

**Document Symbol:**

**A/503**

**Best copy available**

31

*Also in French*

ADVANCE COPY

CO-ORDINATION OF THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS AND OF THE SPECIALIZED AGENCIES

REPORT OF THE SIXTH COMMITTEE

Rapporteur: Mr. George KAECKENBEEK (Belgium)

In its resolution 22 (I)D of 13 February 1946, the General Assembly noted that there were many advantages in the unification as far as possible of the privileges and immunities enjoyed by the United Nations and the various specialized agencies. While recognizing that certain specialized agencies might, by reason of their particular functions, require privileges of a special nature, the General Assembly considered that the privileges and immunities of the United Nations should be regarded, as a general rule, as a maximum within which the various specialized agencies should enjoy such privileges and immunities as the appropriate fulfilment of their respective functions might require.

The General Assembly therefore instructed the Secretary-General "to open negotiations with a view to the reconsideration, in the light both of the general convention adopted by the United Nations and of the considerations above, of the provisions under which the specialized agencies at present enjoy privileges and immunities."

In pursuance of the resolution of 13 February 1946, the Secretary-General entered into consultation with the four specialized agencies then existing, and also with the five international organizations which have since been brought into relationship with the United Nations by virtue of a quite recent decision of the Assembly (resolution of 15 November 1947). The Secretary-General submitted a report dated 20 August 1947 to the General Assembly on the outcome of these consultations (document A/339).

The question of the co-ordination of the privileges and immunities of the United Nations and of the specialized agencies was referred to the Sixth Committee, and submitted by the latter to its Sub-Committee on Privileges and Immunities for study.

Under the chairmanship of Mr. Spacek, the Sub-Committee first of all deliberated on the method to be followed in order to give effect to the above-mentioned Assembly resolution. The problem was complex in nature. As the Secretary-General's report pointed out, while the statutes of certain of the specialized agencies included a detailed enumeration of their

/privileges

privileges and immunities, those of other agencies contained only general provisions or even mere references, thus necessitating further definition of the privileges and immunities to be granted. Certain of those agencies, amongst them the International Labour Organization, had therefore drawn up and submitted to their conferences draft conventions relating to their privileges and immunities.

At the same time, the unification recommended by the Assembly had to be elastic enough to allow for the specific nature of the functions of certain agencies, and for the special privileges which they might need for this purpose. Two alternative methods could be envisaged: either a unification allowing for separate instruments for each of the specialized agencies or the adoption of a single general convention equally applicable to all of them.

In an interim report (A/C.6/148), unanimously adopted by the Sixth Committee, the Sub-Committee decided in favour of the latter alternative, explaining, however, that the method of a single convention should be made sufficiently elastic to allow for the adjustments necessary for each of the specialized agencies concerned.

The Sub-Committee accordingly drew up three draft resolutions and a draft convention, which the Sixth Committee approved and recommends to the General Assembly for its adoption. The draft convention is divided into two separate parts: 1) a first part of a general nature, defining the privileges and immunities applicable to all the specialized agencies, in the form of standard clauses; 2) a second part comprising nine draft annexes relating to each of the nine existing specialized agencies. The standard clauses were drafted on the basis of the United Nations Convention on Privileges and Immunities, but in several cases the privileges granted are more limited than those of the United Nations. The object of the annexes contained in the second part is to adapt the standard clauses to each of the specialized agencies, and to define the extent to which they apply to the specialized agency concerned.

The two parts of the convention - standard clauses and annexes - form a complete body of provisions defining the privileges and immunities of each of the specialized agencies. But whereas the first part of the convention constitutes a definitive text recommended for final adoption by the General Assembly, the annexes contained in the second part are merely recommendations addressed to each of the specialized agencies.

It should be pointed out in this connection that one of the questions which arose with respect to the choice of the method to be followed in order to give effect to the resolution of 13 February 1946 was

/whether

whether, once the principle of a single convention had been approved, the definitive text of such a convention ought to be drafted in final form by the General Assembly of the United Nations, or by a special conference at which all the States members of each of the specialized agencies would be represented, and to which the specialized agencies themselves would be invited.

The Committee thought it preferable to avoid the calling of a special conference, but as it is desirable to associate the specialized agencies and those of their members who are not Members of the United Nations with the drafting of the texts defining the privileges and immunities of these agencies, the Committee decided that the text of the annexes adjusting the standard clauses to each of the specialized agencies should be finally established in discussions in the conferences or assemblies of the specialized agencies themselves.

The method whereby the convention becomes applicable to the specialized agencies, and the procedure for the accession of States, are laid down in articles X and XI of the convention. These articles stipulate that the convention shall become applicable to a specialized agency only after the final text of the relevant annex has been adopted by the agency in question in accordance with its constitutional procedure and transmitted to the Secretary-General of the United Nations (Section 37).

States can then accede to the convention by depositing their instrument of accession with the Secretary-General of the United Nations (Section 41).

Each State shall indicate in its instrument of accession the specialized agencies in respect of which it undertakes to apply the provisions of the convention. It can extend its accession to other specialized agencies by subsequent written notification (Section 43).

It should be pointed out that the benefits of the convention are not confined to the nine specialized agencies now in relationship with the United Nations. As stated in article I (ii) (j), the convention applies equally to any other agency brought into relationship with the United Nations in accordance with Article 63 of the Charter.

As regards the annexes adapting the standard clauses of the convention to such new agencies, it is provided that the drafting of texts to be recommended for the adoption of the specialized agencies

concerned shall be entrusted to the Economic and Social Council, and that the definitive text of these annexes will be adopted in accordance with the procedure indicated above.

The report drafted by Mr. Beckett (A/C.6/191), was submitted by the Sub-Committee to the Sixth Committee, which approved it. It contains a detailed review of the various provisions of the convention and of the resolutions now submitted for the approval of the Assembly.

It has been thought useful to reproduce these comments and the observations made thereon in this document.

EXTRACTS FROM THE REPORT OF THE SUB-COMMITTEE  
ON PRIVILEGES AND IMMUNITIES

9. The problem raised by the resolution of 13 February 1946 was by no means devoid of complexity and the method which has been adopted, which differs in some respect from that suggested in the report of the Secretary-General, at any rate appears to combine the advantages of:

- (a) having the immunities and privileges of all the specialized agencies set forth in a single convention;
  - (b) following the principle (contained in Articles 104 and 105 of the Charter with regard to the United Nations itself) of according to, or in connection with, each specialized agency such privileges and immunities as are reasonably necessary for the performance of its functions, and no more; and
  - (c) subject to (b), unifying the privileges and immunities of the specialized agencies as far as possible;
  - (d) adopting a definitive text at the present Assembly without calling a special conference of all Members of the United Nations and of non-member States, which are members of specialized agencies;
  - (e) nevertheless not depriving these non-member States from participating in the discussion of the privileges and immunities of those agencies to which they belong, since the final texts of the Annexes of each agency are settled in the Assemblies or Conferences of the agency itself where these non-member States will be represented.
10. At the same time, the United Nations will, by approving the annexes which are attached to the Convention, have recommended to each specialized agency those privileges and immunities which it considers that agency should have, and thus fully fulfilled the purpose of the resolution of the General Assembly. To cover the possibility that future years may reveal the desirability of further changes in the immunities and privileges of specialized agencies, it has been provided:

(a) that a conference for revision will be convened by the Secretary-General if one-third of the States parties to the convention so request (Section 48); and

(b) that an Agency can adopt a revised annex and transmit it to the Secretary-General (Section 38) but no state will become bound by the revised Annex so adopted unless it accedes to it (Section 47).

In all cases, therefore, the privileges and immunities of each Specialized Agency will be those set out in the standard clauses as modified by the Annex in force relating to that Agency (Section 1 (11) and Section 2).

11. Just as the United Nations itself has its General Convention and its Headquarters Agreement, so any Specialized Agency may require, in addition to this General Convention, a special agreement with the country in which it has its seat, and it has been provided in the draft Convention (Section 39) that the provisions of this Convention in no way limit or prejudice the privileges or immunities which a Specialized Agency may obtain by agreement with the state in which its headquarters or any regional office is situated. Section 39 also permits (like the Convention of the United Nations) the conclusion of supplemental agreements. It would be natural for the position of representatives of Governments accredited permanently to Specialized Agencies to be dealt with in special agreements made with the country in which the seat of the agency is situated.

