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HANDBOOK

ON

THE LEGAL STATUS, PRIVILEGES AND IMMUNITIES

OF THE UNITED NATIONS

52-9876

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Introduction

This Handbook has been prepared by the Division of Immunities and Treaties of the Legal Department as a comprehensive and fully documented compilation of travaux preparatoires, committee reports, General Assembly resolutions and international agreements relating to the legal status, privileges and immunities of the United Nations and of the International Court of Justice, together with all national legislation on the subject which it has been possible to assemble. Materials concerning privileges and immunities of the specialized agencies are not included in this Handbook; it is hoped that they can be compiled at a later date as a companion volume to this Handbook.

The purpose of this Handbook is to provide governments, offices, organs and field missions of the United Nations, as well as research institutions, with information and handy references on this specific branch of international law which is developing through international instruments and day-to-day practices.

This Handbook consists of three main parts and two annexes. Part I sets forth the provisions relating to privileges and immunities both in the Charter of the United Nations and in the Statute of the International Court of Justice. It is accompanied by notes on the drafting of these provisions at the San Francisco Conference. Part II contains the text of the General Convention on the Privileges and Immunities of the United Nations and the texts of other special agreements entered into by the United Nations with Members or non-members on the privileges and immunities which the United Nations, its organs, missions, commissions and conferences enjoy in the territory of each of these contracting parties. Part III is a compilation of laws, regulations and administrative arrangements adopted by Member or non-member States either as implementation of the agreements which they have acceded to, or as a basis for according privileges and immunities to the United Nations and its various organs. Both Part II and Part III are annotated by cases which have been brought before national courts, by the advisory opinion of the International Court of Justice, and by the practices established by the United Nations in its nearly seven years of existence. The annexes reproduce all

preparatory work and General Assembly resolutions on this subject.

Appreciation is expressed to the governments of Member and non-member States for their co-operation in supplying the United Nations Secretariat with necessary information and texts of national legislation concerning the subject matter of this Handbook.

PART I

PROVISIONS OF THE CHARTER OF THE UNITED NATIONS AND OF THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

1. The Charter of the United Nations

Article 104

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

Article 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

2. The Statute of the International Court of Justice

Article 19

The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

Article 32, paragraph 8

The above salaries, allowances, and compensation shall be free of all taxation.

Article 42, paragraph 3

The agents, counsel, and advocates of parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties.

/Notes on the

Notes on the Drafting of Articles 104 and 105 of the United Nations Charter and of Articles 19, 32(8), and 42(3) of the Statute of the International Court of Justice

At the United Nations Conference on International Organization convened in San Francisco, the task of studying all the aspects of the juridical organization of the United Nations was entrusted to Commission IV.

In order to facilitate its work, Commission IV was sub-divided into two committees. The first committee (referred to hereafter as Committee IV/1) was charged with the drafting of the Statute of the International Court of Justice and the drafting of Chapter VII of the Dumbarton Oaks Proposals which dealt with the principles of the Court within the final structure of the United Nations Organization.

The second committee (referred to hereafter as Committee IV/2) was charged with preparing the juridical provisions relating to the functioning of the Organization which had not been provided for in the Dumbarton Oaks Proposals and which were to be inserted in the Charter. Among these were the provisions relating to the juridical status of the Organization and the privileges and immunities granted to the Organization and its officials.

1. The Charter of the United Nations

Article 104

Committee IV/2 had before it a documentation (UNCIO, Docs., Vol.13, p.763) consisting of the following comments and proposals concerning the "juridical" status of the Organization:

Belgium recommended the adoption of the following text (UNCIO, Docs., Vol.3, p.343):

> "The parties to the present Charter recognize that the Organization they are setting up possesses international status, together with the rights this involves."

Canada proposed that the legal status of the United Nations and the official international organizations or agencies brought into relationship with the

United Nations be defined by a convention (UNCIO, Docs., Vol.13, p.595).

Norway proposed to supplement Chapter X of the Dumbarton Oaks Proposals "with rules concerning the recruitment of the staff, its task, legal position and international status" (UNCIO, Docs., Vol.13, p.274).

The question whether the Charter should include an article concerning the international or juridical status of the Organization was discussed in Committee IV/2; and the Belgian proposal was introduced and commented on by several delegates (UNCIO, Docs., Vol.13, pp.622-623).

In favour of the Belgian proposal, it was urged that since international status for the Organization was implied in certain part of the Charter, a specific provision should be made. The League of Nations had found it necessary to arrange for a status enabling it to lease property and make contracts, and provisions had been made for international status for UNRRA.

One delegate felt that the proposal needed clarification, since the Organization might have the necessary status to contract and to hold property under internal law, particularly in the State where its seat would be established, without having an international status. He observed that so far only States had possessed international status which, for example, involved the right to enter into treaties; to grant international status to the Organization was entirely a new departure in the sphere of international law. (For this statement, see United Nations Archives, Vol.87, Verbatim Minutes of the Tenth Meeting of Committee IV/2, running number 16.) Another delegate expressed the view that the international legal status of the Organization should be defined later by the General Assembly. Still another delegate suggested that "juridical" rather than "international" personality or status would be a better term, as susceptible of definition in such a way as to distinguish it from the status enjoyed by States in international law. A further suggestion was that the Charter should enumerate with some exactness the incidents of the legal status the Organization would possess.

In view of these proposals, Committee IV/2 agreed to refer the question to a sub-committee for consideration and report, with the understanding that the sub-committee might report as it saw fit on the matter.

After considerable discussion, the sub-committee proposed, for inclusion in

the Charter, a text which read:

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

In its report, the sub-committee made the following observations (UNCIO, Docs., Vol.13, p.813):

> "It is to be noted that this provision (referring to the text) is conceived in very general terms. It is confined to a statement of the obligation incumbent upon each Member State to act in such a way that the Organization enjoys in its territory a juridical status permitting it to exercise its functions. The Organization should be capable, in effect, as regards international law, of performing the juridical acts required to put its capacities into operation. The Organization must be able in its own name, to contract, to hold movable and immovable property, to appear in court. These are only examples. The sub-committee has preferred to express no opinion on the procedures of internal law necessary to assure this result. These procedures may differ according to the legislation of each Member State. It is possible that among the majority of them it may be indispensable that the Organization be recognized as a juridical personality.
>
> "As regards the question of international juridical personality, the sub-committee has considered it superfluous to make this the subject of a text. In effect, it will be determined implicitly from the provisions of the Charter taken as a whole."

