



Tenth session

USE OF INCOME DERIVED FROM THE STAFF ASSESSMENT PLAN

Report of the Secretary-General

1. At its ninth session, the General Assembly, after having considered the report^{1/} of the Secretary-General on the use of income derived from the Staff Assessment Plan, together with the related report of the Advisory Committee on Administrative and Budgetary Questions,^{2/} requested the Secretary-General (resolution 893 (IX)):

"... to continue his negotiations with those Member States which have not yet become Parties to the Convention on the Privileges and Immunities of the United Nations or adopted alternative measures under which appropriate relief would be granted to all United Nations officials in so far as national income taxation is concerned, and to submit a report thereon as soon as possible before the opening of the tenth session of the General Assembly, together with the comments of the Advisory Committee on Administrative and Budgetary Questions on that report."

The General Assembly accordingly decided to postpone to its tenth session further consideration of measures to be taken towards a solution of the problem.

2. On 15 April 1955, the Secretary-General addressed a letter to the Government of each of the sixteen States which have not yet acceded to the Convention on the Privileges and Immunities of the United Nations and asked to be informed whether

^{1/} See Official Records of the General Assembly, Ninth Session, Annexes, agenda item 38, document A/C.5/584.

^{2/} Ibid., document A/2799.

the Government expected to be in a position to deposit its instrument of accession before the opening of the tenth session of the General Assembly and, in any case, the immediate plans which the Government had formulated in connexion with the problem under consideration. Referring to the debates in the General Assembly which had led to the adoption of resolution 893 (IX), he recalled that a majority of the members of the Fifth Committee had based their approval of the procedure contemplated by the resolution on the understanding that the General Assembly would wish to reach a definitive solution at its tenth session. Further, it had been felt that, in the light of the knowledge made available through the Secretary-General as to the position of each of the sixteen States which had not yet acceded to the Convention, the Assembly would then consider means whereby Members which had not acceded, or had not otherwise enacted some express tax exemption measure affecting their nationals on the staff of the Secretariat, should cease, on 1 January 1956, to receive by way of deduction from their annual contributions the benefit of the revenue derived from the application of the Staff Assessment Plan.

3. The sixteen Member States which have not yet acceded to the Convention on the Privileges and Immunities of the United Nations are as follows:

Argentina, China, Colombia, Cuba, Czechoslovakia, Ecuador, Indonesia, Mexico, Peru, Saudi Arabia, Thailand, Union of South Africa, United States of America, Uruguay, Venezuela, Yemen.

4. To date the Secretary-General has received replies from the Governments of seven of the sixteen States and has also been able to proceed with oral consultations, thus far of a preliminary character, with representatives of the United States of America. In these discussions it has been noted that, in general, the practical effect of the operation of the income tax systems of the sixteen Members concerned has been such that the United Nations has been called upon to reimburse only United States staff, principally at Headquarters, for taxes paid on their United Nations income.

5. A summary of the seven replies received to date is annexed.

ANNEX

Summary of replies by Governments to inquiries of Secretary-General
under General Assembly resolution 893 (IX)

CHINA

The Chinese Government does not expect to be in a position to deposit its instrument of accession to the Convention on the Privileges and Immunities of the United Nations in the immediate future. In the meantime, the Chinese Delegation to the United Nations offers the following information:

"... my Government had promulgated on 10 June 1947 a set of 'Directives concerning Privileges and Immunities to be Extended to the United Nations and its Specialized Agencies'. Those Directives prescribe the legal status and the privileges and immunities which the United Nations and the specialized agencies, including the officials of the organizations and the representatives of the Member States, enjoy in the territories of China. From the experience of my Government in the past eight years, the Directives have proved to be a fully effective instrument whereby my Government adheres to and applies the principle of equity among all the Member States and equality among the members of the staff of the United Nations as envisaged in the Convention.

"... Article 2 (b) of the Directives provides that the officials of the United Nations, while exercising their functions in China, shall enjoy the exemption from taxation on the salaries and emoluments paid to them by the United Nations. This provision carries no distinction as to nationality. It means that any one of the Chinese nationals on the staff of the Secretariat, while exercising functions in China, is also entitled to the same exemption from national income taxation. Moreover, in accordance with our present income taxation law, my Government does not impose any income tax at all on the Chinese nationals who are employed by foreign government or private organizations which are not located within the territories of China. In this connexion, your Secretariat will likewise recall the fact that my Government has never

imposed any income tax on the Chinese nationals on your staff since their names were entered with the United Nations. By so doing, my Government has adopted fully effective measures under which appropriate relief is granted to all United Nations officials in so far as national income taxation is concerned."