12. As stated above, the standard clauses, coupled with the relevant annex, will provide a complete statement of all those rights of each Specialized Agency, which can be said to come under the general heading of "Privileges and Immunities", taking as the primary criterion for the interpretation of that otherwise undefined expression, the contents of the General Convention of the United Nations itself and as a secondary criterion chapters in the constitutional instruments of those agencies, having such chapters, which are headed "Status, Privileges and Immunities". Of course, Specialized Agencies possess under their constitutions, or may otherwise acquire, other rights which are not Privileges and Immunities according to this criterion, but these will not be affected by this Convention.

Each Agency, which renders this Convention applicable to it by sending in a final annex to the Secretary-General, places itself under a duty (Section 40) to ensure that there is no inconsistency between its constitutional instrument and the privileges and immunities which it will acquire under the Convention. If any amendment of its constitutional instrument is required for the purpose of rendering the two instruments consistent, this amendment must be made by the Agency in accordance with its own constitutional procedure before the final annex is transmitted. More detailed comment on this point will be found in the commentary on Section 40 (paragraph 38 below).

13. All the nine specialized agencies at present in relationship with the United Nations were invited to send advisers and in fact in preparing the annexes, the Sub-Committee had the benefit of the assistance of advisers from the International Labour Organization, the Food and Agriculture Organization of the United Nations, the International Civil Aviation Organization, the United Nations Educational, Scientific and Cultural Organization, the International Monetary Fund and the International Bank for Reconstruction and Development, and the World Health Organization. These advisers were in no position to state  
/authoritatively

authoritatively the views of their respective Specialized Agencies, but the information which they were able to give enabled the Committee to appreciate the needs of these Agencies in preparing the annexes relating thereto. While the Sub-Committee or its Rapporteur heard all that these advisers wished to say on the matter, it does not follow that in all cases the recommendations of the Sub-Committee correspond exactly with the suggestions made by the advisers. The Sub-Committee wish to express their gratitude for the assistance which these advisers gave to them.

14. The following paragraphs of this Report relate to particular provisions of the draft Convention and its annexes. Any important departures from the substantive clauses of the General Convention of the United Nations are noted.

15. Section 1 (v). It was noted that the expression "secretaries of Delegations" meant diplomatic secretaries and that clerical personnel were not covered by this definition. The position of the clerical personnel of delegations might be considered in connection with special agreements made by the Specialized Agencies with the countries in which their headquarters or regional offices are located (Section 39).

16. In connection with Section 2, the delegation of the USSR proposed the insertion of the following provision:

"And provided that these privileges and immunities shall apply in conformity with the laws and regulations of the state concerned."

This proposal was strongly considered by the delegations of Canada, Cuba, Egypt, India, Norway, United Kingdom and United States to be inconsistent with the provisions of Section 46 of the Draft Convention (a section which follows the corresponding provision of the General Convention of the United Nations) and with the general principles of international law concerning the effect of international conventions. The delegation of USSR categorically dissented and cited the law of Switzerland\* and the Constitution of FAO and mentioned that USSR had not acceded to the General Convention of the United Nations. The proposal was put to the vote and rejected by a majority of the Sub-Committee (the delegations of Argentina and Czechoslovakia abstaining; the delegation of Yugoslavia being absent). As a result of this rejection, the delegation of USSR made a general reservation of the attitude of its Government with regard to the Convention.

17. Section 12 (dealing with censorship of the correspondence of, and the use of codes and sealed bags by a Specialized Agency) contains a last paragraph inserted in the interests of preventing abuses prejudicial to national security.

\* Statute of the International Offices Placed under the Supervision of the Authorities of the Swiss Federation - 31 January 1947.



18. With regard to Section 13, (b) and (c), the Sub-Committee considered that the principle contained in the last paragraph of Section 12 which refers to the adoption "of appropriate security precautions to be determined by agreement between a state party to this Convention and a Specialized Agency" was applicable with regard to these two privileges of representatives of members. While not considering it practicable to draft and insert in the text of the Convention any actual provision on this point, the Sub-Committee recommended that consideration should be given to this matter by consultations between the various Specialized Agencies and the Governments parties thereto.

19. Section 13 (d). The expression "exemption....from immigration restrictions" means freedom of entry. Though this is reasonably clear in the English text, the French text removes any possible ambiguity that there might be on this point. It is to be noted that the expression is "immigration restrictions" and not "immigration laws", and therefore relates to all restrictions whether they result from laws or merely from administrative action. The same comment applies, of course, to the corresponding expression in Section 19 (c).

20. The Sub-Committee decided not to include in Section 13 (relating to representatives of members) a provision which appears in the corresponding Section of the General Convention and reads:

"(g) Such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes."

It was observed that the words "such other privileges etc. not inconsistent with the foregoing as diplomatic envoys enjoy" created an obligation of somewhat undefined character, the exact scope of which was open to doubt (particularly as the drafting of the expression "not inconsistent with the foregoing" was far from clear) and that Governments had found difficulty in assessing its exact significance. The two most important matters that might have come under the general phrase, namely "exemption from customs duties on goods imported and from excise duties or sales taxes" were specifically excluded. In view of this and of the opinion that sub-paragraphs (a) to (f), coupled with Section 14, in fact contained all the immunities and privileges which seemed to be reasonably necessary, it was considered that this provision should not be included in the General Convention for the Specialized Agencies. The deletion of the whole of (g), however, would not have the effect of entitling the representatives of members to claim exemption from customs duties on goods

/imported

imported otherwise than as part of their personal baggage or from excise duties or sales taxes. It would not be possible to claim either of these two things under the specific provisions contained in (a) to (f). They had only been inserted in (g) as exceptions to the general provision with which sub-paragraph (g) commences.

21. Article VI applies to officials of the Specialized Agencies. It must be noted that the constitutional instruments of the Specialized Agencies include officers (such as, for example, the Chairman of the Council of ICAO or the executive directors of the Bank and Fund) who serve for continuous periods either not as representatives of any Government at all or, as in the case of the executive directors of the Bank and the Fund, partly as representatives of Governments but predominantly as representing the interests of all Members, receiving their salaries from the Organization. It was considered that these officers should be regarded, for the purposes of this Convention, rather as officials than as representatives of Members, although they do not come within the cadre of officials of the Agency in the strict sense.

22. In connection with Section 19 (a) which (following the General Convention of the United Nations) prescribes that officials shall be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity, it was agreed that, to fulfil the purpose of the provision, (namely that officials should pursue their official duties, feeling confident that they are protected from all personal liability in regard thereto before municipal tribunals unless immunity is waived), it was necessary that this immunity should continue after the officials had ceased to be officials. It was thought, further, that this interpretation in fact followed from the wording of the Section as a whole and it was pointed out that paragraph (b), dealing with exemption of official salaries from taxation, required a similar interpretation if it was to receive its proper effect.

23. Section 19 (b). The corresponding provision in the General Convention of the United Nations reads:

Officials shall "be exempt from taxation on the salaries and emoluments paid to them by the United Nations."

Owing to the fact that one or two Members have indicated that they may make reservations to this provision in the General Convention of the United Nations, on the ground that their Parliaments are unwilling to grant exemption from income tax on official salaries of officials who are their nationals, this provision in the General Convention has been the subject of discussions in the Fifth Committee during the present Assembly. It would seem possible that the final and definitive conclusion with regard to this matter may not be

/reached

reached before the General Assembly of 1948. The majority of the Sub-Committee considered that the position of officials of the Specialized Agencies with regard to this matter should be the same as that of officials of the United Nations and therefore they adopted the following text:

"(b) Officials of the Specialized Agencies shall enjoy the same exemption from taxation in respect of the salaries and emoluments paid to them by the Specialized Agencies and on the same conditions as is enjoyed by officials of the United Nations."

The effect of this text is to make whatever system is in force in respect of officials of the United Nations automatically be applicable to officials of the Specialized Agencies. If, therefore, in so far as the United Nations is concerned, the existing provision of the General Convention is maintained unchanged and without any new conditions this provision will also define the position of officials of the Specialized Agencies. If, however, the United Nations should maintain the provision of the General Convention with some new conditions to meet the objections which have been advanced to the provision as it stands, these conditions will apply also in the Specialized Agencies. If (as a third alternative) the United Nations should adopt some amendment to this provision in the General Convention, this amendment will likewise automatically apply to the Specialized Agencies.

