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PERSONNEL QUESTIONS

Respect for the privileges and immunities of officials
of the United Nations and the specialized agencies and
related organizations

Report of the Secretary-General

INTRODUCTION

1. The present report is the third such annual submission to the General Assembly concerning respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations (hereafter referred to as "officials") since the adoption of resolution 35/212 on 17 December 1980. Since then, the General Assembly has requested updated comprehensive annual reports (resolution 36/232) and, after noting with concern a marked deterioration in the observance of the principles relating to the privileges and immunities of officials, invited the Secretary-General to suggest further steps to alleviate the present situation (resolution 37/236).

2. As in previous years, the report which is submitted by the Secretary-General on behalf of the Administrative Committee on Co-ordination (ACC), is based on information requested from the following United Nations subsidiary organs, offices or missions, specialized agencies and related organizations (hereafter referred to as "organizations"):

Food and Agriculture Organization of the United Nations (FAO), General Agreement on Tariffs and Trade (GATT), International Atomic Energy Agency (IAEA), International Civil Aviation Organization (ICAO), International Fund for Agricultural Development (IFAD), International Labour Organisation (ILO), International Maritime Organization (IMO), International Monetary Fund (IMF), International Telecommunication Union (ITU), United Nations Educational,

Scientific and Cultural Organization (UNESCO), Universal Postal Union (UPU), World Bank, World Health Organization (WHO), World Intellectual Property Organization (WIPO), World Meteorological Organization (WMO), United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), United Nations Children's Fund (UNICEF), Office of the United Nations High Commissioner for Refugees (UNHCR), United Nations Development Programme (UNDP), United Nations Industrial Development Organization (UNIDO), United Nations Environment Programme (UNEP), United Nations University (UNU), United Nations Truce Supervision Organization in Palestine (UNTSO), United Nations Military Observer Group in India and Pakistan (UNMOGIP), United Nations Peace-keeping Force in Cyprus (UNFICYP), United Nations Disengagement Observer Force (UNDOF), United Nations Interim Force in Lebanon (UNIFIL), Economic Commission for Europe (ECE), Economic and Social Commission for Asia and the Pacific (ESCAP), Economic Commission for Latin America (ECLA), Economic Commission for Africa (ECA), and Economic Commission for Western Asia (ECWA).

3. The present report, approved by ACC through correspondence, is based on information and suggestions received from the following organizations as of 31 August 1983: FAO, IAEA, ICAO, ILO, IMO, IMF, UNESCO, UPU, WHO, WIPO, UNRWA, UNICEF, UNHCR, UNIDO, UNEP, UNTSO, UNDOF, ESCAP, ECLA, ECA.

I. ARREST AND DETENTION OF OFFICIALS

4. The total number of cases involving the arrest and detention of officials in the period under review is given in the table below.

Table 1 a/

<u>Country or place of arrest</u>	<u>Number of officials arrested and detained</u>	<u>Organization</u>	<u>Cases in which officials released or right of functional protection exercised</u>	<u>Cases in which organization not able to exercise functional protection</u>
Afghanistan	3	UNESCO	1	1
		UNDP	2	
Algeria	1	UNDP	1	
Angola	1	UNDP	1	
Austria	2	UNIDO	1	1
		UN	1	
Cape Verde	1	UNDP	1	
Chad	2	UNDP	2	
Guatemala	1	UNESCO	1	

<u>Country or place of arrest</u>	<u>Number of officials arrested and detained</u>	<u>Organization</u>	<u>Cases in which officials released or right of functional protection exercised</u>	<u>Cases in which organization not able to exercise functional protection</u>
Haiti	2	FAO 1 UNICEF 1	2	
Lebanon	46	UNRWA 44 UNICEF 1 ECWA 1	29 1 1	15
Madagascar	1	IBRD	1	
Mozambique	1	UNDP	1	
Nigeria	1	UNDP	1	
Rwanda	1	WFP	1	
Switzerland	1	UN	1	
Syrian Arab Republic	3	UNRWA 1 FAO 1 UNDOF 1	- - -	1 1 1
Uganda	1	FAO	1	
United Republic of Cameroon	1	ECA	1	
United Republic of Tanzania	1	UNHCR	1	
Zambia	1	UNIDO	1	
Occupied West Bank	17	UNRWA	16	1
Occupied Gaza Strip	10	UNRWA	7	3

a/ The total number of professional and general service staff at headquarters, and other established offices and project staff of the United Nations system is 50,721 (document ACC/1983/PER/32/of 30 June 1983). This figure does not include the staff of the World Bank or the UNRWA area staff posts which number 17,152 (document A/38/143 of 1 August 1983, para. 118).

The particulars regarding these cases are contained in the reports submitted by individual organizations which are reproduced in attachment I of this report. The cases in which the Secretary-General or the competent executive head has not been able to exercise fully his responsibility for the protection of officials, in particular in accordance with paragraph 1 of General Assembly resolution 36/232, in the present reporting period are given in the table below.

<u>Table 2</u>		
Afghanistan	UNESCO	1
Lebanon	UNRWA	15
Syrian Arab Republic	UNRWA 1	3
	FAO 1	
	UNDOF 1	
Occupied Gaza Strip	UNRWA	3
Occupied West Bank	UNRWA	1

5. Taking into account the previously reported cases which remain unresolved, the total number of cases of arrest and detention in which the Secretary-General or the competent executive head has not been able to exercise fully his responsibility for the protection of officials is as follows.

<u>Table 3</u>		
Afghanistan	UNESCO	1
Ethiopia	ECA	3
Lebanon	UNRWA	15
Syrian Arab Republic	FAO 1	3
	UNRWA 1	
	UNDOF 1	
Occupied Gaza Strip	UNRWA	3
Occupied West Bank	UNRWA	1

6. The Secretary-General and the respective competent executive heads of the organizations have continued to intervene with the Governments concerned regarding cases of arrest and detention. As table 1 shows, the number of cases during the reporting period in which the organizations have not been able to fully exercise their right of functional protection or have not obtained the release of the officials concerned is relatively small. It should also be noted that a number of staff members detained on earlier occasions and still under detention at the beginning of the present review period have been released. The Ethiopian

authorities released two locally recruited ECA staff members, Mrs. Maeza Solomon and Mr. Tamrat Seium, on 25 March 1983 and 2 May 1983, respectively. The Secretary-General is appreciative of this action by the Ethiopian authorities who have also indicated that consideration will be given to the release of the remaining officials.

7. In addition to the monitoring of individual cases of arrest and detention, the organizations have discussed improvements and refinements in administrative procedures in a number of organizational bodies such as ACC and the United Nations Staff-Management Co-ordination Committee (SMCC). A Secretary-General's bulletin on security, safety and independence of the international civil service (ST/SGB/198) and an administrative instruction on reporting of arrest and detention of staff members, other agents of the United Nations and members of their families (ST/AI/299) were issued on 10 December 1982. The purpose of these documents, which are reproduced in attachment II of the present report, is to outline the procedures which will be followed in the event of arrest and detention and to clarify for all members of the staff the precise nature and scope of their privileges and immunities in the light of the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations and the Staff Regulations and Rules.