Committee IV/2 approved the report and proposed text of its sub-committee without discussion (UNCIO, Docs., Vol.13, pp.653-655), but the Chairman pointed out that it was a matter of adopting the same criteria as had already been adopted with regard to immunities and privileges (see p. 20 below).

The proposed text was consequently adopted at the ninth Plenary Session of the Conference and inserted as Article 104 of the Charter (UNCIO, Docs., Vol.1, p.625-627).

Article 105

The following documents contained proposals concerning privileges and immunities of the Organization and its officials (UNCIO, Docs., Vol.13, pp.727-730):

Belgium considered that the general principles regarding facilities and

immunities should be determined by the Charter in the following terms (UNCIO, Docs., Vol.3, pp.343-344):

1. To enable the Organization to fulfil the tasks entrusted to it, its Members undertake to accord it facilities and immunities on their respective territories.

2. The premises and records of the Organization are inviolable.

3. Members undertake to grant the Organization the same facilities for official communications as are extended to other Members for their official communications.

4. The Organization, its assets and property, shall enjoy immunity from local jurisdiction, except in cases where the Organization itself expressly renounces this right, and shall likewise be exempt from all direct taxation. The Organization shall also enjoy exemption from customs duties on articles intended for official use, and on publications issued by the Organization.

5. Representatives of Members of the Organization are entitled, in the exercise of their duties, to the immunities granted to diplomatic officials.

6. As regards officials of the Organization, the above-mentioned immunities shall at all times apply to the Secretary-General and to officials holding appointments which the Organization ranks among its higher posts. Other officials are entitled to immunity from legal proceedings with regard to acts performed in the exercise of their duties, unless this immunity is cancelled by the Secretary-General or his authorized representative.

Canada proposed the following text (UNCIO, Docs., Vol.3, p.595):

With a view to ensuring the independence of the United Nations, the official international organizations or agencies brought into relationship with it, and the personnel of the United Nations and such related agencies, their legal status and appropriate immunities from national jurisdiction shall be defined by a convention to be adopted by the General Assembly for submission to the Members of the United Nations. The Members undertake that they will in no case subject the personnel of the United Nations to legal process with respect to acts performed by them in their official capacity unless this immunity is waived by the United Nations.

Mexico proposed to add the following provisions to the Charter:

19. The delegates to the Council and to the Assembly shall enjoy in the exercise of their duties, diplomatic privileges and immunities, which privileges and immunities are extended to the activities and buildings of the P.U.N. (UNCIO, Docs., Vol.3, p.96; see also pp.110-111, p.122. The letters "P.U.N." stand for "Permanent Union of Nations").

20. Among the officials of the Secretariat General only those specified by the Statute of Personnel shall enjoy the diplomatic privileges and immunities referred to in Article 19 (UNCIO, Docs., Vol.3, p.149; see also pp.151, 164, 168, 179).

Norway mentioned in its Amendments and Observations on the Dumbarton Oaks Proposals that it would be desirable to supplement the Chapter on the Secretariat with rules concerning, inter alia, the legal position and international status of the staff (UNCIO, Docs., Vol.3, pp.374-375).

The question of privileges and immunities was included in the agenda of Committee IV/2 as follows: (UNCIO, Docs., Vol.13, p.574)

> "Privileges and Immunities: (a) Should the Charter provide for the immunities and privileges of property owned or possessed by the United Nations Organization and devoted to its use? (b) Should the Charter provide for diplomatic privileges and immunities for: (1) representatives of members of the United Nations Organization and their staffs? (2) officials of the United Nations Organization and their staffs?"

Committee IV/2 unanimously agreed that the Charter should provide for immunities and privileges for (a) property owned or occupied by the United Nations Organization and devoted to its use and (b) representatives of members and officials of the United Nations Organization and their staffs. It was also unanimously agreed that a sub-committee should be appointed to draft the text of a provision regarding the principle of immunities and privileges to be included in the Charter for consideration by the Committee, and that this drafting sub-committee should reconsider the language adopted by the Committee particularly with respect to the extension of immunities and privileges to the staffs of the representatives of members and of officials of the Organization as well as to correspondence of the Organization. The sub-committee was also requested to consider the amendments proposed by Canada and by other countries. (UNCIO, Docs., Vol.13,pp.578-579).

After having considered the various proposals before it, the sub-committee

presented a report to Committee IV/2 in which the following text was recommended (UNCIO, Docs., Vol.13, pp.778-780, and p.785):

Article .....

I. (1) The Organization shall enjoy in the territory of each of its members such privileges and immunities as are necessary to the fulfilment of its purposes.

(2) Representatives of members of the Organization and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary to the independent exercise of their functions in connexion with the Organization.

II. The General Assembly may make recommendations with a view to determining the details of the application of the foregoing provisions or may propose conventions to the members of the Organization for this purpose.

The report stated that paragraph I (1) of the proposed article referred to the Organization as a distinct entity and covered all its agencies, i.e., those established by the Charter as well as other bodies or organisms which might subsequently be established by virtue of powers conferred by the Charter. By way of examples of such bodies and organisms, the sub-committee pointed to those to be established by the General Assembly, the Security Council and the Economic and Social Council, as contemplated by Chapters V, VI and IX of the Dumbarton Oaks Proposals. Therefore, the sub-committee excluded from the provisions of its proposal those agencies not belonging to the Organization, although they might have been brought into relationship with it through application of the Charter. Moreover, in the opinion of the sub-committee, the text did not apply to the authorities and agencies whose statutes already governed the situation with respect to the privileges and immunities in question; their situation continued to be so governed. Paragraph I (2) referred to: (A) the representatives of the States Members of the Organization; and (B) the agents (functionaries, etc.) of the Organization and of its organs, authorities or agencies referred to in paragraph I (1).

In order to determine the nature of the privileges and immunities, the sub-committee avoided the term "diplomatic" and preferred to substitute a more

appropriate standard, based, for the purpose of the Organization, on the necessity of realizing its purposes and, in the case of the representatives of its members and officials of the Organization, on the independent exercise of their functions.

According to the report, paragraph I laid down a rule obligatory for all members as soon as the Charter would become effective, whereas paragraph II only provided a power, which the General Assembly was free to exercise or not, for the determination of the details of application of the provisions of paragraph I. The General Assembly might make recommendations applying only to those Members who might have weightier obligations owing to the fact that the Organization or its organs happened to have established on their territory; these recommendations of the Assembly might assume the form of a convention (agreement, modus vivendi, etc.) proposed by the General Assembly to be concluded with the Member concerned. The recommendations of the General Assembly might differ according to the particular circumstances of the States to which they would be addressed. On the other hand, the possibility of a general convention to be submitted to all Members was not excluded. Furthermore, in the opinion of the sub-committee, the rule laid down in paragraph I should apply under any circumstances, its authority being in no way subordinate to the exercise by the Assembly of the power specified in paragraph II.