In connection with this provision, the delegations of Canada, Egypt and USSR placed it on record that they could not commit their governments to any exemption of the salaries of the officials who are their nationals.

24. In sub-paragraphs (d) and (e) of Section 19, minor changes were introduced, assimilating the language of these two paragraphs, and replacing in one case the expression "Diplomatic envoys" by the expression "officials of comparable rank of Diplomatic missions". A similar change was made in Section 13 (f).

25. With reference to (f) of Section 19, which provides that officials 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, the Committee agreed that, as a matter of equity and logic, a similar exemption should be given if an official returns to the country in question after a long absence on official duties elsewhere. Consequently, if this point was not actually covered by the words in paragraph (f) (which follow those of the General Convention), Governments are recommended to give a liberal interpretation of this provision in this sense.

26. Section 20 deals with exemption from national service obligations, but is conceived in terms very different from the absolute exemption of all officials which is provided in the General Convention of the United Nations.

/It is known

It is known that possibly some countries are likely, when they accede to the General Convention, to make a reservation with regard to the provision in that Convention, a matter which was considered, so far as the United States is concerned, on page 7 of the Report on the Headquarters Agreement (document A/427). The provision here inserted for the Specialized Agencies accords very closely with the spirit of this passage in the Headquarters Report. The Section creates no legal obligation to exempt any given official from national service obligations, but it does provide for consultation between the Agency and any Government with a view to the national service requirements being applied to officials who are nationals of that Government in such a manner as to disrupt as little as possible the work of the Organization.

The delegation of the USSR made a special reservation as to the attitude of its Government with regard to this matter.

27. In Section 21 (which relates to the grant of full diplomatic status to highest officials), the text adopted by the Sub-Committee proceeds on the principle that, in general, only the executive head of a Specialized Agency should be granted this status on the ground that the protection which officials receive under Section 19 is quite sufficient and that full diplomatic status should be confined to persons in very high positions. In this connection, however, it was agreed that, where a Specialized Agency has a Chairman of a Council or other similar officer of the type referred to in paragraph 21 above, who is a "quasi official" but whose rank must be held to be superior or equal to that of the executive head of the Organization, this officer should also be accorded full diplomatic status.

28. Section 24 is a new provision for which there is no precedent in the United Nations Convention. It deals with the possibility of an abuse being committed of a privilege or immunity granted to a Specialized Agency, a possibility which led to the proposal being made to the Sub-Committee that a state party to this Convention might denounce it and cease to be under any obligation to give any privileges and immunities to a Specialized Agency of which it still remained a member. This wider proposal was thought by the majority to be open to a number of objections, including amongst others (1) that fact that, if it were adopted, the Convention for the Specialized Agencies would be hardly following the same lines as the United Nations Convention, which does not provide any such right of denunciation; and (2) the general principle that it was necessary that the Specialized Agencies should receive appropriate privileges and immunities had been accepted, and a state, by becoming party to this Convention in respect of a Specialized Agency, would by so doing have agreed that those therein provided were what was appropriate and necessary; (3) it seemed wrong in principle that a  
/state

state should have the advantages of being a member of a Specialized Agency and yet deny it privileges and immunities which were necessary for its operation.

While, therefore, this far-reaching proposal was held to be open to objection and was withdrawn, it was agreed that it would be appropriate to find some suitable provision to deal with the case of possible abuse. A suitable provision would in itself meet the principal anxiety which prompted the suggestion for a right of denunciation. Under this provision, if a state party to this Convention considers that a Specialized Agency has been abusing a particular immunity, the matter is first discussed between its Government and the Specialized Agency with a view to the adjustment of the matter by agreement. If this consultation does not lead to a solution acceptable to both sides, then the question whether there has been an abuse or not should be submitted in accordance with Section 32 to the International Court of Justice. This would in fact mean that the Agency should ask for an advisory opinion on the matter, which the Agency, if the Convention should become applicable to it, would be under an obligation to do (vide Section 37). If the opinion of the Court showed that an abuse had been committed, then the complainant state would have the legal right to withhold the immunity which had been abused, though of course it would not follow that, having the legal right to do so, it would necessarily withhold it indefinitely or entirely.

29. In Section 25, the Sub-Committee adopted a new provision which is based on the provisions of Section 13 of the Headquarters Agreement of the United Nations. This deals with the position of representatives of members and of officials in cases where the Government of a country where they are fulfilling their functions desires that they should leave the country because of undesirable activities having nothing to do with their official functions. Without some such provision, the position with regard to this matter would be indefinite and might possibly lead to dispute because, according to one interpretation of Section 13 (d) and of Section 19 (c), there is no power for the local Government to expel them in any circumstances and, according to another interpretation, these persons have no safeguards in the matter of expulsion at all. Like the Headquarters Agreement, the provision now adopted permits expulsion but subject to strong safeguards.

30. The Sub-Committee did not consider that anything corresponding to Article VI of the General Convention (Immunities for Experts who are not Officials on Missions) should be included in the standard clauses for the Specialized Agencies, on the ground that it could not be said that every Specialized Agency required immunities of this character. On the other

/hand,

hand, they did not exclude the possibility that individual Specialized Agencies might show good and sufficient causes for provisions giving immunities to such experts in their particular cases. It was thought however that, in this event, the actual privileges and immunities accorded should be somewhat less than those of Article VI of the General Convention, seeing that there is no doubt that the General Assembly in London, when it adopted this provision in the General Convention, had in mind experts sent on missions relating to peace and security in disturbed areas, who naturally would require more effective protection and greater immunities than would be required for experts sent by Specialized Agencies who would be dealing with more technical matters. The Annexes contain in the case of some Specialized Agencies provisions with regard to such experts.

31. With reference to Section 26, relating to the use by officials of a Specialized Agency of the United Nations laissez-passer, it was observed that it was most desirable (1) that the laissez-passer used by officials of a Specialized Agency should be the same as those used by United Nations officials, and (2) that the names of officials of Agencies to whom such laissez-passer has been accorded should be made known periodically to the Secretary-General of the United Nations and by him to Governments. It was stated by the Secretariat that both these requirements had been anticipated and will be complied with.

32. With reference to Section 31 (a), which provides that an Agency shall make provision for appropriate modes of settlement of disputes of a private law character to which a Specialized Agency is a party, it was observed that this provision applied to contracts and other matters incidental to the performance by the Agency of its main functions under its constitutional instrument and not to the actual performance of its constitutional functions. It applied, for example, to matters such as hiring premises for offices or the purchase of supplies. The provision relates to disputes of such a character, that they might have come before municipal courts, if the Agency had felt able to waive its immunity, but where the Agency had felt unable to do so. This explanation with regard to (a) also illustrates the type of case to which (b) also refers. Officials (other than one or two high officials) have only immunity in respect of their official acts, and even in those cases immunity will be waived in respect of matters of a private law character if this is possible without prejudicing the interests of the Organization. If, however, in the case of such disputes immunity is not waived, then the obligation to make provisions on an appropriate mode of settlement arises.

33. Section 32 providing for the reference of differences arising out of the interpretation or application of the Convention to the International

Court of Justice for decision or for an advisory opinion follows mutatis mutandis Section 30 of the General Convention of the United Nations.

Section 37, however, permits a Specialized Agency to make an exception from this provision in its final annex in respect of those cases where the constitutional instrument of the Specialized Agency in question (as is in fact the case of the International Monetary Fund and the International Bank for Reconstruction and Development) contain provisions for another mode of settlement. The delegation of the USSR made a special reservation as to the attitude of its Government with regard to this Section.

34. Article X contains provisions for the application of the Convention to each individual Specialized Agency and relating to the machinery of the annexes, the general nature of which has been indicated in paragraphs 6-8 above.

35. Section 35 provides that, in the case of new Organizations which are brought into relationship with the United Nations in the future, it should be the Economic and Social Council which should recommend an annex to that new Agency. The Sub-Committee wishes to record that it considers that, in preparing this (recommended) Annex, the Economic and Social Council should proceed (as the Sub-Committee has done) on the basis that the standard clauses should be considered to provide sufficient immunities and privileges except in so far as it can be shown that something more or different is required because of the actual functions of the Agency in question.