8. The Secretary-General believes that the discussion of the item on respect for the privileges and immunities of officials of the United Nations and the specialized agencies by the General Assembly has contributed to a greater understanding by Member States of the Organization's right of functional protection of officials of international organizations. The chief difficulties which are encountered, as the reporting statistics indicate, relate almost exclusively to the arrest and detention of locally recruited nationals whose status as "officials" for purposes of privileges and immunities, is not always readily accepted and understood by the local authorities concerned.

9. It would seem useful, therefore, to recall that the General Assembly itself, in resolution 76 (I) of 7 December 1946, approved the granting of the privileges and immunities referred to in articles V and VII of the Convention on the Privileges and Immunities of the United Nations, which include functional immunity from legal process, to all members of the staff of the United Nations, the only exception being those staff members who are both locally recruited and assigned hourly rates. Consequently all staff employed under the 100 and 200 series of the Staff Regulations and Rules, regardless of grade, nationality or place of recruitment, are "officials" within the meaning of the Convention on Privileges and Immunities. The principal legislative bodies of the specialized agencies have taken similar decisions with regard to the Specialized Agencies Convention.

10. While obtaining the prompt recognition by Member States of the legal status of officials is the first task of the organizations in arrest and detention cases, and one in which Member States generally have been co-operative, the specific procedural measures which are required to be taken in order to satisfy the Organization's interests and legal rights, particularly with regard to prompt access to the officials concerned, are in many cases implemented only with the greatest difficulty and delay. The Secretary-General and the executive heads of the organization, however, will continue to insist upon the prompt implementation

of the rights inherent in the exercise of functional protection, particularly as set out in paragraph 1 of General Assembly resolution 36/232 of 18 December 1981. At the same time, additional steps have been taken to ensure that staff members observe the obligations incumbent upon them in accordance with the relevant staff regulations and rules.

II. SAFETY AND SECURITY OF OFFICIALS IN CASES NOT INVOLVING ARREST AND DETENTION

11. A number of other cases involving the safety and security of officials of the organizations or family dependants have also been reported to the Secretary-General in the period under review. In Burma, a locally recruited UNICEF staff member is reported missing since October 1982; local authorities have no knowledge of his whereabouts and he is presumed to be in hiding for political reasons. "In Burundi, the passport of the spouse of a senior ECA official was retained by the local authorities for several months but released after intervention by the United Nations." Also in Burundi, UNDP experts and locally recruited staff members were questioned by security authorities regarding official matters. A written protest was lodged by UNDP: "In Ethiopia, an internationally recruited ECA staff member was requested to leave the country after having been involved in a number of automobile accidents. ECA complied with the request under protest." In Honduras, a UNHCR Assistant Field Officer was threatened by government soldiers while assisting refugees in a camp near the Salvadorian border. In Iran, an internationally recruited World Bank staff member was temporarily denied an exit visa which was granted only after intervention by the United Nations and the World Bank. In Somalia, a UNHCR Legal Officer was made subject to deportation. He was permitted to return following negotiations with the Ministry of Foreign Affairs. In Uganda, a locally recruited UNICEF driver was killed during a robbery and the spouse of a locally recruited UNICEF secretary was arrested but released after intervention by the United Nations. An earlier case involving the "arrest" of the spouse of a UNDP local staff member in Uganda remains unresolved since the local authorities have been unable to confirm the arrest. In the Israeli-occupied Gaza Strip the practice of interrogating UNRWA staff has interfered with the performance of their functions. This matter as well as the question of serving as guards in government schools has been taken up by the agency with the authorities.

12. The Secretary-General has also been requested to bring to the attention of the General Assembly the case of Konrad Schultz, an internationally recruited UNIDO project manager assigned to El Salvador who was shot and killed by security forces while on leave in Guatemala in May 1982. This case was not included in the previous report to the General Assembly because it was still under investigation by the competent judicial authorities. Despite repeated efforts on behalf of UNIDO, other than a preliminary autopsy report, the United Nations has been unable to obtain information stemming from the judicial investigation of this case and has been unable to establish the precise circumstances surrounding the death of Mr. Schultz.

13. The Secretary-General also regrets that he is unable to report any further developments in the cases involving Mr. Carmelo Soria and Mr. Fernando Olivares Mori which were referred to in his two previous reports. The case of

Ms. Alicja Wesolowska, referred to in the Secretary-General's previous report, has been kept under careful review by the Secretary-General following the visit of his Personal Representative last year. However, there have been no further developments to report since that time. There has also been no significant change in the case involving a UNESCO staff member, Mr. Percy Stulz, which was set out in full in the previous report.

III. EXEMPTION FROM TAXATION

14. The exemption of officials from taxation on the salaries and emoluments paid to them by the organizations is a well-established principle of the law of international immunities and is established in sections 18 and 19 of the Convention on the Privileges and Immunities of the United Nations, and the Convention on the Privileges and Immunities of the Specialized Agencies, respectively. While the organizations generally enjoy the co-operation of Member States in this regard, the question of tax exemption of locally recruited officials has been raised in a very small number of instances during the present reporting period. In most of these cases, the authorities concerned have been satisfied once the law and practice of the organizations has been explained. In some cases, however, as the report of the Secretary-General of IMO reveals, the problem has not been resolved and negotiations continue (see attachment I). The Secretary-General wishes to underline the importance of this issue and to draw the attention of Member States to the fundamental principles underlying exemption from taxation on official salaries and emoluments, namely equality in conditions of service and the principle that no country should derive any national financial advantage from the presence of an international organization on its territory.

IV. TRAVEL RESTRICTIONS

15. In his two previous reports, the Secretary-General drew attention to the restrictions placed on the travel of UNRWA staff within the area of its operations. As was reported to the General Assembly last year, restrictions on two staff members were lifted. However, at the present time two international staff members and one locally recruited staff member are unable to travel on duty to the occupied territories while there are also lengthy delays in the clearance of other locally recruited staff (see attachment I).

V. DUTY FREE IMPORTATION OF FURNITURE AND EFFECTS

16. Since the last report, negotiations have continued between ESCAP and the Government of Thailand on the remaining issues regarding duty free importation of furniture and effects of Field Service officers. The Secretary-General is pleased to report that the authorities concerned have made the most determined efforts to resolve all outstanding issues and that a satisfactory solution has been achieved. The Secretary-General wishes to place on record his appreciation for the understanding and co-operation demonstrated by the Thai authorities in resolving this long-standing issue.

VI. CONCLUSION

17. In paragraph 4 of resolution 37/236 A the General Assembly invited the Secretary-General, as Chairman of ACC, to suggest further steps that might be taken to alleviate the deterioration in the observance of the principles related to privileges and immunities of officials. Broadly speaking, the Secretary-General believes that an amelioration of respect for the principles governing the privileges and immunities of officials requires the mutual efforts of Member States and the organizations. As far as the organizations are concerned, a number of measures have already been instituted which are designed to increase the responsiveness of the organizations to situations involving privileges and immunities, particularly in the area of safety and security of staff as well as to provide a clearer understanding of the rights and obligations of the organizations and their officials.

