

GENERAL
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GENERALE

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

Proposed Revisions Presented by the Rapporteur to Document
A/C.6/SC.4/W.10/Add.1

Replace Annex VI with the following:

ANNEX VI

THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

In their application to the International Bank for Reconstruction and Development (hereinafter called "the Bank"), the standard clauses shall operate subject to the following provisions:

1. The following shall be substituted for Section 4:

"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."

2. The following shall be substituted for Section 9:

(a) The Bank, its assets, property, income and its operations and transactions authorized by its Articles of Agreement, shall be immune from all taxation and from all Customs duties. It is understood, however, that the Bank will not claim exemption from taxes which are, in fact, no more than charges for public utility services, and that articles imported under this exemption will not be sold in the country into which they were imported except under

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conditions agreed with the Government of that country. *

The Bank shall also be immune from the collection or payment of any tax or duty.

(b) 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.

(c) 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

* There is in fact no provision in the Articles of the Bank corresponding to this sentence. On the other hand, the following appears in the report of the Drafting Committee which drafted this Article at the Bretton Woods Conference:

"The Drafting Committee, in submitting the text of the provisions dealing with immunities from taxation, desires to place on record certain assumptions regarding its interpretation of the intention underlying this Article. These assumptions are as follows:

- (a) The (Bank) is not entitled to import goods free of customs duty without any restrictions on their sale in the country into which they were imported.

.....

- (c) The (Bank) enjoys no exemption from taxes or duties which are in fact no more than charges for services rendered."

The sense of the above sentence in this Draft Annex and of the Bretton Woods Drafting Committee's Report is substantially the same. The Rapporteur has thought it best for purpose of uniformity to follow the language of the Standard Clauses. Should the Bank in its final annex, however, adopt the language of the Drafting Committee's Report, the effect would still be substantially the same.

/((ii) if the sole

(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.*

3. The privileges, immunities, exemptions and facilities referred to in Section 23 of the standard clauses shall be accorded only to the President and Vice-President of the Bank.

4. Section 34 of the standard clauses shall only apply to differences arising out of the interpretation or application of privileges and immunities which are derived by the Bank from this Convention and are not included in those which it can claim under its Articles.

NOTE: The above Draft Annex has been prepared by the Rapporteur after consultation with the Adviser from the International Bank. The Adviser is not, however, in a position to give the authoritative views of the Bank in regard to this matter.

* The provisions of 2(b) and (c) above are contained in that Chapter of the Articles of the Bank which is headed "Immunities and Privileges". These provisions are in fact typical instances of "privileges of a special nature not required by the United Nations itself", in the words of the resolution of the General Assembly. As these provisions are found in that Chapter of the Bank's Articles which is headed "Privileges and Immunities", it seems appropriate that they should be inserted in this Annex. There are, however, other provisions in other Chapters of the Bank's Articles which give rights to the Bank which might conceivably be construed as coming within a very broad conception of the expression "privileges and immunities". In the opinion of the Rapporteur, however, these rights are not sufficiently analogous to those privileges and immunities which are dealt with in the standard clauses to render it suitable to schedule them in this Annex. The fact that they are not so scheduled will not, however, affect the validity of these provisions, and it is precisely to avoid any possibility of doubt on this subject that the last sentence of Section 42 has been inserted.