36. With reference to Section 36 and 38, the Sub-Committee desired to place on record that nothing in this Convention prevents the Secretary-General from laying before the Economic and Social Council copies of final or revised annexes which are transmitted to him, or the Economic and Social Council from making any observations or recommendations with regard to the text of these annexes.

37. Section 40 deals with the relationship between the Convention and the constitutional instruments of Specialized Agencies in those cases where such instruments contain detailed provisions with regard to privileges and immunities. The resolution of the General Assembly specifically recommends the re-examination (in the light of the General Convention of the United Nations) of existing provisions conferring privileges and immunities on the Specialized Agencies. It therefore expressly contemplated that, where constitutional or other instruments conferred upon Specialized Agencies privileges and immunities which were in excess of those enjoyed by the United Nations itself and which were not justified by the particular nature of the duties of the Specialized Agency in question, these provisions should be revised.

/38. In general,

38. In general, the constitutions of the Specialized Agencies either contain no provisions with regard to privileges and immunities at all or else were statements of the general principle corresponding to Articles 104 and 105 of the Charter, or one or two small provisions which in substance are the same as certain Sections of the General Convention. The Articles of the International Monetary Fund and the International Bank for Reconstruction and Development however contain detailed chapters with regard to immunities and privileges which, historically speaking, are the origin of a part of the General Convention itself. These chapters also contain special provisions which are explained by the very particular nature of the functions which these Agencies perform. For the rest, the provisions of these chapters of the Articles of the Bank and Fund are virtually the same in substance as the equivalent provisions of the General Convention. Paragraphs 47-48 below, commenting on the draft Annexes for these Agencies, will give further explanations of the details of this matter.

It would not appear, however, that the recommendations made by the Sub-Committee involved any amendment of the Articles of the Bank or Fund, though they have suggested certain provisions which it is thought could be adopted by these Agencies without any such amendment.

39. In the case of F.A.O., however, whose constitution was drawn up in 1943 in the middle of the World War, and before general detailed consideration had been given to this question of privileges and immunities, the constitution does contain, in Article VIII, paragraph 4, provisions which are not only vague in character and difficult of interpretation but also, in one respect, certainly go beyond the privileges and immunities of the United Nations, and in Article XV(2) a further provision which is in such vague terms that it might be difficult to ascertain exactly whether it goes beyond the Convention of the United Nations or not. In any case, both these provisions in the constitution of the F.A.O. are subject to a condition, in the opinion of the majority of the Sub-Committee a vague and unsatisfactory one, that the grant is to be made "in so far as it may be possible under the constitutional procedure" of the member in question. Consequently, the recommendations made to F.A.O. do, if adopted by the Organization, entail an amendment of the constitution of that Organization in these respects.

40. On the other hand, there is no question of the United Nations purporting to amend the constitution of a Specialized Agency or even of amending such constitution by this Convention itself. It is clearly stated in Section 40 that it is for the Agency itself to amend its constitution in accordance with the procedure therein provided. There is moreover no implication to be derived from this report or the draft Convention that the United Nations, in



spheres other than that of privileges and immunities, should take upon itself to recommend amendments to the constitutions of Agencies.

41. The first sentence of Section 40 requires the Agency to amend its constitution if this is necessary to render the constitution consistent with the standard clauses as modified by the final Annex which the Agency itself has adopted. But it is only necessary for such amendment to be made in the case of a conflict between the two instruments. In the opinion of the majority of the Sub-Committee there is no such conflict where this Convention together with its Annex, accords an immunity which is not provided for in the constitution at all, or where it accords privileges and immunities in a certain field in excess of those contained in the constitution of the Agency. There is further no inconsistency if the constitution of the Agency merely contains general principles that the Agency should receive what is necessary for its purpose similar to those in Articles 105 and 106 of the Charter, just as there is no inconsistency between the General Convention of the United Nations and these Articles of the Charter. There is further no inconsistency if, with regard to a certain matter, there is both in the constitution of the Agency and in this Convention, together with its Annex, a provision which says the same thing either in identical words or in words which clearly mean the same so far as the substance of the matter is concerned. There is further no inconsistency if the standard clauses impose on the Agency obligations which are not expressly imposed by its constitutional instruments. There is, however, an inconsistency if the constitution of the Agency provides that more by way of immunity is to be given in a certain field than is given by the Convention plus the relevant Annex such as, for instance, if the constitution leads to the result that a given person should have full diplomatic immunity and the Convention and its Annex leads to the result that the same person should only have immunity in respect of his official acts.

42. Article XI contains the final provisions providing the machinery under which a state becomes party to this Convention and assumes obligations in respect of different Specialized Agencies. The main character of these provisions has already been indicated in paragraph 7 above. It may be remarked here that it is made clear by Section 47 that no state party to this Convention remains bound to grant privileges and immunities to any Organization of which it has ceased to be a member or which, having once been in relationship with the United Nations, ceases to be so. In those events the Member State is free to withhold or to continue the privileges and immunities in question.

43. Annex 1 relates to the International Labour Organization. The provisions of paragraph (1) of this Annex are merely provisions adapting to the peculiar  
/constitution

constitution of the I.L.O., which is tripartite in the sense that there are representatives of Governments, of employers and of workers, the provisions of the standard clauses with regard to the privileges and immunities of representatives and of the waiver of immunity. The adviser of the I.L.O., after drawing the attention to the provision relating to privileges and immunities of experts which was contained in the draft Convention on the Privileges and Immunities of the I.L.O. submitted to the International Labour Conference at its Session in Montreal in 1946 and to the corresponding provision contained in the draft Convention on the Privileges and Immunities of the specialized agencies submitted to the Conference at Geneva in 1947, did not request the Sub-Committee to include in this Annex any provisions for immunities for experts on missions for the I.L.O. He observed that the provisions with regard to experts as well as the provisions of (g) of Section 13 had been deleted from the standard clauses and the decision with regard to Section 21 had been taken at a late stage of the proceedings and he was not therefore in a position to express any opinion on the views of the Governing Body with regard to these matters. The Sub-Committee, in pursuance of its views with regard to experts, indicated in paragraph 30 above, only recommends provisions regarding experts in the Annex of an Agency in cases where it considers that a need for such provisions has been shown in the case of the Agency in question.

#### 44. Annex II. (FAO)

The adviser from FAO was only able to be present at the end of the Committee's deliberations. In a telegram received by the Secretariat, FAO had expressed the view that full diplomatic status should be accorded not merely to the Director-General, but also to the senior Deputy Director-General and the counsellor of the organization. The Sub-Committee did not, however, consider that there was any reason in the case of this organization to depart from the general principle confining this status to the executive head. On the other hand, after hearing the remarks of the adviser from FAO, the Sub-Committee considered that a case had been made out for according certain limited privileges to experts serving on committees of, or performing missions for, this organization.

#### 45. Annex III. (ICAO)

The Sub-Committee considered that the President of the Council of this organization, who has a status at least equal to that of the executive head of the organization and who is a quasi official, should be given diplomatic status. The Sub-Committee did not, however, see fit to make any recommendation to give this status to the Deputy Director-General of the organization as the adviser had suggested. Further, after hearing the remarks of the adviser, the Sub-Committee considered that a case had been

made up for granting to experts on committees of, or performing missions for, ICAO certain privileges and immunities including one immunity (inviolability of papers) which the Committee had not felt able to recommend in the case of any other organization. Experts of the ICAO have, under the constitution of ICAO, *inter alia*, to investigate disputes and it was this special function which led the Committee to consider this particular immunity desirable in this case. The adviser from ICAO raised the position of the representatives of Member States on the Council of ICAO and suggested that, on the analogy of permanent representatives accredited to the United Nations, representatives of members of the Council and their staffs should have full diplomatic immunity. The Committee, noting that the position of permanent representatives of Members accredited to the United Nations is dealt with in the Headquarters Agreement and not in the General Convention, considered that the Council of ICAO was a matter which should be dealt with under Section 46 of the standard clauses.

The adviser from ICAO further suggested the inclusion of the following text in the annex as an addition, so far as ICAO is concerned, to Section 30 of the standard clauses:

"The 'facilities for speedy travel', as provided in Section 30 of the standard clauses, shall include the right to make flights into or in transit, or non-stop flights, across the territory of any acceding State, without the necessity of obtaining prior permission, for aircraft belonging to the International Civil Aviation Organization or chartered by it, for aircraft owned, operated or chartered by officials of ICAO, when travelling in official capacity, as well as for aircraft owned, operated or chartered by Council members or by national experts attending divisional or regional meetings."