A specification privileges and immunities was deemed superfluous by the sub-committee. The terms privileges and immunities, according to the report, indicated in a general way all that could be considered necessary to the realization of the purposes of the Organization, to the full functioning of its organs, and to the independent exercise of the functions and duties of their officials. The report stated that "it would moreover have been impossible to establish a list valid for all the Member States and taking into account of the special situation in which some of them might find themselves by reason of the activities of the Organization or of its organs in their territory. But if there is one principle certain it is that no Member State may hinder in any way the working of the Organization or take any measures the effect of which might be to increase its burdens, financial or other."

/In the course

In the course of discussion by Committee IV/2 of the sub-committee's report (UNCIO, Docs., Vol.13, p.607), it was pointed out that the text of the proposed addition to the Charter was broad enough to cover the Organization, the International Court of Justice and other organs of the Organization. There was a general discussion of the co-ordination of the Statute of the Court in this connexion with the proposed addition to the Charter. It was suggested that Committee IV/1, in its review of the Statute of the Court, could take any necessary action to co-ordinate the Statute of the Court with the proposed revision of the Charter.

The Committee approved the proposed text of the addition to the Charter but deleted from the body of the report of the sub-committee the sentence which would make the text inapplicable to the authorities and agencies whose statutes already governed the situation with respect to the privileges and immunities in question. The report of Committee IV/2 (UNCIO, Docs., Vol.13, pp.661-662, 665) was approved by Commission IV without discussion (UNCIO, Docs.,Vol.13, pp.67-68); and the recommended provisions contained therein, after their approval by the Conference at its ninth Plenary Session, became Article 105 of the Charter.

2. The Statute of the International Court of Justice

Articles 19 and 42(3)

In accordance with the Dumbarton Oaks Proposals which provided that the United Nations Organization should include among its principal organs an International Court of Justice, a Committee of Jurists was designated by the United Nations, which met in Washington for the purpose of preparing a draft statute of the said Court. This draft statute was submitted by the Committee of Jurists to the San Francisco Conference and was taken as a basis of discussion by Committee IV/1.

The text of Article 19 of the draft statute, which corresponded to the same Article of the Statute of the Permanent Court of International Justice, and the accompanying observations made by the Committee of Jurists read as follows (UNCIO, Docs., Vol.14, p.832):

"Article 19

The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

(Subject to reconsideration after provisions on the same subject have been adopted for incorporation in the Charter.)"

When this Article and the accompanying observations were examined by Committee IV/1, the delegate of Iran raised the question of the status of a judge having the nationality of the country in which the Court might be in session. The delegate of the Netherlands observed that his Government treated all members of the Court as being assimilated to the diplomatic corps at the Hague. The Philippine delegate considered that this was a matter for the constitutional authorities of the country concerned. The delegate of Turkey stated that a country ratifying the Statute would be bound thereby to accord diplomatic privileges to all judges, including any of its own nationality. The Committee then unanimously approved the text of Article 19 and the accompanying observations made by the Committee of Jurists (UNCIO, Docs., Vol. 13, pp.155-156.

After Committee IV/2 approved the provisions relating to the privileges and immunities of the Organization and its officials, and in view of the observations of the Committee of Jurists, Article 19 of the draft statute was reopened for discussion in Committee IV/1 (UNCIO, Docs., Vol. 13, p.204). One delegate pointed out that the general provision in the Charter related only to such privileges and immunities as were necessary for the exercise of the functions of the Organization because there was no need for some of the officials of the Organization to enjoy diplomatic privileges; on the other hand, Committee IV/1 must say what privileges and immunities were necessary for the exercise of the functions of the members of the Court. In his opinion, members of the Court needed diplomatic privileges (For this statement, see UN Archives, Vol. 83, Verbatim Minutes of the eleventh meeting of Committee IV/1, running numbers 43-44).

In this connexion, and when Article 42 of the draft statute was under discussion, it was suggested that provision should also be made for immunities for the Registrar and other members of the staff of the Court, and

/for agents

for agents and counsel of the parties. The relationship of this article to the general provision in the Charter relating to the privileges and immunities of officials of the Organization was also discussed. Committee IV/1 considered a proposal submitted by Iran and Mexico to confer immunities on agents and counsel of parties before the Court (UNCIO, Docs., Vol.13, p.477). It was pointed out that this problem might be important because these persons might have to travel through several countries to reach the Court and also because of the possibility that special chambers of the Court might sit at places other than the Hague.

After these considerations, the Committee decided that Article 19 would remain as it was, and the following proposal was adopted and added as an amendment to Article 42:

> "The agents and counsel of parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties."

(UNCIO, Docs., Vol.13, p.208. For report of Committee IV/1, see ibid. pp. 389-390).

The report of Commission IV which incorporated the recommendations of Committee IV/1 and of which the Statute of the Court formed a part was approved by the Conference at its ninth Plenary Session.

Article 32 (8)

The salaries, allowances and compensation provided in this paragraph were those of the members, judges other than members, the President, the Vice-President and the Registrar of the Court. This provision was taken from the Statute of the Permanent Court of International Justice and was approved at the San Francisco Conference without discussion.

PART II

INTERNATIONAL AGREEMENTS

1. General Convention

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS*

WHEREAS Article 104 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes and

WHEREAS Article 105 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes and that representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of the functions in connexion with the Organization:

CONSEQUENTLY the General Assembly by a resolution adopted on 13 February 1946 approved the following convention and proposes it for accession by each Member of the United Nations.

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* Privileges and immunities accorded to the United Nations are applicable to subsidiary organs, such as the United Nations International Children's Emergency Fund, United Nations Relief and Works Agency for Palestine Refugees, United Nations Korean Reconstruction Agency. Thus, the agreements concluded between the UNICEF and forty-six States in connexion with the Fund's assistance programmes contain a standard clause which except for some minor changes in wording reads as follows:

> "The Government will grant to the Fund and its personnel the privileges and immunities contained in the General Convention on Privileges and Immunities adopted by the General Assembly of the United Nations on 13 February 1946."

For special agreements concerning the privileges and immunities of subsidiary organs, see PART II, 2. C. infra.

ARTICLE I

Juridical Personality

Section 1. The United Nations shall possess juridical personality.* It shall have the capacity:

(a) to contract;

(b) to acquire and dispose of immovable and movable property;

(c) to institute legal proceedings.

