment to the League of Nations of the duty levied on its assets.

VII

Subject to the provisions of Article IX below, officials of the organizations of the League of Nations at Geneva who are members of the staff of the first category or extra-territorial staff shall enjoy immunity from civil and criminal jurisdiction in Switzerland, unless such immunity is waived by a decision of the Secretary-General or of the Director of the International Labour Office.

The members of the staff of the second category shall enjoy the same privileges in respect of acts performed by them in their official capacity and within the limits of their functions. They shall remain subject to local laws and jurisdiction in respect of acts performed by them in their private capacity.

It is clearly understood, however, that the organizations of the League of Nations at Geneva will endeavour to facilitate the proper administration of justice and execution of police regulations at Geneva.

#### VIII

Officials of the organizations of the League of Nations who are members of the staff of the first category enjoy fiscal immunity. Consequently, they are exempted, in accordance with international practice, from all direct taxes, with the exception of the charges attaching to immovable property (the land tax). They are liable for the payment of indirect taxes and charges. The expression "direct taxes" shall be understood to mean taxes which are levied directly upon the taxpayer. "Charges" - whatever the expression employed in the regulations governing the matter may be - shall only be understood to mean payments in return for the rendering of a special and definite service by the administration to the person who pays them, together with those which are paid in order to cover special expenditure necessitated by an act of the taxpayer.

Members of the staff of the second category are exempted:

- (1) From the tax (taxe) on salary (revenu professionnel);
- (2) From the tax (taxe) on capital (fortune) or income (revenu);
- (3) From the Emergency Federal War Tax.

#### IX<sup>x</sup>

In the case of members of the staff of Swiss nationality, the following exceptions are instituted:

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<sup>x</sup> As regards the Federal War Tax, see annexed note.

1. Officials of Swiss nationality may not be sued before the local courts in respect of acts performed by them in their official capacity and within the limits of their official duties.

2. The salaries paid to them by the League of Nations are exempted from cantonal and municipal direct taxes.

X

The Customs examination of packages, etc., addressed to the officials of organizations of the League of Nations shall be effected in accordance with the regulations (prescriptions) the text of which was communicated to the Secretary-General of the League by the Head of the Federal Political Department on 10 January, 1926.

XI

If the exigencies of training and the interests of the country permit, exemptions from or postponements of military service shall be granted to officials of Swiss nationality incorporated in the Federal Army in cases in which their compliance with an order calling them up for military service would be likely seriously to interfere with the normal working of the services of the League.

XII

Correspondence relating to the application of the rules of the modus vivendi between the organizations of the League of Nations and the Swiss authorities shall be exchanged through the intermediary of the Federal Political Department, except in cases in which some other procedure has been prescribed.

XIII

The present provisions complete or summarise, but do not abrogate, the rules previously established by an exchange of notes between the organizations of the League of Nations and the Federal Political Department.

XIV

As long as the present arrangement remains in force, the examination of the legal arguments set forth in the notes of 24 February and 5 March, 1926, shall not be proceeded with.

The above rules of the modus vivendi can only be modified by agreement between the organizations of the League of Nations and the Federal Political Department. If, however, an agreement cannot be reached, it shall always be open to the Federal Government or to the organizations of the League of Nations to denounce the whole or part of the rules of the modus vivendi. In this case, the rules mentioned in the denouncement shall remain in force for one year from the date of such denouncement.

NOTE CONCERNING THE FEDERAL WAR TAX  
(Members of the Staff of Swiss Nationality.)

As regards the exemption from the Federal War Tax granted to members of the staff of Swiss nationality, the present position is as follows:

A letter of 17 July, 1926, from the Federal Political Department shows that the Federal Council is prepared to exempt from this tax the salary of officials of Swiss nationality until the expiration of the contracts of service which the persons concerned at present hold and which make provision for a salary payable free of taxes. By means of this temporary exemption, the Federal Council desires to prevent the possibility of the payment of the Federal War Tax resulting, through the operation of the clauses of the contracts in force, in imposing, even indirectly any charge upon the budget of the League of Nations. In view of the character and special object of the Federal War Tax and certain considerations of principle, the Federal Council does not feel able to contemplate permanent exemption.

As the Secretary-General has accepted the arrangement proposed by the Federal Council as regards the contracts at present in force, but considers it necessary to give further consideration to the various legal and administrative difficulties which might arise from differentiations in contracts, a final solution has not up to now been reached.

AMENDMENT TO THE SECOND SENTENCE OF ARTICLE VIII OF THE  
MODUS VIVENDI

Which came into force on April 24, 1938. <sup>x</sup>

(additions to the original text in italics)

"Consequently, they are exempted, in accordance with international practice, from all direct taxes, with the

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<sup>x</sup> Official Journal, 1928, p. 839.

exception of charges attaching to immovable property (the land tax) and death duties to which they may be liable as heirs or legatees of a person who has died in Switzerland or as beneficiaries under a donatic inter vivos the donator of which is domiciled in Switzerland, it being understood that the transfer mortis causa or by donatic inter vivos of property belonging to officials enjoying diplomatic privileges and immunities shall continue to be exempted from all taxes; they are liable for .....," etc.

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