The Sub-Committee was of the opinion that it cannot recommend this addition because, in any case, this provision would be something which would go beyond the provisions of the General Convention. It also appeared that the essentials of what ICAO desires under the above text seem to be secured already by Article 5, first paragraph, of the Chicago Convention, and that the provisions of this Article 5 would be in no way prejudiced by anything in the present instrument.

The adviser from ICAO raised the position of the Air Navigation Commission, a body of permanent character consisting of persons who do not act as representatives of Members, and which sits at the seat of the organization. The Sub-Committee considered that this was also a matter which fell within the scope of the Headquarters Agreement of ICAO and not within the scope of the present convention.

46. Annex IV. (UNESCO)

Paragraph 1 of this annex deals with the special position of the President of the Conference and the members of the executive board of this organization with regard to immunity and waiver. The Sub-Committee did not, however, see fit to make any recommendation to give diplomatic status to the Deputy Director-General of the organization as the adviser had suggested.

Paragraph 2 accords to UNESCO the same privileges and immunities in respect of experts as are provided under annex II.

47. Annex V. (International Monetary Fund)

Paragraph 1(a) of this annex contains provisions which are substituted for Section 9 of the standard clauses. Nevertheless, these provisions are in substance extremely similar to the provisions of this section, and the principle reason for the substitution is that the first sentence of this sub-paragraph, which is taken from the Articles of the Fund, contains certain words, namely "and its operations and transactions authorized by its articles of agreement" which are not to be found in Section 9 of the standard clauses; the nature of the functions which the Fund performs seems to the Sub-Committee to justify the maintenance of these words.

The third sentence of paragraph 1(a) does not appear in the articles of the Fund; nevertheless, there is an understanding recorded in the Bretton Woods Drafting Committee report which is in substance the same. The last sentence also of this sub-paragraph is a provision which does not occur in the standard clauses. In this case also this provision finds its principal justification in the special nature of the functions of the Fund.

Sub-paragraph 1(b) is a provision which is not found in the standard clauses, but may be regarded as a typical instance "of a privilege of a special nature not required by the United Nations itself", in the words of the resolution of the General Assembly.

Paragraph 2 of this annex, which limits the application of Section 32 of the standard clauses providing for the reference of disputes to the International Court of Justice, is justified by the fact that the Articles of the Fund provide for the settlement of all disputes arising in connection with the interpretation of those articles to the Fund itself where they will be settled by bodies in which the Members of the Fund are represented. Many of the privileges and immunities to which the Fund will be entitled under the standard clauses and the annex are also found in the Articles of the Fund, which will remain in force concurrently with this convention insofar as there is no inconsistency. Disputes as regards privileges and immunities which are covered by both instruments may be settled in the manner provided by the Fund's articles, but disputes relating to other privileges and

/immunities

immunities which the Fund may derive as the result of the present convention will go to the International Court of Justice, as provided in Section 32. The hope was expressed however that, in order to achieve the uniformity of interpretation in cases where no technical financial points were involved, disputes would always be referred to the International Court of Justice.

48. Annex VI. (International Bank for Reconstruction and Development)

The first paragraph of this annex substitutes a provision in the articles of the Bank for Section 4 of the standard clauses. This is a provision which gives the Bank a smaller immunity from suit than that for which Section 4 provides. In this respect, therefore, the Bank will continue to receive a lesser immunity than that for which the standard clauses provide. The difference of course is again due to the special functions of the Bank.

Paragraph 2. The comments made above with regard to paragraph 1(a) of the Annex of the Fund apply mutatis mutandis to this provision of the annex of the Bank.

The comment made above with regard to paragraph 1(b) of the Annex of the Fund applies to 2(b) and (c) of the Annex of the Bank, subject to the further remark that these provisions, which are reproductions of provisions in the Articles of the Bank, are wider in scope.

The observations made above with regard to paragraph 2 of the Annex of the Fund apply mutatis mutandis to paragraph 3 of the Annex of the Bank.

49. Annex VII. (World Health Organization)

Paragraph 1 deals with the special position of the Executive Board of the Organization, particularly in the matter of waiver of immunity.

Paragraph 2 accords the experts of WHO the same limited privileges and immunities as are provided under Annex 2 for FAO.

50. Annexes VIII and IX deal with the Universal Postal Union and the International Telecommunications Union respectively, and in both these cases the Sub-Committee recommended no modifications of the standard clauses. The Sub-Committee did not have the advantage of the presence of advisers from either of these Unions, though both had been informed that this matter was under discussion, and consequently were given an opportunity to send advisers if they wished to do so. A letter was received from the U.P.U. and the only observation made in it related to a point which is fully covered by Section 39 of the standard clauses.

51. The delegation of the United States made a general reservation of the attitude of its Government with regard to the convention, i.e., the standard clauses and the annexes, with respect to any exemption in the United States of citizens of the United States from taxes or national service.

52. The second resolution which is submitted by the Sub-Committee relates to

bodies which may in the future become Specialized Agencies in relationship with the United Nations. Its object is to invite those delegations who are present at any conference drawing up the constitution of such a future body not to insert detailed privileges and immunities in the constitution but to follow a procedure which will facilitate the application of this Convention to the new Agency.

At the request of the Delegations of the Union of Soviet Socialist Republics, Czechoslovakia and Yugoslavia it is placed on record with regard to this resolution that the General Convention of the Specialized Agencies only applies to Agencies in relationship with the United Nations, and, under the Assembly resolution of 12 December 1946, Franco-Spain cannot be a member of an Agency in relationship with the United Nations.

53. The third resolution submitted by the Sub-Committee is prompted by the undeniable fact that the processes of accession to this Convention, as to so many conventions, may be expected to be slow. In view of this, this resolution requests Governments so far as possible to grant to Specialized Agencies of which they are members the privileges and immunities for which this convention provides forthwith and in advance of their formal accession to the Convention. The representative of USSR abstained with regard to the resolutions referred to in this paragraph and paragraph 52.

---

The Sixth Committee recommends, therefore, that the three draft resolutions contained in Appendices A, B and C be adopted by the General Assembly.

APPENDIX A

RESOLUTION I

The General Assembly approves the following Convention on the Privileges and Immunities of the Specialized Agencies and proposes it for acceptance by the Specialized Agencies and for accession by all Members of the United Nations and by any other State Member of a Specialized Agency,

CONVENTION ON THE PRIVILEGES AND IMMUNITIES  
OF THE SPECIALIZED AGENCIES

WHEREAS the General Assembly of the United Nations adopted on 13 February 1946 a resolution contemplating the unification as far as possible of the privileges and immunities enjoyed by the United Nations and by the various Specialized Agencies; and

WHEREAS consultations concerning the implementation of the aforesaid resolution have taken place between the United Nations and the Specialized Agencies;

CONSEQUENTLY, by a resolution adopted on (insert date on which resolution No. I is approved) the General Assembly has approved the following Convention, which is submitted to the Specialized Agencies for acceptance and to every Member of the United Nations and to every other State Member of one or more of the Specialized Agencies for accession.

ARTICLE I

DEFINITIONS AND SCOPE

Section 1

In this Convention:

- (i) The words "standard clauses" refer to the provisions of Articles II to IX.
- (ii) The words "Specialized Agencies" mean:
  - (a) The International Labour Organization;
  - (b) The Food and Agriculture Organization of the United Nations;
  - (c) The United Nations Educational, Scientific and Cultural Organization;
  - (d) The International Civil Aviation Organization;
  - (e) The International Monetary Fund;
  - (f) The International Bank for Reconstruction and Development;
  - (g) The World Health Organization;
  - (h) The Universal Postal Union;
  - (i) The International Telecommunication Union; and
  - (j) any other Agency in relationship with the United Nations in accordance with Articles 57 and 63 of the Charter.
- (iii) The word "convention" means, in relation to any particular

/Specialized

Specialized Agency, the standard clauses as modified by the final (or revised) text of the annex transmitted by that Agency in accordance with Sections 36 and 38.