ARTICLE II

Property, Funds and Assets

Section 2. The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process** except in so far as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

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* Pursuant to the submission by the General Assembly (Resolution 258 (III)) of questions relating to the capacity of the United Nations to bring claims against a government for reparations for damages caused the United Nations or an agent of the United Nations, the International Court of Justice rendered an advisory opinion holding the United Nations to possess international personality and the capacity to bring claims against a State. Reparations for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports, 1949, p. 174 ff. For subsequent General Assembly action see Resolution 365 (IV), infra, Annex II, at p.556, based on a report of the Sixth Committee, infra, Annex I, at p.523.

** This immunity includes immunity from process in connexion with garnishment or attachment of staff members' salaries.

The assets of the United Nations in the United States and in Switzerland by law (P.L.291, see p.277) and agreement (see p. 47), respectively, are afforded the same immunity as is provided in the Convention. And in consequence, both the New York Headquarters and the European Office in Geneva have established an internal procedure to afford a substitute remedy for creditors of United Nations' staff members. For a case in point decided in the Federal Tribunal of Switzerland on 12 January 1948, see, La Semaine Judiciaire, 70 Ann.N.15, 13 Avril, 1948.

/Section 3.

Section 3. The premises of the United Nations shall be inviolable. The property and assets of the United Nations, 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 4. The archives of the United Nations, and in general all documents belonging to it or held by it, shall be inviolable wherever located.

Section 5. Without being restricted by financial controls, regulations or moratoria of any kind,

(a) The United Nations may hold funds, gold or currency of any kind and operate accounts in any currency;

(b) The United Nations shall be free to transfer its funds, gold or currency from one country to another or within any country and to convert any currency held by it into any other currency.

Section 6. In exercising its rights under section 5 above, the United Nations shall pay due regard to any representations made by the Government of any Member in so far as it is considered that effect can be given to such representations without detriment to the interests of the United Nations.

Section 7. The United Nations, its assets, income and other property shall be:

(a) exempt from all direct taxes;* it is understood, however, that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

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* Exemption from transportation tax is to be provided only where official travel is involved. Taxes imposed on transfers of funds and exchange of currency are also covered by this exemption as are hotel taxes where rooms are occupied by officials in their official capacity.

/(b) exempt from

(b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its 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 its publications.*

Section 8. While the United Nations 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 United Nations is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.**

ARTICLE III

Facilities in Respect of Communications

Section 9. The United Nations shall enjoy in the territory of each Member for its official communications treatment not less favourable than that accorded by the

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* All United Nations publications issued periodically or otherwise and including those shipped to agents for sale are covered by this exemption. "Publications" likewise includes films and radio transcription discs prepared by the United Nations as a part of its public information programme and exported or imported for exhibition or broadcasting.

** This section is construed to provide exemption from sales taxes which are assessed and stated separately from the purchase price.

Exemption from excise taxes was requested where stationery supplies were purchased locally in large quantities for the use of an information centre; request was similarly made for exemption on the sale of trucks necessary for relief work. No request was made for tax exemption for a single purchase of space for advertising United Nations publications.

Government of that Member 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. No censorship shall be applied to the official correspondence and other official communications of the United Nations.

Section 10. The United Nations shall have the right to use codes and to dispatch and receive its correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

ARTICLE IV

The Representatives of Members

Section 11. Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, shall, while exercising their functions and during their journey 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 capacity as representatives, 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;

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* Telegrams and telephone calls originating with the Secretary-General and heads of subsidiary organs fall within the definition of "Government telegrams and Government telephone calls" contained in Annex II to the International Telecommunications Convention and may thus be given the priority afforded such telegrams and telephone calls under the regulations of the International Telecommunications Union.

/(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 diplomatic envoys, and also;

(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.

Section 12. In order to secure for the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, 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 the representatives of Members.

Section 13. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations are present in a State for the discharge of their duties shall not be considered as periods of residence.

Section 14. 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 connexion with the United Nations. Consequently a Member not only has the right but is under a duty to waive the immunity of its representative 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 15. The provisions of sections 11, 12 and 13 are not applicable as between a representative and the authorities of the State of which he is a national or of which he is or has been the representative.

/Section 16.

Section 16. In this article the expression "representatives" shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

ARTICLE V

Officials

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

Section 18. Officials of the United Nations shall:

(a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) be exempt from taxation on the salaries and emoluments paid to them by the United Nations;**

(c) be immune from national service obligations;

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

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

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* The categories of officials to which Articles V and VII apply include all staff members with the exception of those who are recruited locally and assigned to hourly rates. See Report by the Secretary-General, infra, Annex I, p. 424, and General Assembly resolution 76(I), infra, Annex II, p. 543. Technical assistance experts who fall within this definition are considered to be officials and Articles V and VII rather than the provisions of Article VI are deemed applicable to them.

** In order to provide for equality of remuneration among United Nations staff members performing comparable duties pending the tax exemption by all Member States of their nationals in United Nations' service, a United Nations Tax Assessment Plan has been established applicable to all United Nations staff members. Reimbursement of national income tax paid by staff members on their United Nations' salaries has been provided. See Suggestions of the Advisory Group of Experts; Report of the Sub-Committee of the Fifth Committee; Report of the Fifth Committee, infra, Annex I, pp. 418 to 423; and General Assembly resolution 13 (I); see also Report of the Fifth Committee, infra, Annex I, p. 482, Report of the Secretary-General, p. 502, and General Assembly resolution 160 (II).

/(f) be given,

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

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

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

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

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

ARTICLE VI

Experts on Missions for the United Nations

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

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* Automobiles are a normal part of an official's "effects" when re-establishing himself in another country and may therefore properly be imported by an official free of duty at the time of first taking up his post.

/(a) immunity

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

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

(c) inviolability for all papers and documents;

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

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

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

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

ARTICLE VII

United Nations laissez-passer

Section 24. The United Nations may issue United Nations laissez-passer to its officials.* These laissez-passer shall be recognized and accepted as valid travel documents, by the authorities of Members, taking into account the provisions of section 25.

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* The use of laissez passer is not restricted to travel on official business of the United Nations, but includes travel for such other purposes as home leave and approved personal travel which are related to the bearer's position as a United Nations official.

Section 25. Applications for visas (where required) from the holders of United Nations laissez-passer, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.*

Section 26. Similar facilities to those specified in section 25 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 the United Nations.