18. Reference has already been made in paragraph 7 above to the issuance of a Secretary-General's bulletin and an administrative instruction which are reproduced in attachment II of this report. Given the great variety of circumstances in which a failure to respect the privileges and immunities of officials may arise and the relatively small number of violations, it does not seem possible to go beyond the specific guidelines indicated in these documents and attention should, therefore, be focused on their prompt application by all concerned. To this end, and drawing in large part upon the experience gained during the past two years, the Secretary-General will give favourable consideration to recent proposals of SMCC including the establishment within the United Nations Secretariat of an interdepartmental advisory committee which will report direct to him on a case-by-case basis, and the designation of a co-ordinator to act as a focal point for the reporting of cases of arrest and detention. The Secretary-General will also give consideration to the wider use of the dispatching of a special representative to the country concerned in the event that other channels are not productive. In this latter connection, it may be noted that UNDP has successfully resolved a number of cases during the present reporting period as a direct result of its policy of sending a senior official to the country concerned when difficulties in securing compliance with the procedural requirements of functional protection have occurred. In conclusion, the Secretary-General believes that the current situation continues to call for the full observance by all concerned, Member States, organizations and officials, of the established law and practice of international immunities.

Attachment I

INFORMATION SUBMITTED BY INDIVIDUAL ORGANIZATIONS FOR INCLUSION
IN THE PRESENT REPORT

A. Food and Agriculture Organization of the United Nations

Mrs. T. Jawabri, a Syrian FAO staff member assigned as a cleaner (G-1) to the Office of the FAO Representation in Damascus, was arrested at her home on 29 December 1982. At the request of FAO, by note verbale of 30 December 1982, the [Designated Official] in the Syrian Arab Republic asked the Ministry for Foreign Affairs to provide information as to the reasons for Mrs. Jawabri's arrest and to allow someone of the United Nations staff to contact her. The FAO Representative in the Syrian Arab Republic, in consultation with the [Designated Official] and the United Nations Assistant Secretary-General for General Services in New York, contacted Government officials repeatedly. A second note verbale was sent by the [Designated Official] on 22 February 1983 requesting a meeting with the Ministry for Foreign Affairs so as to ascertain the location of the detained staff member and the nature of any charges against her. However, in spite of continued efforts, it has proved impossible to gain access to Mrs. Jawabri or to ascertain her whereabouts. Although neither FAO nor the United Nations has been informed officially in writing of any formal charges having been brought against Mrs. Jawabri, and although no written reply has been received from the Ministry for Foreign Affairs to either of the two notes verbales, FAO understands that she, together with her husband, has been accused of a charge against State security.

In two instances - one in Haiti and one in Uganda - FAO staff members were arrested but released very shortly afterwards by the local authorities.

With regard to suggestions for further steps to alleviate the deterioration in the observance of relevant principles, FAO's general view is that, considering the great variety of circumstances in which intervention by the Organization may be called for to ensure the security of its staff and respect for their privileges and immunities, it would not be helpful to introduce any rigid procedures.

B. International Maritime Organization

Malta is a Party to the Convention on the Privileges and Immunities of the Specialized Agencies of 1947, applied to the International Maritime Organization by annex XII thereto.

The Regional Oil Combating Centre was established by the International Maritime Organization (IMO) in 1976 in Malta. The staff of the Centre are recruited and designated as "officials" of IMO within the meaning of the above-mentioned Convention. The Government of Malta has insisted on levying Maltese income tax on the emoluments of locally recruited staff members of the Centre and the tax is actually collected from all such staff in spite of repeated representations by the secretariat of IMO to the effect that such action is

contrary to the provisions of section 19 of article VI of the Convention. In March 1979 consultations were held between the Attorney-General of Malta and the Director of the Division of Legal Affairs and External Relations of IMO, during which certain measures were outlined which would have made possible the observance of the 1947 Convention in respect of the IMO staff members in question. Subsequently, however, the IMO secretariat was informed that those measures could not be implemented by the Government of Malta. Further efforts to elicit suggestions as to how the exemption from taxation on IMO emoluments might be accorded to the IMO staff in Malta who were not enjoying that privilege have not received any response from the Attorney-General of Malta.

The IMO secretariat considers that this is a case in which there is a clear indication that the status of the staff members concerned is not being fully respected. The locally recruited staff of the Malta Centre are subject to "staff assessment" on their gross emoluments, in common with all staff members of IMO. They are therefore being "taxed twice" on their emoluments as a result of the insistence of the Maltese authorities to impose national income tax on their salaries. The injustice of the situation has, indeed, been recognized by the Attorney-General of Malta in his letter of 9 July 1979 in which he agreed that the emoluments of staff members concerned were "already substantially below their counterparts in other employment" and that "insisting on their subjection to income tax will further aggravate their situation".

It is the view of the Secretariat of the International Maritime Organization that the imposition of Maltese income tax on the official emoluments of IMO staff in Malta is not in accord with article VI, section 19(b) of the Convention on the Privileges and Immunities of the Specialized Agencies, which provides that

"Officials of the specialized agencies shall:

...

(b) Enjoy the same exemptions from taxation in respect of the salaries and emoluments paid to them by the specialized agencies and on the same conditions as are enjoyed by officials of the United Nations;

..."

C. United Nations Educational, Scientific and Cultural Organization

The Director-General made a contribution to the Secretary-General's report in 1982 by providing a detailed account concerning the case of a UNESCO staff member, Mr. Percy Stulz, a national of the German Democratic Republic. That contribution was reproduced in paragraphs 19 to 35 of document A/C.5/37/34 and duly submitted to the General Assembly at its thirty-seventh session.

The situation concerning that case has not significantly changed since last year. The matter was again examined by the UNESCO Executive Board at its one hundred sixteenth and one hundred seventeenth sessions and the Board, in private meetings held on 23 June 1983 and 12 October 1983, adopted the following decisions:

/...

8.5 Consultations pursuant to rule 54 of the rules of procedure of the Executive Board

Having heard a report by the Director-General on this matter, the Executive Board adopted the following decision:

The Executive Board,

1. Having heard the report made to it by the Director-General in accordance with 114 EX/Decision 8.6 concerning an official of the Secretariat who had been detained in his country of origin and has been unable to return to his post;
2. Recalling resolution 25.1 adopted by the General Conference at its twenty-first session and the steps taken by the Board at its one hundred tenth, one hundred twelfth and one hundred fourteenth sessions;
3. Takes note of the fact that the official in question is no longer in custody;
4. Notes however that there has been no appreciable change in the official's situation vis-à-vis the Organization and that the appeals made by the General Conference and the Executive Board to the government concerned in this regard have yielded no result;
5. Renews its appeal to that government to co-operate with the Director-General in seeking a satisfactory solution in keeping with its obligations towards the Organization;
6. Encourages the Director-General to persevere in his efforts to find a satisfactory solution to the problem confronting the Organization;
7. Congratulates the Director-General and expresses its admiration for all the initiatives he has taken in the context of the mandate with which he was entrusted;
8. Invites the Director-General to report to it on this matter at its one hundred seventeenth session.

8.7 Consultations pursuant to rule 54 of the rules of procedure of the Executive Board

At its closed meeting on 12 October 1983, the Executive Board heard the report presented by the Director-General, in accordance with decision 8.5 adopted by the Executive Board at its one hundred and sixteenth session, on the question of a secretariat official who was unable to return to his duty station.

The Executive Board took note of that report, in which the Director-General stated, in particular, that he would continue the efforts which he had embarked upon with a view to resolving the problem presented to the organization in a satisfactory manner.

Furthermore, in response to a question put to him, the Director-General furnished clarifications on the situation of other secretariat officials.