- (iv) For the purposes of Article III, the words "property and assets" shall also include property and funds administered by a Specialized Agency in furtherance of its constitutional functions.
- (v) For the purposes of Articles V and VII, the expression "representatives of members" shall be deemed to include all delegates, alternates, advisers, technical experts and secretaries of delegations.
- (vi) In Sections 13, 14, 15 and 25, the expression "meetings convened by a Specialized Agency" means meetings of (1) its Assembly and of its executive body (however designated), and (2) of any commission provided for in its constitution, (3) of any international conference convened by it, and (4) of any committees of any of these bodies.
- (vii) The terms "Executive head" means the principal executive official of the Specialized Agency in question, whether designated "Director-General" or otherwise.

## Section 2

Each State party to this Convention in respect of any Specialized Agency, to which this Convention has become applicable in accordance with Section 37 shall accord to, or in connection with, that Agency the privileges and immunities set forth in the standard clauses on the conditions specified therein, subject to any modification of those clauses contained in the provisions of the final (or revised) annex relating to that Agency and transmitted in accordance with Sections 36 and 38.

## ARTICLE II

### JURIDICAL PERSONALITY

## Section 3

The Specialized Agencies shall possess juridical personality. They shall have the capacity (a) to contract, (b) to acquire and dispose of immovable and movable property, (c) to institute legal proceedings.

## ARTICLE III

### PROPERTY, FUNDS AND ASSETS

## Section 4

The specialized agencies, their property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case they have expressly waived their immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.



Section 5

The premises of the specialized agencies shall be inviolable. The property and assets of the specialized agencies, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

Section 6

The archives of the specialized agencies, and in general all documents belonging to them or held by them, shall be inviolable wherever located.

Section 7

Without being restricted by financial controls, regulations or moratoria of any kind:

- (a) the specialized agencies may hold funds, gold or currency of any kind and operate accounts in any currency;
- (b) the specialized agencies shall be free to transfer their funds, gold or currency from one country to another or within any country and to convert any currency held by them into any other currency.

Section 8

Each specialized agency shall, in exercising its rights under Section 7 above, pay due regard to any representations made by the Government of any State party to this Convention insofar as it is considered that effect can be given to such representations without detriment to interests of the agency.

Section 9

The specialized agencies, their assets, income and other property shall be:

- (a) exempt from all direct taxes; it is understood, however, that the specialized agencies will not claim exemption from taxes which are, in fact, no more than charges for public utility services;
- (b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the specialized agencies for their official use; it is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country;
- (c) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of their publications.

Section 10

While the specialized agencies will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the specialized agencies are making important purchases for official use of /property

property on which such duties and taxes have been charged or are chargeable, States parties to this convention will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

#### ARTICLE IV

##### FACILITIES IN RESPECT OF COMMUNICATIONS

###### Section 11

Each specialized agency shall enjoy, in the territory of each State party to this convention in respect of that agency, for its official communications treatment not less favourable than that accorded by the Government of such State to any other Government including its diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications, and press rates for information to the press and radio.

###### Section 12

No censorship shall be applied to the official correspondence and other official communications of the specialized agencies.

The specialized agencies shall have the right to use codes and to despatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

Nothing in this Section shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a State party to this Convention and a specialized agency.

#### ARTICLE V

##### THE REPRESENTATIVES OF MEMBERS

###### Section 13

Representatives of Members at meetings convened by a specialized agency shall, while exercising their functions and during their journeys to and from the place of meeting, enjoy the following privileges and immunities:

(a) immunity from personal arrest or detention and from seizure of their personal baggage, and in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind;

(b) inviolability for all papers and documents;

(c) the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(d) exemption in respect of themselves, and their spouses from immigration restrictions, aliens' registration or national service obligations in the State they are visiting or through which they are passing in the exercise of their functions;

/(e) the same

(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 members of comparable rank of diplomatic missions.

#### Section 14

In order to secure for the representatives of Members of the specialized agencies at meetings convened by them complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

#### Section 15

Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members of the specialized agencies at meetings convened by them are present in a State for the discharge of their duties shall not be considered as periods of residence.

#### Section 16

Privileges and Immunities are accorded to the representatives of Members, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the specialized agencies. Consequently, a Member not only has the right but is under a duty to waive the immunity of its representatives in any case where, in the opinion of the Member, the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

#### Section 17

The provisions of Sections 13, 14 and 15 are not applicable in relation to the authorities of a State of which the person is a national or of which he is or has been a representative.

### ARTICLE VI

#### OFFICIALS

#### Section 18

Each specialized agency will specify the categories of officials to which the provisions of this Article and of Article VIII shall apply. It shall communicate them to the Governments of all states parties to this Convention in respect of that agency and to the Secretary-General of the

United Nations. The names of the officials included in these categories shall from time to time be made known to the above-mentioned governments.

#### Section 19

Officials of the specialized agencies 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) enjoy the same exemptions from taxation in respect of the salaries and emoluments paid to them by the specialized agency and on the same conditions as is enjoyed by officials of the United Nations;
- (c) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;
- (d) be accorded the same privileges in respect of exchange facilities as are accorded to officials of comparable rank of diplomatic missions;
- (e) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as officials of comparable rank of diplomatic missions;
- (f) 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 20

The officials of the specialized agencies shall be exempt from national service obligations, provided that, in relations to the States of which they are nationals, such exemption shall be confined to officials of the specialized agencies whose names have, by reason of their duties, been placed upon a list compiled by the Executive head of the specialized agency and approved by the State concerned.

Should other officials of specialized agencies be called up for national service, the State concerned shall, at the request of the specialized agency concerned, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption in the continuation of essential work.

#### Section 21

In addition to the immunities and privileges specified in Sections 19 and 20, the Executive head of each specialized agency including any official acting on his behalf during his absence from duty shall be accorded in respect of himself, his spouse and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

Section 22

Privileges and immunities are granted to officials in the interests of the specialized agencies only and not for the personal benefit of the individuals themselves. Each specialized agency shall have the right and the duty to waive the immunity of any official in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the specialized agency.

Section 23

Each specialized agency 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 abuses in connection with the privileges, immunities and facilities mentioned in this Article.

ARTICLE VII

ABUSES OF PRIVILEGE

Section 24

If any State party to this Convention considers that there has been an abuse of a privilege or immunity conferred by this Convention, consultations shall be held between that State and the Specialized Agency concerned to determine whether any such abuse has occurred and, if so, to attempt to ensure that no repetition occurs. If such consultations fail to achieve a result satisfactory to the State and the Specialized Agency concerned, the question whether an abuse of a privilege or immunity has occurred shall be submitted to the International Court of Justice in accordance with Section 32. If the International Court of Justice find that such an abuse has occurred, the State party to this Convention affected by such abuse shall have the right after notification to the Specialized Agency in question to withhold from, or in connection with, the Specialized Agency concerned the benefits of the privilege or immunity so abused.

Section 25

1. Representatives of Members at meetings convened by specialized agencies, while exercising their functions and during their journeys to and from the place of meeting, and officials within the meaning of Section 18 shall not be required by the territorial authorities to leave the country in which they are performing their functions on account of any activities by them in their official capacity. In the case, however, of the abuse of privileges of residence by any such person committed by activities in that country outside his official functions, he may be required to leave by the Government

/of that

59

of that country provided that;

2. (I) A representative of a member or a person who is entitled to diplomatic immunity under Section 21 shall not be required to leave the country otherwise than in accordance with the diplomatic procedure applicable to diplomatic envoys accredited to that country.

(II) In the case of an official to whom Section 21 is not applicable no order to leave the country shall be issued other than with the approval of the Foreign Minister of the country in question and such approval shall only be given after consultation with the executive head of the specialized agency concerned; and if expulsion proceedings are taken against an official, the executive head of the agency shall have the right to appear in such proceedings on behalf of the person against whom they are instituted.

#### ARTICLE VII

#### LAISSEZ-PASSER

##### Section 26

Officials of the specialized agencies shall be entitled to use the United Nations laissez-passer in conformity with administrative arrangements to be concluded between the Secretary-General of the United Nations and the competent authorities of the specialized agencies to which agencies special powers to issue laissez-passer may be delegated. The Secretary-General of the United Nations shall notify each State party to this convention of each administrative arrangement so concluded.

##### Section 27

States parties to this Convention shall recognize and accept the United Nations laissez-passer issued to officials of the specialized agencies as valid travel documents.