Section 27. The Secretary-General, Assistant Secretaries-General and Directors travelling on United Nations laissez-passer on the business of the United Nations shall be granted the same facilities as are accorded to diplomatic envoys.**

Section 28. The provisions of this article may be applied to the comparable officials of specialized agencies if the agreements for relationship made under Article 63 of the Charter so provide.***

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* The facilities for speedy travel to be accorded to United Nations officials on official travel under this section include the granting of priorities and clearances and the prompt completion of any governmental procedures relative to the travel. The Secretary-General has sought to encourage governments not to require visas for officials travelling on United Nations laissez-passer on official business, and certain governments have formally dispensed with such a requirement.

** A "red-backed" laissez-passer instead of the regular "blue-backed" document is ordinarily issued to officials entitled to the facilities provided for in this section, which include diplomatic courtesies.

*** United Nations laissez-passer are now issued to officials of the following Specialized Agencies:

Food and Agriculture Organization of the United Nations
International Bank for Reconstruction and Development
International Civil Aviation Organization
International Monetary Fund
International Telecommunication Union
United Nations Educational, Scientific and Cultural Organization
Universal Postal Union
World Health Organization
World Meteorological Organization

The International Labour Organisation issues its own laissez-passer to its officials under authority of Article VIII, Section 6, of the Convention on the Privileges and Immunities of the Specialized Agencies.

ARTICLE VIII

Settlement of Disputes

Section 29. The United Nations shall make provisions for appropriate modes of settlement of:

(a) disputes arising out of contracts or other disputes of a private law character, to which the United Nations is a party;

(b) disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General.

Section 30. 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 the United Nations 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. The opinion given by the Court shall be accepted as decisive by the parties.

FINAL ARTICLE

Section 31. This Convention is submitted to every Member of the United Nations for accession.*

Section 32. Accession shall be effected by deposit of an instrument with the Secretary-General of the United Nations and the Convention shall come into force as regards each Member on the date of deposit of each instrument of accession.

Section 33. The Secretary-General shall inform all Members of the United Nations of the deposit of each accession.

Section 34. It is understood that, when an instrument of accession is deposited on behalf of any Member, the Member will be in a position under its own law to give effect to the terms of this Convention.

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* See General Assembly resolution 93 (I), infra, Annex II, p. 547, in which the General Assembly invited Members to accede to the Convention as early as possible and recommended that, pending their accession to the Convention, Members should follow the provisions of the Convention in their relations with the United Nations.

For Member States which have acceded to the Convention, see Appendix.

/Section 35.

Section 35. This Convention shall continue in force as between the United Nations and every Member which has deposited an instrument of accession for so long as that Member remains a Member of the United Nations, or until a revised general convention has been approved by the General Assembly and that Member has become a party to this revised Convention.

Section 36. The Secretary-General may conclude with any Member or Members supplementary agreements adjusting the provisions of this Convention so far as that Member or those Members are concerned. These supplementary agreements shall in each case be subject to the approval of the General Assembly.

APPENDIX

Member Governments which have acceded to the Convention on the Privileges and Immunities of the United Nations:

State	Date of deposit of the Instrument
Afghanistan	5 September 1947
Australia	2 March 1949
Belgium	25 September 1948
Bolivia	23 December 1949
Brazil	15 December 1949
Canada	22 January 1948
With the reservation that exemption from taxation imposed by any law in Canada on salaries and emoluments shall not extend to a Canadian citizen residing or ordinarily resident in Canada.	
Chile	15 October 1948
Costa Rica	26 October 1949
Denmark	10 June 1948
Dominican Republic	7 March 1947
Egypt	17 September 1948
El Salvador	9 July 1947
Ethiopia	22 July 1947
France	18 August 1947
Greece	29 December 1947
Guatemala	7 July 1947
Haiti	6 August 1947
Honduras	16 May 1947
Iceland	10 March 1948
India	13 May 1948
Iran	8 May 1947
Iraq	15 September 1949

/Israel

State	Date of deposit of the Instrument
Israel	21 September 1949
Lebanon	10 March 1949
Liberia	14 March 1947
Luxembourg	14 February 1949
Netherlands	19 April 1948
New Zealand	10 December 1947

With the reservation that exemption from rates imposed by any law in New Zealand or taxation imposed on salaries and emoluments by any law in New Zealand shall not extend to a person who is a British subject and who is domiciled and employed in New Zealand.

Nicaragua	29 November 1947
Norway	18 August 1947
Pakistan	22 September 1948
Panama	27 May 1947
Philippine Republic	28 October 1947
Poland	8 January 1948
Sweden	28 August 1947
Turkey	22 August 1950

With the following reservations:*

"(a) The deferment, during service with the United Nations, of the second period of military service of Turkish nationals who occupy posts with the said Organization, will be arranged in accordance with the procedures provided in Military Law No. 1111, account being taken of their position as reserve officers or private soldiers, provided that they complete their previous military service as required under Article 6 of the above-mentioned Law, as reserve officers or private soldiers.

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* Original text in Turkish. Translation by the Secretariat.

/"(b)

State	Date of deposit of the Instrument
"(b) Income obtained from businesses and undertakings outside the political activity of the United Nations and of a commercial nature shall be subject to the provisions of our laws on direct taxation. "(c) When goods belonging to the United Nations imported into Turkey under customs exemptions are sold in Turkey, they shall be subject to import duties and charges in accordance with Art cle 4 of the Customs Law. "(d) Purchases of land and immovables in Turkey by the United Nations are subject to the conditions of purchase applied to foreigners. All goods bought by the United Nations which are not exported but utilized and consumed in Turkey are also subject to the provisions of the laws governing taxation on consumption and transactions and other laws concerning goods of the same kind. "(e) Turkish nationals entrusted by the United Nations with a mission in Turkey as officials of the Organization are subject to the taxes payable by their fellow citizens. They must make an annual declaration of their salaries in accordance with the provisions set forth in Chapter 4, Section 2, of Law No. 5421 concerning income tax."	
United Kingdom of Great Britain and Northern Ireland	17 September 1946
Yugoslavia	30 June 1950

2. Special Agreements

A. International Court of Justice

EXCHANGE OF LETTERS RECORDING AN AGREEMENT BETWEEN THE INTERNATIONAL COURT OF JUSTICE AND THE NETHERLANDS RELATING TO PRIVILEGES AND IMMUNITIES OF MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE, THE REGISTRAR, OFFICIALS OF THE REGISTRY, ASSESSORS, THE AGENTS AND COUNSEL OF THE PARTIES AND OF WITNESSES AND EXPERTS. THE HAGUE, 26 JUNE 1946*