D. Universal Postal Union

Since autumn 1982, the International Bureau has been encountering major difficulties with respect to the fiscal immunities of Swiss staff members and Swiss spouses of staff members of the Universal Postal Union. We would convey to you the following information on this subject:

1. Subjection to old age and survivors' insurance (AVS) of Swiss wives of international civil servants of foreign nationality and wives, irrespective of nationality, of international civil servants of Swiss nationality who are exempted from AVS by reason of an unduly onerous double burden

As this problem has been dealt with mainly by the European Office of the United Nations on behalf of the organizations established at Geneva, we would simply state that the International Bureau of UPU was also covered by those approaches and that it made separate representations in a note verbale of 12 November 1982.

2. Subjection of Swiss staff members to old age and survivors' insurance

In December 1982, the Swiss social insurance authorities approached the International Bureau with a request to be informed of the total remuneration of all Swiss staff members of the organization, for the purpose of reviewing whether they were subject to, or exempt from, old age and survivors' insurance. When the International Bureau refused to supply this information, stating its reasons, the cantonal and communal authorities approached the international civil servants directly, threatening to subject them automatically to the insurance scheme in question.

The International Bureau has had to make repeated representations to various agencies and authorities. The gist of its position is summed up in a note dated 27 January 1983 to the Permanent Mission of Switzerland in Geneva. The International Bureau's position is based essentially on the Headquarters Agreement and the general practice that has developed with respect to fiscal immunities for international civil servants.

For the time being, the issue remains unresolved. When talks were held in May 1983 between a delegation of the Federal Department of Foreign Affairs and the Directorate of the Federal Social Insurance Office, it was decided to suspend any proceedings against Swiss staff members of the international organizations, until such time as the federal authorities have determined their position on the substance of the matter.

E. World Bank

Recently the World Bank has experienced two instances when local officials failed to accord staff members appropriate treatment after their arrest and detention. Both instances involved nationals of the countries involved; one was on home leave and the other was employed in the resident mission. In both instances World Bank officials worked closely with local UNDP representatives and United Nations Headquarters in order to obtain necessary information and access to the staff members. The World Bank was concerned with obtaining recognition of the officials' and the institution's rights:

- (1) To information regarding the charges which resulted in the arrest and detention and the bases for such charges;
- (2) Of access to the individual by representatives of the World Bank or the United Nations;
- (3) Of access to legal counsel to assist in defending against charges.

After representations were carried to high levels of each Government, both staff members were released, but without adequate explanations for the arrests.

F. United Nations Relief and Works Agency for Palestine Refugees in the Near East

Cases of arrest and detention of staff members

1. In the period from 1 July 1982 to 30 June 1983 UNRWA has reported 17 cases of arrest and detention of its staff in the occupied West Bank and 10 in the occupied Gaza Strip. Of these 27 staff members, 3 were still in detention in the Gaza Strip and 1 in the West Bank at the end of the reporting period. This constitutes an increase in the number of cases by comparison with the preceding period (see A/37/764). Annex I hereto provides further information on the position in the occupied territories of the West Bank and the Gaza Strip.

2. A large number of staff were also arrested in Lebanon by the Israeli Armed Forces. These are the subject of a separate report (A/38/18).

3. There has been no case of arrest during the reporting period in Jordan. In the Syrian Arab Republic the staff member reported in paragraph 5 of last year's report as being under detention is, as far as the Agency is aware, still under detention. UNRWA has had no further information regarding the two staff members referred to in paragraph 7 of last year's report, Mr. Abu Khreish and Mr. Hayatli, the first of whom is detained since 11 September 1980, while the second has been missing since 20 April 1980. In all the above-mentioned cases no progress has been made on the matter of obtaining adequate and timely information on when staff members concerned were arrested or detained or for the reasons of such arrest and detention. UNRWA has also not been afforded access to these staff while under detention.

4. UNRWA has also now had some members of its staff arrested and detained by the Lebanese authorities - there have been 44 staff members arrested, 15 of whom (see annex II) were still believed to be in detention on 30 June 1983. The Agency has taken the matter up on various occasions with the Government of Lebanon at various levels, referring to the right of UNRWA to be informed promptly of the arrest of any of its staff and the reasons therefor, so that it could judge whether the official functions of staff members were involved, and reiterating the right of UNRWA to have access to its staff under detention. The UNRWA Field Law and Liaison Officer in Lebanon was able to visit four staff members under detention. These staff members were found to be in good health. The matter was also discussed at a meeting which the Commissioner-General had with the Minister for Foreign Affairs of Lebanon in the hope that the Government of Lebanon would give full effect to the privileges and immunities of UNRWA and the staff concerned. UNRWA is following up all these cases.

Travel restrictions

5. The two international staff members and the locally recruited staff member who were unable to travel on duty to the occupied territories as described in earlier reports because of restrictions placed by the Israeli authorities are still unable so to travel. There are also lengthening delays in the clearance of UNRWA locally recruited staff for travel to the occupied territories.

6. In the Syrian Arab Republic, the Ministry of Foreign Affairs has since December 1982 refused to affix exit and re-entry visas on the United Nations laissez-passers of locally recruited Syrian and Palestinian staff members who reside in the Syrian Arab Republic and are required to travel on official Agency business. UNRWA's efforts to rectify the situation continue but without success so far.

Safety and security of staff

7. The difficult security situation in Lebanon has affected the safety and security of UNRWA staff and also led to interference in some cases with the performance of official functions by some staff. All pertinent cases have been taken up with the Israeli Defence Forces (as occupying Power) or the Lebanese authorities, as appropriate. The Commissioner-General's annual report to the present session of the General Assembly may also be referred to in this connection.

Interference with performance by staff of their functions

8. The Agency has taken up with the Israeli occupation authorities in the Gaza Strip their practice of summoning some Agency staff for interrogation daily for several consecutive days, usually in relation to offences allegedly committed by the children or other members of the families of the staff concerned. The Agency has also taken up cases in which UNRWA staff were required by the Israeli occupation authorities to serve as guards in government schools as it views the practice with great concern.

Annex I

The following is a list of the names and occupations of UNRWA staff members referred to in paragraph 1 of the present report.

West Bank

- Dr. Ibrahim Yousef Idriss Sulquan, medical officer at Far'a Health Centre.
- Mr. Ziyad Ibrahim Hasan Lihmouz, teacher at Fawwar Camp Elementary and Preparatory Boys' School.
- Mr. Feisal Abdul Rahman Abdullah Barakat, labourer.
- Mr. Khaled Ali Othman Daoud Seifi, teacher at Dheisheh Camp Boys' School.
- Mr. Azmi Abdul Rahman Mahmoud El-Jabiri, teacher at Beit Jala Elementary/Preparatory School.
- Mr. Khaled Abdul Majid Mahmoud Saleh, teacher at Tulkarem Elementary/Preparatory School.
- Mr. Mohammad Hassan Ahmad Adawi, teacher at Arroub Camp Elementary/Preparatory Boys' School.
- Mr. Abdul Fattah Mahmoud Sweilem El Jabiri, teacher at Arroub Camp Elementary/Preparatory Boys' School.
- Mr. Salah Edin Mohammad Hamdan Abul Izz, distributor at Area Office, Nablus.
- Mr. Ibrahim Ahmad Abdul Salam Abu Gharbieh, teacher at Sourif Elementary/Preparatory Girls' School.
- Mr. Adel Abdul Karim Abdul Hamid Zawawi, teacher at Aqrabanieh Elementary/Preparatory Boys' School.
- Mr. Izzedin Mohammad Hamdan Abul Izz, teacher at Askar Elementary Boys' School.
- Mr. Husni Mohammad Ahmad El Arayshi, labourer at Kalandia Vocational Training Centre.
- Mr. Sufian Mohammad Othman Saleh, kitchen worker at Kalandia Vocational Training Centre.
- Mr. Khaled Mahmoud Zaqout Badawi, teacher at Dheisheh Camp Elementary/Preparatory School.
- Mr. Fathi Fakhri Issa Mitani, teacher at Aqrabanieh Elementary/Preparatory Boys' School.
- Mr. Ragheb Hamdan Yacoub Barghouthi, gardener at the Field Office, Jerusalem.