##### Section 28

Applications for visas, where required, from officials of specialized agencies holding United Nations laissez-passer, when accompanied by a certificate that they are travelling on the business of a specialized agency, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

##### Section 29

Similar facilities to those specified in Section 28 shall be accorded to experts and other persons who, though not the holders of United Nations laissez-passer, have a certificate that they are travelling on the business /of a specialized

of a specialized agency.

Section 30

The Executive heads, Assistant Executive heads, heads of departments and other officials of a rank not lower than head of Department of the specialized agencies travelling on United Nations laissez-passer on the business of the specialized agencies shall be granted the same facilities for travel as are accorded to officials of comparable rank in diplomatic missions.

ARTICLE IX

SETTLEMENT OF DISPUTES

Section 31

Each specialized agency shall make provision for appropriate modes of settlement of:

(a) disputes arising out of contracts or other disputes of private character to which the specialized agency is a party;

(b) disputes involving any official of a specialized agency who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of Section 22.

Section 32

All differences arising out of the interpretation or application of the present Convention shall be referred to the International Court of Justice unless in any case it is agreed by the parties to have recourse to another mode of settlement. If a difference arises between one of the specialized agencies on the one hand, and a Member on the other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court and the relevant provisions of the agreements concluded between the United Nations and the specialized agency concerned. The opinion given by the Court shall be accepted as decisive by the parties.

ARTICLE X

ANNEXES AND APPLICATION TO INDIVIDUAL SPECIALIZED AGENCIES

Section 33

In their application to each specialized agency, the standard clauses shall operate subject to any modifications set forth in the final (or revised) text of the annex relating to that Agency, as provided in Sections 36 and 38.

Section 34

The provisions of the Convention in relation to any specialized agency must be interpreted in the light of the functions with which that agency is

/entrusted

entrusted by its constitutional instruments.

Section 35

Draft annexes 1 to 9 are recommended to the specialized agencies named therein. In the case of any specialized agency not mentioned by name in Section 1, the Secretary-General of the United Nations shall transmit to the agency a draft annex recommended by the Economic and Social Council.

Section 36

The final text of each annex shall be that approved by the specialized agency in question in accordance with its constitutional procedure. A copy of the annex as approved by each specialized agency shall be transmitted by the agency in question to the Secretary-General of the United Nations and shall thereupon replace the draft referred to in Section 35.

Section 37

The present Convention becomes applicable to each specialized agency when it has transmitted to the Secretary-General of the United Nations the final text of the relevant annex and has informed him that it accepts the standard clauses, as modified by this annex and undertakes to give effect to Sections 8, 18, 22, 23, 24, 31, 32, 42 and 45 (subject to any modification of Section 32 which may be made in the final text of the annex, to the extent necessary to accord with the constitutional instrument of the agency) and any provisions of the annex placing obligations on the agency. The Secretary-General shall communicate to all Members of the United Nations and other States members of the specialized agencies certified copies of all annexes transmitted to him under this Section and of revised annexes transmitted under Section 38.

Section 38

If, after the transmission of a final annex under Section 36, any specialized agency approves any amendments thereto in accordance with its constitutional procedure, a revised annex shall be transmitted by it to the Secretary-General of the United Nations.

Section 39

1. The provisions of this Convention shall in no way limit or prejudice the privileges and immunities which have been or may hereafter be accorded by any State to any specialized agency by reason of the location in the territory of that State of its headquarters or regional offices.

2. This Convention shall not be deemed to prevent the conclusion between any state party, thereto and any Specialized Agency of supplemental agreements adjusting the provisions of this Convention or extending or curtailing the



privileges and immunities thereby granted.

Section 40

It is understood that the standard clauses as modified by the final text of an annex sent by a specialized agency to the Secretary-General of the United Nations under Section 36 (or any revised annex sent under Section 38) will be consistent with the provisions of the constitutional instrument then in force of the agency in question, and that if any amendment to that instrument is necessary for the purpose of making the constitutional instrument so consistent, such amendment will have been brought into force in accordance with the constitutional procedure of that agency before the final (or revised) annex is transmitted.

The Convention shall not itself operate so as to abrogate, or derogate from, any provisions of the constitutional instrument of any specialized agency or any rights or obligations which the agency may otherwise have or acquire.

ARTICLE XI

FINAL PROVISIONS

Section 41

Accession to this Convention by a Member of the United Nations and (subject to Section 42) by any state member of a specialized agency shall be effected by deposit of an instrument of accession with the Secretary-General of the United Nations, which shall take effect on the date of its deposit.

Section 42

Each specialized agency shall communicate the text of this Convention together with the relevant annexes to those of its members which are not Members of the United Nations and shall invite them to accede thereto in respect of that agency by depositing an instrument of accession to this Convention in respect thereof either with the Secretary-General of the United Nations or with the Executive head of the specialized agency.

Section 43

Each State party to this Convention shall indicate in its instrument of accession the specialized agency or agencies in respect of which it undertakes to apply the provisions of this Convention. Each State party to this Convention may by a subsequent written notification to the Secretary-General of the United Nations undertake to apply the provisions of this Convention to one or more further specialized agencies. This notification shall take effect on the date of its receipt by the

/Secretary-General

## Secretary-General

### Section 44

This Convention shall enter into force for each state party to this Convention in respect of a specialized agency when it has become applicable to that agency in accordance with Section 37 and the State party has undertaken to apply the provisions of the convention to that agency in accordance with Section 43.

### Section 45

The Secretary-General of the United Nations shall inform all Members of the United Nations, as well as all members of the specialized agencies, and Executive heads of the specialized agencies of the deposit of each instrument of accession received under Section 41 and of subsequent notifications received under Section 43. The Executive head of a specialized agency shall inform the Secretary-General of the United Nations and the members of the agency concerned of the deposit of any instrument of accession deposited with him under Section 42.

### Section 46

It is understood that, when an instrument of accession or a subsequent notification is deposited on behalf of any state, this state will be in a position under its own law to give effect to the terms of this Convention, as modified by the final texts of any annexes relating to the agencies covered by such accessions or notifications.

### Section 47

1. Subject to the provisions of paragraph (2) and (3) of this Section, each State party to this Convention undertakes to apply this Convention in respect of each specialized agency covered by its accession or subsequent notification, until such time as a revised convention or annex shall have become applicable to that agency and the said State shall have accepted the revised convention or annex. In the case of a revised annex the acceptance of States shall be by a notification addressed to the Secretary-General of the United Nations which shall take effect on the date of its receipt by the Secretary-General.

2. Each State party to this Convention, however, which is not or has ceased to be a Member of a specialized agency, may address a written notification to the Secretary-General of the United Nations and the Executive head of the agency concerned to the effect that it intends to withhold from that agency the benefits of this Convention as from a specified date which shall not be earlier than three months from the

/date of

date of receipt of the notification.

3. Each State party to this Convention may withhold the benefit of this Convention to any specialized agency which ceases to be in relationship with the United Nations.

4. The Secretary-General of the United Nations shall inform all States parties to this Convention of any notification transmitted to him under the provisions of this Section.

Section 48

At the request of one-third of the States parties to this Convention, the Secretary-General of the United Nations will convene a Conference with the view of its revision.

Section 49

The Secretary-General of the United Nations shall transmit copies of this Convention to each Specialized Agency and to the Government of each Member of the United Nations.

ANNEXES OF THE PROPOSED CONVENTION ON THE PRIVILEGES  
AND IMMUNITIES OF THE SPECIALIZED AGENCIES

ANNEX I

THE INTERNATIONAL LABOUR ORGANIZATION

In their application to the International Labour Organization the standard clauses shall operate subject to the following provision:

Article V (other than paragraph (c) of Section 13) and Section 25 paragraphs 1. and 2 (I) of Article VII shall extend to the employers and workers members of the Governing Body of the International Labour Office; their alternates and advisers; except that any waiver of the immunity of any such person member under Section 16 shall be by the Governing Body.

ANNEX II

THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

In their application to the Food and Agriculture Organization of the United Nations (hereinafter called "the Organization") the standard clauses shall operate subject to the following provisions:

1. Article V and Section 25, paragraphs 1 and 2 (1) of Article VII shall extend to the Chairman of the Council of the Organization, except that any waiver of the immunity of the Chairman under Section 16 shall be by the Council of the Organization.