No. 1

Letter from the President of the International Court of Justice
To the Minister for Foreign Affairs of the Netherlands

The Hague, 26 June 1946

Monsieur le Ministre,

As Your Excellency is aware, the General Assembly of the United Nations, on 19 January 1946, instructed its Sixth Committee to consider the question of the privileges, immunities and facilities to be granted to the United Nations. In accordance with these instructions, the Sixth Committee prepared a number of draft resolutions. One of these relates to the adoption of a General Convention containing an Article V, in which the privileges, immunities, exemptions and facilities to be enjoyed as a general rule by the officials of the Organization

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* This Agreement came into force on 11 December 1946 when it was approved by General Assembly resolution 90(I). In this resolution, the General Assembly also made a number of recommendations as to the privileges, immunities and facilities which the judges and officials of the Court, as well as agents, counsel, advocates, assessors, witnesses, experts and persons performing missions by order of the Court, while on business of the Court or during the period of their missions, should enjoy in any country where they may be or through which they may pass. (see Annex II, pp.544, infra.; see also Annex I, pp.434 for Report of the Sixth Committee on which the General Assembly resolution is based.)

are set out.

As regards the International Court of Justice, the Sixth Committee devoted to it a special resolution. After considering the question of the privileges and immunities to be accorded to members of the Court, to the Registrar and the Court's staff, and to the agents, counsel and advocates of the parties, the resolution recommended that, to ensure that the Court shall enjoy the privileges, immunities and facilities necessary for the exercise of its functions and the filfilment of its purpose, in the country of its seat and elsewhere, the Court shall make the recommendations, to be forwarded to the Secretary-General.

The Assembly's reason for dealing separately with the case of the International Court of Justice and for asking it to formulate proposals was that the Court's Statute, which is annexed to, and forms an integral part of, the Charter, provides in Article 19, that, when engaged on the business of the Court the members of the Court shall enjoy diplomatic privileges; while Article 42 lays down that the agents, counsel and advocates of the parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties. Another reason was, doubtless, that the Court is an organism whose members with their small staff, perform duties of a special character and whose requirements are consequently different from those of the other organs of the United Nations.

In any case, as regards Netherlands territory, negotiations have taken place between representatives of the Netherlands Foreign Ministry and representatives of the Court, with a view to giving effect in the most satisfactory way possible to the above mentioned Assembly resolution. In accordance with the excellent relations that have always existed between international judicial bodies and the Government of the Netherlands, these conversations led to an agreement on the general principles that should govern the matter.

Those principles are set out in the appendix to the present note. In communicating this document to Your Excellency, I have the honour to ask you to confirm that its content is in accordance with the agreement reached.

I would add the following: In the report in which the Court forwards its recommendations on privileges and immunities, the Secretary-General is requested

to ask the General Assembly to declare the agreement reached between the Netherlands Government and the Court to be satisfactory. Special mention is made of the traditional liberality of the Netherlands in this matter.

On the other hand, I trust that you will agree with me that the question of precedence, formerly dealt with in paragraph IV of the General Principles annexed to the letters exchanged on 22 May 1928, between the President of the Permanent Court of International Justice and the Netherlands Minister for Foreign Affairs, remains outside the present agreement. I should be grateful if you would confirm your agreement on this point.

(signed) J.G. GUERRERO
President of the International Court of Justice

APPENDIX

1. As concerns the privileges, immunities, facilities and prerogatives, within the territory of the Netherlands, of members and staff of the International Court of Justice of other than Dutch nationality:

(a) The members of the Court will, in a general way, be accorded the same treatment as heads of diplomatic missions accredited to Her Majesty the Queen of the Netherlands.

As regards the privileges, immunities and facilities above-mentioned, this provision applies also to the Registrar of the Court and to the Deputy Registrar when acting for the Registrar.

(b) The Deputy Registrar of the Court will, in a general way, be accorded the same treatment as counsellors attached to diplomatic missions at The Hague.

The higher officials of the Court - first secretaries and secretaries - will, in a general way, be accorded the same treatment as secretaries attached to diplomatic missions at The Hague.

(c) The other officials of the Court will be treated as officials of comparable rank attached to diplomatic missions at The Hague.

2. Members of the Court, the Registrar and higher officials of the Court who are of Netherlands nationality are not answerable to the local jurisdiction for acts performed by them in their official capacity and within the limits of their duties.

Netherlands nationals of whatever rank are exempt from direct taxation on the salaries allotted to them from the Court's budget.

3. The wives and unmarried children of members of the Court, the Registrar and the higher officials of the Court, when of non-Netherlands nationality shall receive the same treatment as the head of the family, if they live with him and are without profession. The household of the family (governesses, private secretaries, servants, et cetera) occupy the same position as is accorded in each case to the domestic staff of diplomatic persons of comparable rank.

4. Privileges and immunities are granted in the interests of the administration of international justice and not in the personal interest of the beneficiary.

As concerns officials of the Registry, the Registrar, with the President's approval, may withdraw their immunities, with due regard to the principle laid down in the previous paragraph. In the case of the Registrar, this duty shall rest with the Court.

5. The assessors of the Court and the agents, counsel and advocates of the Parties, shall be accorded such privileges, immunities and facilities for residence and travel as may be required for the independent exercise of their functions.

Witnesses and experts shall be accorded the immunities and facilities necessary for the fulfilment of their mission.

No. 2

Letter from the Minister for Foreign Affairs of the Netherlands to the President of the International Court of Justice

The Hague, 26 June 1946

Monsieur le Président,

I have the honour to acknowledge receipt of Your Excellency's letter of 26 June, in which you draw my attention to the resolution of the Sixth Committee of the United Nations General Assembly, concerning privileges and immunities to be granted to the International Court of Justice.

I was much pleased to note that Your Excellency was good enough to mention that the conversations that took place between representatives of the Court and representatives of my Ministry were marked by a continuance of the excellent relations that prevail by tradition between international judicial organizations and Her Majesty's Government, and I hasten to assure Your Excellency that Her Majesty's Government also has a happy recollection of the relations that existed between it and the Permanent Court of International Justice.

In accordance with Your Excellency's request, I wish to confirm that the appendix attached to your above-mentioned letter fully corresponds to the agreement reached during the conversations and exactly reproduces the Netherlands Government's views on the subject.

I note with much satisfaction that in the report in which the Court forwards its recommendations concerning privileges and immunities - requesting the Secretary-General of the United Nations to beg the General Assembly to declare the agreement reached between the Netherlands Government and the Court entirely satisfactory - special mention is made of the liberal traditions of the Netherlands in this matter.