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The Gaza Strip

- Mr. Jabr Abdul-Fattah Kurras, teacher at Deir El-Balah Elementary Boys' School.
- Mr. Ahmad Harb El-Kurd, teacher at Deir El-Balah Elementary Boys' School.
- Mr. Muhammad Atalla Abu El-Ata, teacher at Deir El-Balah Elementary Boys' School.
- Mr. Riyad Mohammad Safi, teacher at Bani Suhaila Preparatory Boys' School.
- Mr. Jabr Abdul-Aziz Misleh, doorkeeper/cleaner at Bureij Health Centre.
- Mr. Tal'at Jamal El-Safadi, teacher at Shija'iyeh Preparatory Boys' School.
- Mr. Ramadan Hamed Huwaishel, teacher at Nuseirat Elementary Boys' School.
- Mr. Hasan Hasan Abu Jray, teacher at Bureij Preparatory Boys' School.
- Mr. Khader Sayyed Murrannakh, sanitation labourer at Jabalia Sanitation Office.
- Mr. Darwish El Holi, vocational training instructor at Vocational Training Centre.

Annex II

UNRWA staff understood to be arrested and detained in Lebanon by the
Lebanese authorities as of 30 June 1983

	<u>Name</u>	<u>Employee number</u>	<u>Post title</u>	<u>Date of arrest</u>
01.	OKLA Adnan Ahmad	A-0469	Teacher	1 October 1982
02.	DAKIILALLAH Ayoub Ali	A-3046-N	Teacher	6 November
03.	MUHAMMAD Mahmoud Othman	A-1929-K	H/Teacher	6 November
04.	HASAN Mohammad Hasan	A-2528-V	Teacher	22 January 1983
05.	SABBAH Muhammad Ali	A-1746-J	Teacher	22 March
06.	AHMAD Mahmoud Husein	A-3626-J	Driver	22 March
07.	SHEHADEH Ghazi Nimer	A-3688-J	Teacher	4 May
08.	FAOUR Walid Khaled	A-3824-N	Clerk	21 May
09.	MUSA Mustafa Ahmed	A-1114-M	Head/EDU	24 May
10.	NAJAMI Suhad Musa	A-3408-B	Clerk	24 May
11.	MURRA A/Ghani Muhd.	A-6560-J	Labourer	5 June
12.	MANSOUR Suleiman Salim	A-6069-F	Cleaner	10 May
13.	AOUN Hasan Husein	A-1738-B	Teacher	23 June
14.	ATAYA Abdallah Mustafa	A-3444-H	Teacher	25 June
15.	OTHMAN Mohamad Assaad	A-3516-N	Instructor	29 June

G. Office of the United Nations High Commissioner for Refugees

Non-observance of principles related to Convention on
Privileges and Immunities

1. Use of threat against HCR staff member in Tegucigalpa, Honduras

On 16 June 1983, Ms. Solange Muller (United States of America), Assistant Field Officer, UNHCR Branch Office in Tegucigalpa, came under the menacing threat of government soldiers when trying to defend refugees in the El Tesoro camp near the Salvadorian border in Honduras. The soldiers were aware of the identity of Ms. Muller. She was unharmed.

A strong protest was lodged by the High Commissioner to the President of Honduras.

2. Deportation of HCR staff member from Mogadishu

On 1 May 1983, Mr. Sylvester Awuye (Ghana), Legal Officer, UNHCR Branch Office in Mogadishu, was deported following the decision of the immigration authorities not to extend his visa beyond that date. Upon departure, the immigration authorities at the airport put a rubber stamp on his United Nations laissez-passer which read: "Deported from the Somali Democratic Republic on 1.5.83".

Earlier, Mr. Awuye had misplaced his United Nations laissez-passer which contained the visa. When it was found, it was discovered that his visa for stay in Somalia had expired in November 1982 (about six months before). The circumstances were explained to the National Refugee Commissioner (NRC) with due apologies. They were of no avail and the Immigration Department granted Mr. Awuye a visa for four days only, i.e. from 27 April to 1 May 1983, and gave notice that Mr. Awuye had to leave on 1 May 1983. Further approaches higher up did not prove successful since only the President of the country had authority to revoke the decision. In order not to prejudice the matter further, Mr. Awuye left for Nairobi at HCR expense and stayed there for 11 days to provide time to conduct negotiations with the Ministry of Foreign Affairs for his return. Subsequently, the Government relented and Mr. Awuye was authorized to return to Mogadishu on 12 May 1983 and the deportation stamp on his laissez-passer was cancelled.

3. Arrest and imprisonment of wife of UNHCR official in Dar-es-Salaam, United Republic of Tanzania

The wife of the UNHCR Representative in Gaborone, Mrs. Kathleen Mkanda, who is a Tanzanian national, was arrested by the Tanzanian police towards the end of March 1983 and detained in Keko remand prison. The charge was "economic sabotage".

The representatives of both UNHCR and UNDP followed up on the question of Mrs. Mkanda's release unofficially for several weeks, as her detention was considered a "sensitive issue". However, following a request from her husband in Gaborone, on 17 June 1983, the UNDP Resident Representative in Dar-es-Salaam sent a note verbale to the Principal Secretary of the Ministry of Foreign Affairs requesting permission to visit Mrs. Mkanda in prison.

On 11 August 1983, the UNDP Resident Representative (Mr. Ouattara) visited her at the prison in the presence of prison officers, one representative of the Ministry of Home Affairs and another UNDP staff member.

Earlier, it was learnt that Mrs. Mkanda was being treated well by prison officials and allowed visits by relatives.

It was only after the personal intervention of a "senior relative" with the State House and after the death of her father on 11 August 1983 that she was freed on 13 August 1983.

Immediately upon receipt of news of her release, UNHCR authorized by cable Mrs. Mkanda's travel to Gaborone (Botswana) to join her husband there.

H. United Nations Disengagement Observer Force

A local employee, Mr. Mahmoud Inbeh, failed to report to his post in Damascus on 22 June 1983. It was later reported by family members that Inbeh had been arrested. Exact charges were not known. No response has been received from the Syrian authorities to a subsequent request by the UNDOF Force Commander for access to Mr. Inbeh. UNDOF, however, has been advised that charges relate to the acceptance of employment with an international organization while in military service.