COLOMBIA

The Delegation of Colombia reports that the Ministry of External Relations has prepared the necessary submission for the presentation of the Convention to the External Relations Committee of the National Assembly at its current session. The Ministry also advises that by Decrees Nos. 580 of 1951 and 3238 of 1954 foreign officials of the United Nations and their families in Colombia are exempt from tax on their salary and emoluments, and their baggage is free from customs duty.

CUBA

The Cuban Government has replied that it is studying with close attention its accession to the Convention and will advise the Secretary-General immediately upon reaching a decision in this respect.

CZECHOSLOVAKIA

The Permanent Representative of Czechoslovakia has informed the Secretary-General that Czechoslovakia will accede to the Convention in the very near future, the necessary constitutional procedures having reached their final stage.

ECUADOR

The Ministry of External Relations of Ecuador has informed the Secretary-General that accession to the Convention is subject to the approval of the Congress of the Republic at its next session, in conformity with the constitutional and legal principles governing the matter. Nevertheless, in view of the fact that in previous years this legislative approval has not been forthcoming, the Ministry states that the Government applies the provisions of the Convention on

an administrative basis as a manifestation of the tacit accession of Ecuador to the Convention.

TEA LAND

The Minister for Foreign Affairs of Thailand has replied that his Government had already decided to accede to the Convention and are now taking the necessary steps to obtain the approval of the Assembly of the People's Representatives prior to the deposit with the Secretary-General of the instrument of accession.

UNION OF SOUTH AFRICA

The Permanent Delegation of the Union of South Africa to the United Nations has answered that accession by its Government is still under consideration. With regard to the reference in the Secretary-General's letter to the expectation that "the General Assembly would consider means whereby Members which had not acceded, or had not otherwise enacted some express tax exemption measure affecting their nationals on the staff of the Secretariat", should cease to benefit from the revenues derived from the Staff Assessment Plan, the Permanent Delegation added the following:

"I have furthermore been instructed to point out that it is clear from the debates of the ninth session of the Assembly that an express measure was not contemplated and that tax exemption by administrative measures is all that is required.

"In support of this contention I wish to cite the following:

"In his speech at the 472nd meeting the United States delegate said that 'his Government would have no objection if the General Assembly decided at its tenth session that all Member States who, on the date on which the session opened, had not ratified the Convention on Privileges and Immunities or granted the necessary tax exemption to their nationals who were United Nations staff members, should cease on 1 January 1956 to receive the benefit of the revenue derived from the Staff Assessment Plan....'.

"In the Rapporteur's report^{3/} the following words appear in paragraph 41:

"The Advisory Committee ... recommended that the Secretary-General be requested to continue his conversations with the seventeen Member States who had not acceded to the Convention on Privileges and Immunities with a view to their acceding to the Convention or at least adopting alternative measures, whether legislative or administrative, whereby all United Nations officials might be granted the necessary tax exemption...".

"Finally, the fact that an 'express exemption' is not required emerges clearly from the wording of the General Assembly resolution itself (No. 893 (IX)), which refers to 'alternative measures' for granting relief from taxation.

"I wish to recall in this regard that in my note 11/10 of 12 May 1948 addressed to Mr. Trygve Lie it was advised that pending the approval of a bill which had been drafted to replace the Diplomatic Immunities Act of 1932, the Union Government would by administrative action accord the privileges and immunities prescribed in the Convention to the extent which may be practicable in terms of existing legislation.

"Pending a decision on the matter of accession to the Convention, the Union Government will continue, as in the past, to grant tax exemption to such of its nationals as are employed in the United Nations. Such exemption is indeed implied in the Income Tax Act, No. 31 of 1941, as amended, which defines taxable income as income derived 'from any source within the Union or deemed to be within the Union' and which therefore excludes from its provisions income derived from employment in the United Nations.

"Since the Union Government does not tax its nationals in the Secretariat, it would seem to be clear in the light of the above that the Union of South Africa continues to be fully entitled to share in the revenue derived from the Staff Assessment Plan and cannot be excluded from it."

^{3/} See Official Records of the General Assembly, Ninth Session, Annexes, agenda item 38, document A/2886.