With reference to the last paragraph of Your Excellency's letter above-mentioned, I beg to confirm that it is understood that the question of precedence formerly dealt with in paragraph IV of the General Principles attached to the letters exchanged between the President of the Permanent Court of International Justice and the Netherlands Minister for Foreign Affairs, dated 22 May 1928, remains outside the present Agreement.

(Signed) J.H. van ROIJEN
Minister for Foreign Affairs

B. United Nations: Headquarters Operations and Offices in Host Countries

(1) INTERIM ARRANGEMENT ON PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS CONCLUDED BETWEEN THE SWISS FEDERAL COUNCIL AND THE SECRETARY-GENERAL OF THE UNITED NATIONS*

WHEREAS the General Assembly of the United Nations, on 12 February 1946, approved a Common Plan for the transfer of certain assets of the League of Nations to the United Nations which had been previously agreed upon between a Committee set up by the Preparatory Commission of the United Nations and the Supervisory Commission of the League of Nations; and

WHEREAS the Assembly of the League of Nations approved the said Common Plan on 18 April 1946,

The Swiss Federal Council on the one hand and the Secretary-General of the United Nations on the other hand have agreed to the following Interim Arrangement for the purpose of determining the privileges and immunities to be granted to the United Nations, to the representatives of its Members and to its officials, and of regulating other related matters.

ARTICLE I

Juridical Personality

Section 1. The Swiss Federal Council recognizes the international personality and legal capacity of the United Nations. Consequently, according to the rules of international law, the Organization cannot be sued before the Swiss Courts without its express consent.

ARTICLE II

Property, Funds and Assets

Section 2. The premises of the United Nations shall be inviolable. The property and assets of the United Nations in Switzerland shall be immune from search,

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* This arrangement was approved on 14 December 1946 by General Assembly resolution 98(I) (see Annex II, p. 548, infra) which was based on a report by the Secretary-General (see Annex I, p. 465, infra).

requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

Section 3. The archives of the United Nations, and in general all documents belonging to it or held by it in Switzerland, shall be inviolable.

Section 4. Without being restricted by financial control, regulations or moratoria of any kind,

(a) the United Nations may hold funds, gold or currency of any kind and operate accounts in any currency;

(b) the United Nations shall be free to transfer its funds, gold or currency to or from Switzerland or within Switzerland and to convert any currency held by it into any other currency. In exercising its rights under this section, the United Nations shall pay due regard to any representations made by the Swiss Federal Council in so far as the Organization considers that effect can be given to such representations without detriment to its interests.

Section 5. The United Nations, its assets, income and other property shall be

(a) exempt from all direct and indirect taxes, whether federal, cantonal or communal (it is understood, however, that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services);

(b) exempt from the droit de timbre on coupons instituted by the Swiss Federal law of 25 June 1921, and from the impot anticipe introduced by the Federal Council decree of 31 October 1944. The exemption shall be effected by the repayment to the United Nations of the amount of tax levied on its assets;

(c) exempt from all customs duties in respect of articles imported or exported by the United Nations for its official use. It is understood, however, that articles imported under such exemption will not be sold in Switzerland except under conditions agreed with the Swiss Federal Council;

(d) Exempt from all prohibitions and restrictions on imports and exports in respect of articles intended for the official use of the

United Nations, on the understanding that the United Nations will use its good offices to obtain if necessary the consent of any other State which may be concerned, and subject to the provisions of general international conventions and public health measures;

(e) exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of its publications.

Section 6. The United Nations does not propose, as a general rule, to claim exemption from indirect taxes or sales taxes included in the price of movable or immovable property. Its intention is to claim this exemption only in the case of important purchases effected by the United Nations for its official purposes where such taxes are included in the price. In cases of this kind, the Swiss Federal Council will make appropriate administrative arrangements for the remission or return of the amount of such taxes.

ARTICLE III

Facilities in Respect of Communications

Section 7. The United Nations shall enjoy in Switzerland for its official communications treatment not less favourable than that accorded by the Swiss Federal Council to any 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 in conformity with the International Convention on Telecommunications. No censorship shall be applied to the official correspondence and other official communications of the United Nations.

Section 8. The United Nations shall have the right to use codes and to despatch and receive its correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

ARTICLE IV

The Representatives of Members of the United Nations

Section 9. Representatives of Members of the United Nations on its principal and subsidiary organs and at conferences convened by the United Nations 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 acts done by them in their capacity as representatives, 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 in national service obligations;

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

(f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents;

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

Section 10. In order to secure for the representatives of Members of the United Nations on its principal and subsidiary organs, and at conferences convened by the United Nations, 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 acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of Members of the United Nations.

Section 11. If the incidence of any form of taxation depends upon residence in Switzerland, periods during which the representatives of Members of the United Nations on its principal and subsidiary organs and at conferences convened by the United Nations are present in Switzerland for the discharge of their duties shall not be considered as periods of residence.

/Section 12.

Section 12. Privileges and immunities are accorded to the representatives of Members of the United Nations not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the United Nations. Consequently, a Member of the United Nations not only has the right but is under a duty to waive the immunity of its representative in any case where in the opinion of that 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 13. In this article the expression "representatives" shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

ARTICLE V

Officials of the United Nations

Section 14. The Secretary-General will from time to time make known to the Swiss Federal Council, in the same manner as to the Governments of Member States, the names of those officials to whom the provisions of this article and article VII shall apply.

Section 15. Officials of the United Nations shall:

(a) be immune from legal process in respect of words spoken or written and acts performed by them in their official capacity;

(b) be exempt from taxation on the salaries and emoluments paid to them by the United Nations;

(c) be immune from national service obligations, subject to the special provisions contained in the Annex to the present arrangement concerning officials of Swiss nationality;

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

(e) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable rank forming part of diplomatic missions to the Swiss Federal Council;

/(f). be given,

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

(g) have the right to import free of duty their furniture and effects on the occasion of first taking up their post in Switzerland.

Section 16. In addition to the immunities and privileges specified in section 15, the Secretary-General and all Assistant Secretaries-General and, if the Secretary-General should so desire, the chief administrative officer of the United Nations in Switzerland, shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys in accordance with international law.

Section 17. Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary-General, the Security Council shall have the right to waive immunity.

Section 18. The United Nations shall co-operate at all times with the appropriate Swiss authorities to facilitate the proper administration of justice, secure the observance of police regulations, and prevent the occurrence of any abuse in connexion with the privileges, immunities and facilities mentioned in this article.