Attachment II

A. Secretary-General's bulletin on security, safety and independence of the International Civil Service

ST/SGB/198
10 December 1982

SECRETARY-GENERAL'S BULLETIN

To: Members of the staff

Subject: SECURITY, SAFETY AND INDEPENDENCE OF THE
INTERNATIONAL CIVIL SERVICE

1. In May 1982, the Secretary-General appointed a task force composed of representatives of the Administration and of the staff with the mandate to prepare proposals concerning the security, safety and independence of the international civil service. The report of the task force contained proposals relating to three areas of concern: (a) the release of imprisoned and detained staff members; (b) measures for enhancing respect for the privileges and immunities of the international civil service and preventing future occurrences of arrest or detention; and (c) global security measures aimed at improving the security of staff members in difficult duty stations.
2. The purpose of this bulletin is to outline the measures that have been approved by the Secretary-General on the basis of the proposals of the task force as well as to reaffirm the Secretary-General's commitment to the safety and protection of the Secretariat staff. While these measures relate specifically to the United Nations, the Secretary-General has directed that they be communicated to the Inter-agency Meeting on Security Matters scheduled to convene in January 1983, to which representatives of the staff have been invited as observers.
3. The basic provisions governing the privileges and immunities of officials of the United Nations and specialized agencies in cases of arrest or detention have been reaffirmed in General Assembly resolution 36/232 of 18 December 1981. According to that resolution, in such cases, the Secretary-General should be enabled, in accordance with the rights inherent under the relevant multilateral conventions and bilateral agreements, to visit and converse with the arrested staff member, to apprise himself of the grounds for the arrest or detention, including the main facts and formal charges, and to assist the staff member in arranging for legal counsel. Furthermore, the Member States concerned should recognize the functional immunity of a staff members asserted by the Secretary-General, in conformity with international law and in accordance with the provisions of the applicable bilateral agreements between the host country and the United Nations.
4. In order to ensure that cases of the arrest, detention, disappearance or death of any United Nations employee, other agent or family member be reported immediately to Headquarters, an administrative instruction is being issued

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simultaneously with this bulletin, setting out the relevant reporting procedures. An essential feature of these procedures is the transmittal to Headquarters of accurate and up-to-date information on each staff member who has been arrested or detained, or who has disappeared or been killed, in order to ensure the availability centrally of the information pertinent to each case.

5. In cases of non-observance of the applicable privileges and immunities by the Government concerned, care will be taken to preserve the contractual rights of the staff member until the case is clarified. Since the administrative status of staff members can differ greatly, the relevant measures will be applied on a case-by-case basis. Wherever possible, the Organization will press claims against a Government for compensation where any staff member has disappeared or died in circumstances apparently engaging the responsibility of that Government.

6. In cases of arrest or detention, the Secretary-General will use such means as are available to him to ensure respect for the privileges and immunities of international officials. The Secretary-General will continue to intervene personally with the Government concerned in appropriate cases. If the situation so warrants, the Secretary-General will designate a special representative to represent him in negotiating with the Government concerned. Representations to the Government will be made on a continuing and regular basis until the case is clarified. The staff representative bodies will be kept informed of these initiatives.

7. The Secretary-General will continue to indicate in his annual report to the General Assembly those instances in which Governments have failed to meet their obligations for the respect of the privileges and immunities of international officials.

8. In order to stress the independent character of the international civil service stemming from Article 100 of the Charter, the Secretary-General has directed that all the Charter provisions governing the employment of staff be reproduced as an introductory part of the Staff Regulations and Rules, so as to make it clear to all concerned that the Charter provisions, including Article 100, form part of the legal régime governing the employment status of the staff. This will be done in the issuance of the next edition of the Staff Regulations and Rules.

9. The Secretary-General has approved, in principle, the issuance of an identity card to staff members and of a pamphlet to their families, outlining the procedure to be followed when a staff member is arrested, detained, missing or killed. These measures should be undertaken in circumstances where they are warranted, e.g., at field offices or other duty stations where there is appreciable risk to the safety of staff members or their dependants.

10. The Secretary-General will propose to the forthcoming Inter-agency Meeting a range of measures aimed at improving the existing security system at each duty station. The specific measures to be adopted in this connexion will be determined on the basis of a full review of this question at that time.

11. The Office of the Co-ordinator for Security Measures will be the focal operational point to deal effectively with the security and related information arrangements which the Secretary-General has authorized.

B. Administrative instruction on reporting of arrest or detention of staff members, other agents of the United Nations and members of their families

ST/AI/299

10 December 1982

ADMINISTRATIVE INSTRUCTION

To: Members of the staff

From: The Under-Secretary-General for Administration and Management

Subject: REPORTING OF ARREST OR DETENTION OF STAFF MEMBERS,
OTHER AGENTS OF THE UNITED NATIONS AND MEMBERS OF
THEIR FAMILIES

1. Pursuant to ST/SGB/198 of 10 December 1982, members of the staff are hereby apprised of procedures to be followed in reporting the arrest or detention of staff members, other agents of the United Nations and members of their families. The procedures were communicated to designated officials and other officials responsible for security matters in a memorandum dated 16 January 1980 from the Assistant Secretary-General for the Office of General Services.

2. To enable the United Nations to safeguard its legal rights in such situations and to discharge its obligations to the staff, other agents and family members concerned, it is essential that United Nations Headquarters be informed of such incidents immediately after they take place. The procedure for reporting to Headquarters and the applicable legal provisions are stated below. 1/

3. When there is evidence to suggest that any United Nations staff member - whether internationally or locally recruited - other agent of the United Nations 2/ or member of their immediate families has been arrested or detained by authorities of a Government, the designated official for security matters 3/ at the duty station concerned immediately shall report the incident by the fastest means of communication available (such as cable, radio or telephone) to the Assistant Secretary-General for General Services at United Nations Headquarters 4/ who is also the United Nations Security Co-ordinator for the Secretary-General.

4. The designated official at the duty station where the arrest or detention has taken place shall immediately contact the Foreign Ministry of the Government concerned and request:

(a) All relevant information about the arrest or detention;

(b) The Government's co-operation in arranging, as a matter of urgency, that representatives of the United Nations be given access to the individual arrested or detained.

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5. The report to Headquarters shall convey all information readily available, including:

(a) The name and nationality of the person arrested or detained, his or her employment status with and official function for the United Nations; for family members the family relationship must be given;

(b) The time, place and other circumstances of the arrest or detention;

(c) The legal expression or term used by the applicable local law to describe the arrest or detention;

(d) The legal grounds for the arrest or detention, including any charges against the person concerned;

(e) The name of the governmental agency, such as a court or an administrative authority, under whose authority the measure was taken;

(f) Whether a representative of the United Nations has been or will be given access to the person arrested or detained; in the affirmative, any request or other reaction from the person concerned shall also be conveyed;

(g) Whether consular protection and/or legal counsel is or will be available to the person arrested or detained; in the affirmative, the identity of these services shall be conveyed.

6. If information on some of the items listed above is not available without delay, the available information should be forwarded immediately to Headquarters, and the missing items shall be communicated in a supplementary report or reports. Additional information relevant to the case also shall be reported as soon as possible. In this way, the availability centrally of accurate and up-to-date information on each staff member, other agent or member of their families who has been arrested or detained or who has disappeared or been killed may be assured.

7. No statements concerning the incident should be made to the news media unless previously cleared by United Nations Headquarters.

8. The Assistant Secretary-General for General Services will inform the employing agency and, in cases involving United Nations staff, the Staff Committee, and will take up the matter with the Office of Legal Affairs and the Secretary-General to determine such further action as may be required.

9. If the arrest or detention is carried out by an unauthorized or unknown person or persons rather than by authorities of a Government, the incident shall also be reported immediately, and the present procedure shall be followed, except in those respects where it is clearly inapplicable.