2. (i) Experts (other than officials coming within the scope of Article VI) serving on committees of, or performing missions for, the Organization shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions, including the time spent on journeys in connection with service on such committees or missions;

(a) immunity from personal arrest or seizure of their personal baggage;

(b) in respect of words spoken or written or acts done by them in the performance of their official functions, immunity of legal process of every kind, such immunity to continue notwithstanding that the persons concerned are no longer serving on committees of, or employed on missions for the Organization;

(c) the same facilities in respect of currency and exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign governments on temporary official missions;

(ii) Privileges and immunities are granted to the experts in the interests of the Organization and not for the personal benefit of the individuals themselves. The Organization shall have the right and the duty to waive the immunity of any expert in any case where in its opinion the immunity would impede the course of justice, and it can be waived without prejudice to the interests of the Organization.

ANNEX III

THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

In their application to the International Civil Aviation Organization (hereinafter called "the Organization") the standard clauses shall operate subject to the following provisions:

1. The privileges, immunities, exemptions and facilities referred to in Section 21 of the standard clauses shall also be accorded to the President of the Council of the Organization.
2. (i) Experts (other than officials coming within the scope of Article VI) serving on committees of, or performing missions for, the Organization shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions, including the time spent on journeys in connection with service on such committees or missions:
  - (a) immunity from personal arrest or seizure of their personal baggage;
  - (b) in respect of words spoken or written or acts done by them in the performance of their official functions, immunity of legal process of every kind, such immunity to continue notwithstanding that the persons concerned are no longer serving on committees of, or employed on missions for the Organization;
  - (c) the same facilities in respect of currency and exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign governments on temporary official missions;
  - (d) inviolability of their papers and documents relating to the work on which they are engaged for the Organization.
- (ii) In connection with (d) of 2 above, the principle contained in the last sentence of Section 12 of the standard clauses shall be applicable.
- (iii) Privileges and immunities are granted to the experts of the Organization in the interests of the Organization and not for the personal benefit of the individuals themselves. The Organization shall have the right and the duty to waive the immunity of any expert in any case where in its opinion the immunity would impede the course of justice, and it can be waived without prejudice to the interests of the Organization.

ANNEX IV

THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND  
CULTURAL ORGANIZATION

In their application to the United Nations Educational, Scientific and Cultural Organization (hereinafter called "the Organization") the standard clauses shall operate subject to the following provisions:

1. Article V and Section 25, paragraphs 1 and 2 (I) of Article VII shall extend to the President of the Conference and members of the Executive Board of the Organization, their substitutes and advisers except that any waiver of the immunity of any such person of the Executive Board under Section 16 shall be by the Executive Board.

2. (i) Experts (other than officials coming within the scope of Article VI) serving on committees of, or performing missions for, the Organization shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions, including the time spent on journeys in connection with service on such committees or missions:

(a) immunity from personal arrest or seizure of their personal baggage;

(b) in respect of words spoken or written or acts done by them in the performance of their official functions, immunity of legal process of every kind, such immunity to continue notwithstanding that the persons concerned are no longer serving on committees of, or employed on missions for the Organization;

(c) the same facilities in respect of currency and exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign governments on temporary official missions;

(ii) Privileges and immunities are granted to the experts of the Organization in the interests of the Organization and not for the personal benefit of the individuals themselves. The Organization shall have the right and duty to waive the immunity of any expert in any case where in its opinion the immunity would impede the course of justice, and it can be waived without prejudice to the interests of the Organization.

## ANNEX V

## THE INTERNATIONAL MONETARY FUND

In their application to the International Monetary Fund (hereinafter called "the Fund"), the standard clauses shall operate subject to the following provisions:

1. The following shall be substituted for Section 9:

(a) The Fund, 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. The Fund shall be immune from prohibitions and restrictions on imports and exports in respect of articles imported or exported for its official use and in respect of its publications. It is understood, however, that the Fund will not claim exemption from taxes which are, in fact, no more than charges for public utility services, and that articles (other than its publications) imported under this exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country. The Fund 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 Fund, including any dividend or interest thereon, by whomsoever held:

(i) which discriminates against such obligation or security solely because of its origin; or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Fund.

2. Section 32 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 Fund from this Convention and are not included in those which it can claim under its Articles or otherwise.



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. The Bank shall be immune from prohibitions and restrictions on imports and exports in respect of articles imported or exported for its official use and in respect of its publications. 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 (other than its publications) imported under this exemption will not be sold in the country into which they were imported except under 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

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

3. Section 32 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 or otherwise.

ANNEX VII

THE WORLD HEALTH ORGANIZATION

In their application to the World Health Organization (hereinafter called "the Organization") the standard clauses shall operate subject to the following modifications:

1. Article V and Section 25, paragraphs 1 and 2 (I) of Article VII shall extend to persons designated to serve on the Executive Board of the Organization, their alternates and advisors, except that any waiver of the immunity of any such persons under Section 16 shall be by the Board.

2. (i) Experts (other than officials coming within the scope of Article VI) serving on committees of, or performing missions for, the Organization shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions, including the time spent on journeys in connection with service on such committees or missions:

(a) immunity from personal arrest or seizure of their personal baggage;

(b) in respect of words spoken or written or acts done by them in the performance of their official functions, immunity from legal process of every kind, such immunity to continue notwithstanding that the persons concerned are no longer serving on committees of, or employed on missions for the Organization;

(c) the same facilities in respect of currency and exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign governments on temporary official missions;

(ii) Privileges and immunities are granted to the experts of the Organization in the interests of the Organization and not for the personal benefit of the individuals themselves. The Organization shall have the right and the duty to waive the immunity of any expert in any case where in its opinion the immunity would impede the course of justice, and it can be waived without prejudice to the interests of the Organization.

ANNEX VIII

THE UNIVERSAL POSTAL UNION

The standard clauses shall apply without modification.

ANNEX IX

THE INTERNATIONAL TELECOMMUNICATIONS UNION

The standard clauses shall apply without modification.

APPENDIX B

RESOLUTION II

WHEREAS the General Assembly on 13 February 1946 adopted a resolution contemplating the unification as far as possible of the privileges and immunities enjoyed by the United Nations and by the Specialized Agencies;

WHEREAS the General Assembly by a resolution adopted on . . . . . approved a General Convention on the Privileges and Immunities of the Specialized Agencies and submitted it to the Specialized Agencies for acceptance and to every Member of the United Nations and to every other State Member of one or more of the Specialized Agencies for accession; and

WHEREAS it is therefore desirable that any Specialized Agency which is hereafter brought into relationship with the United Nations in accordance with Article 63 of the Charter should derive its privileges and immunities exclusively from the said General Convention with such modifications as may be necessary to meet the particular requirements of that Agency contained in an Annex,

THE GENERAL ASSEMBLY

THEREFORE RECOMMENDS that the constitutional instrument of any specialized agency which may hereafter be established should not contain detailed provisions relating to the privileges and immunities to be accorded to, or in connection with, that specialized agency, but should provide that such privileges and immunities shall be governed by the said General Convention modified as may be required;

RECOMMENDS that any international conference at which the establishment of a specialized agency is considered should prepare a draft of the Annex relating to the proposed agency contemplated in Section 36 of the said General Convention and that, if the agency is established, it should send such draft annex to the Secretary-General of the United Nations with a view to assisting the Economic and Social Council in preparing the draft Annex which it will recommend pursuant to Section 35 of the said General Convention after the agency has been brought into relationship with the United Nations, in conformity with the Charter and any recommendation of the General Assembly; and

DIRECTS the Secretary-General to transmit a copy of this resolution to the appropriate officer of any conference at which the establishment of a specialized agency is to be considered.

APPENDIX C

RESOLUTION III

WHEREAS it has been recognized as necessary that the Specialized Agencies enjoy, at the earliest possible date, the privileges and immunities essential for an efficient exercise of their respective functions;

WHEREAS a considerable delay will necessarily ensue before the convention becomes operative in the case of the various agencies;

THE GENERAL ASSEMBLY

RECOMMENDS

That the States Members of the United Nations, pending their formal accession to the general convention concerning the privileges and immunities of specialized agencies, including the annexes relating to each agency, should immediately accord as far as possible to or in connection with the Specialized Agencies, the benefit of the privileges and immunities provided in the said general convention and its annexes, it being understood that the Specialized Agencies may take any necessary parallel action in regard to those of their Members, which are not Members of the United Nations.

-----