10. To ensure prompt reporting of all arrests and detentions, the reporting procedure should be followed by the appropriate senior officials in countries in which there either is no designated official or which are remote from the office of the designated official.

Notes

1/ These procedures should be applied mutatis mutandis in the case of staff members who have disappeared or have been killed.

2/ The categories of personnel to which this procedure is applicable are defined in annexes I and II. In case of doubt concerning whether a person is included or not, the designated official shall submit a report, including information on the person's status.

3/ A list of designated officials is contained in annex III.

4/ Cable address: UNATIONS NEW YORK TIMBRELL
Telephone numbers: (212) 754-6198 (Assistant Secretary-General,
Office of General Services).

Annex I

MEMORANDUM ON THE UNITED NATIONS LEGAL RIGHTS WHEN A STAFF
MEMBER OR OTHER AGENT a/ OF THE UNITED NATIONS, OR A MEMBER
OF THEIR FAMILY, IS ARRESTED OR DETAINED

1. All United Nations officials and experts on mission for the United Nations b/ are immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity. This immunity - which is also known as functional immunity or immunity for official acts - extends to all stages of civil and criminal judicial proceedings, such as subpoena to appear as defendant or as a witness, judgement or execution. It also covers administrative proceedings of a quasi-judicial nature and administrative enforcement measures as well as personal arrest or detention. Experts on mission for the United Nations also enjoy immunity from personal arrest or detention for non-official acts and, in this respect, their rights are similar to those of the highest-ranking United Nations officials - Assistant Secretaries-General and above - who have diplomatic status. Under certain conditions, the Secretary-General can waive the immunity of any of the persons referred to above, with the exception of his own immunity, which can be waived by the Security Council.

2. The immunity provisions above are summarized from the pertinent provisions of the Charter of the United Nations (Article 105) and the Convention on the Privileges and Immunities of the United Nations (articles V and VI). c/ These provisions do not stand alone, however, but must be construed in the context of other applicable principles and rules of the Charter and of international law. Based on such wider analysis, it is evident that when a governmental authority arrests or detains a United Nations staff member - whether internationally or locally recruited - or other agent of the United Nations, the United Nations has the right:

- (a) To visit the staff member or agent;
- (b) To converse with the staff member or agent;
- (c) To be apprised of the grounds for the arrest or detention, including the main facts and formal charges;
- (d) To assist the staff member or agent in arranging legal counsel for his or her defence;
- (e) To appear in legal proceedings to defend any United Nations interest affected by the arrest or detention.

The specific measures outlined above must be considered the minimum initial steps required in order for the United Nations to safeguard and maintain its interests and legal rights. This assertion is fully justified by the reasoning which follows.

3. The distinction between acts performed in an official capacity and those performed in any private capacity is a question of fact, which depends on the circumstances of the particular case. In this connection, the position of the United Nations is that it is exclusively for the Secretary-General to determine the extent of the duties and functions of United Nations officials and of experts on mission for the United Nations. To allow authorities of national Governments to determine whether a given act was official, or not, would lead to conflicting decisions owing to the large number of countries in which the Organization operates, and, in many cases, it would be tantamount to denial of immunity.

4. It is established by the Advisory Opinion of the International Court of Justice of 11 April 1949 on reparation for injuries suffered in the service of the United Nations (I.C.J. Reports, 1949, p. 174) that in the event an agent of the United Nations in the performance of his duties should suffer injury in circumstances involving the responsibility of a State, the United Nations has the legal capacity to bring an international claim against the responsible State with a view to obtaining the reparation due in respect of the damage caused both to the United Nations and to the victim or persons entitled through him. The Court states that this is true whether the State is a Member State or not, and whether or not the State is that of the agent's (or staff member's) nationality. It was emphasized that any such claim brought by the United Nations must be based on a breach of obligations due to the Organization, and the claim thus is distinct from any rights that the agent's (or staff member's) national State may possess. It follows that the United Nations has a right of functional protection of those of its staff members or other agents in respect of whom a State possibly may have violated its international obligations.

5. To enable the Secretary-General to make the determination whether an act was done in the course of official functions and, in the affirmative, to decide whether to waive the immunity of the official or expert on mission, as well as to enable the Organization to exercise its right of functional protection, there must be an adequate opportunity to learn the facts of the case. Where the staff member, agent or family member in question has been arrested, or is in detention or custody, the only such opportunity is through access to him or her, and it is the practice at Headquarters, and elsewhere as appropriate, that one or more representatives of the United Nations visit and converse with staff members or agents and, when required, family members who have been arrested or are otherwise kept in the custody of local authorities.

6. During such visits and consultations the representatives of the United Nations must have the right to pursue any line of discussion which will clarify the questions both whether the arrest or detention is connected with the official status or function of the person involved and whether an injury may have occurred to the United Nations through a violation of any obligation of a State towards the United Nations and the person concerned. The mere fact that there is no apparent connection between the reason for the arrest or detention given by the authorities of the State and the duties, functions and status of the official or expert on mission in question, or of members of their families, is insufficient to nullify the right of the United Nations to visit and converse with the person in custody. If that were so, the right would be made entirely dependent upon the reasons given by the authorities of the State, and that would make the right practically ineffective.

7. The United Nations is not confined to the arrested or detained person as a source of information. Rather, in accordance with the fifth principle in Article 2 of the Charter that "all Members shall give the United Nations every assistance in any action it takes", it is incumbent on the State authorities to inform the United Nations of the main reasons and grounds for the step taken. In the event that formal charges are made, it is clear that the Organization has a right to be apprised thereof without delay.

8. With respect to the assistance of legal counsel, the United Nations is entitled to provide or retain an attorney or lawyer and to appear and participate in any legal proceeding, in so far as an interest of the United Nations is affected. If only a private interest of the individual is affected, the right of protection of the State of the nationality of the individual concerned shall be given priority over that of the United Nations. However, the United Nations may in either case assist the arrested or detained individual to retain his or her own attorney or lawyer, when so requested by the individual concerned.

Notes

a/ The term "agent of the United Nations" includes but is not necessarily limited to United Nations officials (staff members) and experts on mission for the United Nations.

b/ By its resolution 76 (I), adopted 7 December 1946, the General Assembly approved that "all members of the staff of the United Nations, with the exception of those who are recruited locally and are assigned to hourly rates", should be included among the officials who are granted privileges and immunities under article V of the Convention. Accordingly, all staff employed under the 100 and 200 series of the Staff Regulations and Rules are officials. Experts on missions for the United Nations are persons who are performing functions or assignments for the United Nations without being members of the staff. Examples of experts on mission for the United Nations are military observers on peace-keeping missions and persons serving in their individual capacity on certain subsidiary bodies of the United Nations without being either officials (staff members) or representatives of Member States; under certain conditions participants in United Nations seminars or symposia are considered experts on mission for the United Nations.

c/ At certain duty stations, officials are also granted additional immunities, such as immunity from arrest or detention, in respect of non-official acts, in accordance with agreements with the host Governments concerned.

Annex II

APPLICABLE LEGAL PROVISIONS RELATING TO THE SECURITY AND INDEPENDENCE
OF INTERNATIONAL CIVIL SERVANTS, EXTRACTED FROM THE CHARTER OF THE
UNITED NATIONS, THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF
THE UNITED NATIONS, AND THE STAFF REGULATIONS AND RULES

1. Charter of the United Nations

Article 104

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Article 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.
2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.
3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

2. Convention on the Privileges and Immunities of the United Nations

Article V

Officials

Section 17. The Secretary-General will specify the categories of officials to which the provisions of this article and article VII shall apply. He shall submit these categories to the General Assembly. Thereafter these categories shall be communicated to the Governments of all Members. The names of the officials included in these categories shall from time to time be made known to the Governments of Members.

Section 18. Officials of the United Nations shall:

- (a) Be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
- (b) Be exempt from taxation on the salaries and emoluments paid to them by the United Nations;

/...

(c) Be immune from national service obligations;

(d) Be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;

(e) Be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned;

(f) Be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;

(g) Have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

Section 19. In addition to the immunities and privileges specified in section 18, the Secretary-General and all Assistant Secretaries-General shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

Section 20. Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary-General, the Security Council shall have the right to waive immunity.

Section 21. The United Nations shall co-operate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this article.

Article VI

Experts on missions for the United Nations

Section 22. Experts (other than officials coming within the scope of article V) performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular, they shall be accorded:

(a) Immunity from personal arrest or detention and from seizure of their personal baggage;

(b) In respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded, notwithstanding that the persons concerned are no longer employed on missions for the United Nations;

(c) Inviolability for all papers and documents;

(d) For the purpose of their communications with the United Nations, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;

(f) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

Section 23. Privileges and immunities are granted to experts in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice, and it can be waived without prejudice to the interests of the United Nations.

3. Staff Regulations

Regulation 1.1. Members of the Secretariat are international civil servants. Their responsibilities are not national but exclusively international. By accepting appointment, they pledge themselves to discharge their functions and to regulate their conduct with the interests of the United Nations only in view.

Regulation 1.3. In the performance of their duties members of the Secretariat shall neither seek nor accept instructions from any Government or from any other authority external to the Organization.

Regulation 1.4. Members of the Secretariat shall conduct themselves at all times in a manner befitting their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations. They shall avoid any action and, in particular, any kind of public pronouncement which may adversely reflect on their status or on the integrity, independence and impartiality which are required by that status. While they are not expected to give up their national sentiments or their political and religious convictions, they shall at all times bear in mind the reserve and tact incumbent upon them by reason of their international status.

Regulation 1.7. Staff members may exercise the right to vote but shall not engage in any political activity which is inconsistent with or might reflect upon the independence and impartiality required by their status as international civil servants.

Regulation 1.8. The immunities and privileges attached to the United Nations by virtue of Article 105 of the Charter are conferred in the interests of the Organization. These privileges and immunities furnish no excuse to the staff members who enjoy them for non-performance of their private obligations or failure to observe laws and police regulations. In any case where these privileges and immunities arise, the staff member shall immediately report to the Secretary-General, with whom alone it rests to decide whether they shall be waived.

Regulation 1.9. Members of the Secretariat shall subscribe to the following oath or declaration:

"I solemnly swear (undertake, affirm, promise) to exercise in all loyalty, discretion and conscience the functions entrusted to me as an international civil servant of the United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any Government or other authority external to the Organization."

4. Staff Rules

101.6

(e) Staff members shall not, except in the normal course of official duties or with the prior approval of the Secretary-General, perform any one of the following acts, if such act relates to the purpose, activities, or interests of the United Nations.

- (i) Issue statements to the press, radio or other agencies of public information;
- (ii) Accept speaking engagements;
- (iii) Take part in film, theatre, radio or television productions;
- (iv) Submit articles, books or other material for publication.

101.8

(a) Membership in a political party is permitted provided that such membership does not entail action, or obligation to action, contrary to staff regulation 1.7. The payment of normal financial contribution shall not be construed as an activity contrary to staff regulation 1.7.

(b) In any case of doubt as to the interpretation or application of staff regulation 1.7 and the present rule, the staff member concerned shall request a ruling from the Secretary-General.

104.4

(d) A staff member who is arrested, charged with an offence other than a minor traffic violation or summoned before a Court as a defendant in a criminal proceeding, or convicted, fined or imprisoned for any offence other than a minor traffic violation shall immediately report the fact to the Secretary-General.

(e) A staff member may at any time be required by the Secretary-General to supply information concerning facts anterior to his or her appointment and relevant to his or her suitability, or concerning facts relevant to his or her integrity, conduct and service as a staff member.

201.1

Project personnel shall exercise particular discretion in issuing statements to the press, radio or other agencies of public information, releasing any visual information for publication, or taking part in mass communication activities such as film, radio or television productions which are in any way related to their project activities or to the aims, activities or interests of the United Nations.

201.2

The oath or declaration administered under regulation 1.9 shall not prevent the close collaboration of project personnel with a Government pursuant to an agreement between that Government and the United Nations.

Notes

a/ By its resolution 76 (I), adopted 7 December 1948, the General Assembly approved that "all members of the staff of the United Nations, with the exception of those who are recruited locally and are assigned to hourly rates" should be included among the officials who are granted privileges and immunities under articles V and VI of the Convention. Accordingly, all staff employed under the 100 and 200 series of the Staff Regulations and Rules are officials. Experts on missions for the United Nations are persons who are performing functions or assignments for the United Nations without being members of the staff. Examples of experts on missions for the United Nations are military observers on peace-keeping missions and persons serving in their individual capacity on certain subsidiary bodies of the United Nations without being either officials (staff members) or representatives of Member States; under certain conditions, participants in United Nations seminars or symposia are considered experts on mission for the United Nations.

Annex III

DESIGNATED OFFICIALS

1. The following officials have been designated to undertake special responsibilities for the security and protection of the organization's personnel and property.

2. Chile	Executive Secretary, Economic Commission for Latin American (ECLA)
Cyprus	Special Representative of the Secretary-General, United Nations Peace-keeping Force in Cyprus (UNFICYP)
Ethiopia	Executive Secretary, Economic Commission for Africa (ECA)
Israel	Chief of Staff, United Nations Truce Supervision Organization in Palestine (UNTSO)
Kenya	Executive Director, United Nations Environment Programme (UNEP)
Lebanon	Co-ordinator, United Nations Assistance for the Reconstruction and Development of Lebanon (UNARDOL)
Syrian Arab Republic	Force Commander, United Nations Disengagement Observer Force (UNDOF)
Thailand	Executive Secretary, Economic and Social Commission for Asia and the Pacific (ESCAP)
All other countries and territories	Resident or regional representative, United Nations Development Programme (UNDP)

3. The Chief of Staff of UNTSO has been given overall responsibility for planning the security and protection of personnel and property of the United Nations organizations in the Middle East.

4. The Force Commander of the United Nations Interim Force in Lebanon (UNIFIL), who is designated official for UNIFIL staff, will co-ordinate their security arrangements with the Co-ordinator of UNARDOL - Beirut and/or the Chief of Staff of UNTSO, as appropriate.

5. The Chief Military Observer of the United Nations Military Observer Group in India and Pakistan (UNMOGIP), who is the designated official for UNMOGIP staff, will co-ordinate security arrangements with the UNDP resident representatives in the area, as appropriate.

6. In the absence of a designated official, his responsibilities will be assumed by the officer-in-charge or as designated by the United Nations Security Co-ordinator for the Secretary-General.