ARTICLE VI

Experts on Missions for the United Nations

Section 19. Experts (other than officials coming within the scope of article V) performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connexion with their missions. In particular they shall be accorded:

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

/(b) in respect

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

(c) inviolability for all papers and documents;

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

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

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

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

ARTICLE VII

United Nations laissez-passer

Section 21. The United Nations may issue United Nations laissez-passer to its officials. These laissez-passer shall be recognized and accepted as valid travel documents by the Swiss authorities taking into account the provisions of section 22.

Section 22. Applications for visas (where required) from the holders of United Nations laissez-passer, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

Section 23. Similar facilities to those specified in section 22 shall be accorded to experts and other persons who, though not holders of United Nations laissez-passer, have a certificate that they are travelling on the business of the United Nations.

Section 24. The Secretary-General, Assistant Secretaries-General, Directors and, if the Secretary-General should so desire, the chief administrative officer of the United Nations in Switzerland, travelling on United Nations laissez-passer on the business of the United Nations shall be granted the same facilities as are accorded to diplomatic envoys.

Section 25. The provisions of this article may be applied to the comparable officials of specialized agencies if the agreements for relationship made under Article 63 of the Charter so provide.

ARTICLE VIII

Settlement of Disputes

Section 26. The United Nations shall make provision for appropriate modes of settlement of:

(a) disputes arising out of contracts or other disputes of a private law character, to which the United Nations is a party;

(b) disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General.

Section 27. Any dispute between the United Nations and the Swiss Federal Council concerning the interpretation or application of this Interim Arrangement or of any supplementary arrangement or agreement which is not settled by negotiation shall be submitted for decision to a board of three arbitrators of whom the first shall be appointed by the Swiss Federal Council, the second by the Secretary-General of the United Nations, and a presiding arbitrator by the President of the International Court of Justice, unless in any specific case the parties agree to resort to a different mode of settlement.

FINAL ARTICLE

Section 28. This Interim Arrangement shall enter into force immediately upon its signature on behalf of the Swiss Federal Council and by the Secretary-General of the United Nations or on his behalf.

Section 29. The provisions of this Interim Arrangement can be modified only by agreement between the Secretary-General and the Swiss Federal Council. If agreement cannot be reached, the Secretary-General or the Swiss Federal Council may renounce the whole, or any section, of this Arrangement. In this case, unless the Secretary-General and the Swiss Federal Council otherwise agree, the Arrangement or the sections in question shall remain in force for three months from the date of such renunciation.

ANNEX TO THE ARRANGEMENT

The Secretary-General of the United Nations will communicate to the Swiss Federal Council a list of officials of Swiss nationality liable for service of a military nature.

The Secretary-General of the United Nations and the Swiss Federal Council will draw up by agreement a limited list of officials of Swiss nationality who will be granted dispensation in view of the office which they hold.

If other officials of Swiss nationality are called up, the Secretariat of the United Nations, through the Federal Political Department, may ask for postponement or some other appropriate measure.

(2) AGREEMENT BETWEEN THE UNITED NATIONS AND THE UNITED STATES OF AMERICA REGARDING THE HEADQUARTERS OF THE UNITED NATIONS*

THE UNITED NATIONS AND THE UNITED STATES OF AMERICA:

Desiring to conclude an agreement for the purpose of carrying out the Resolution adopted by the General Assembly on 14 December 1946 to establish the seat of the United Nations in The City of New York and to regulate questions arising as a result thereof;

Have appointed as their representatives for this purpose:

The United Nations:

Trygve Lie, Secretary-General, and

The United States of America:

George C. Marshall,

Secretary of State,

Who have agreed as follows:

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* The drafting of the Headquarters Agreement took place in several stages. The first draft was prepared by the Preparatory Commission (see Annex I, p. 370, infra) and was used as a basis of discussion by the Sixth Committee at the first part of the first session of the General Assembly. The General Assembly, by its resolution 22(I), transmitted the draft agreement of the Sixth Committee to the Secretary-General for use as a basis of discussion in the negotiation of a Headquarters Agreement (see Annex I, p.397 and Annex II, p. 541, infra). A joint report was submitted by the Secretary-General and the Negotiating Committee on the negotiations resulting from preliminary discussion which included a revised draft agreement and the opinion of the United States Attorney-General dated 20 August 1946 regarding the effect under United States law of the proposed agreement (see Annex I, p. 435, infra). On 14 December 1946, the General Assembly, having decided that the permanent headquarters of the United Nations should be located in the City of New York, authorized the Secretary-General to negotiate and conclude with the appropriate authorities of the United States an agreement concerning arrangements required as a result of this decision and using the draft agreement contained in the above-mentioned joint report as a guide in such negotiations (see Annex II, p. 549, infra). The final text of the Agreement was approved by the General Assembly on 31 October 1947 (see General Assembly resolution 169 (II), Annex II, p. 553, see also Annex I, p. 484, infra). For Joint Resolution of the United States Congress authorizing the President to bring the Headquarters Agreement into effect, see P.L. 357, 80th Congress, 61 Stat. 656, infra, Part III, p. 298.

ARTICLE I

Definitions

Section 1

In this agreement:

(a) the expression "headquarters district" means (1) the area defined as such in Annex 1, (2) any other lands or buildings which from time to time may be included therein by supplemental agreement with the appropriate American authorities;

(b) the expression "appropriate American authorities" means such federal, state, or local authorities in the United States as may be appropriate in the context and in accordance with the laws and customs of the United States, including the laws and customs of the state and local government involved;

(c) the expression "General Convention" means the Convention on the Privileges and Immunities of the United Nations approved by the General Assembly of the United Nations 13 February 1946, as acceded to by the United States;

(d) the expression "United Nations" means the international organization established by the Charter of the United Nations, hereinafter referred to as the "Charter";

(e) the expression "Secretary-General" means the Secretary-General of the United Nations.

ARTICLE II

The Headquarters District

Section 2

The seat of the United Nations shall be the headquarters district.

Section 3

The appropriate American authorities shall take whatever action may be necessary to assure that the United Nations shall not be dispossessed of its property in the headquarters district, except as provided in Section 22 in the event that the United Nations ceases to use the same; provided that the United Nations shall reimburse the appropriate American authorities for any costs incurred, after consultation with the United Nations, in liquidating by eminent domain proceedings or otherwise any adverse claims.

/Section 4

Section 4

(a) The United Nations may establish and operate in the headquarters district:

(1) its own short-wave sending and receiving radio broadcasting facilities (including emergency link equipment) which may be used on the same frequencies (within the tolerances prescribed for the broadcasting service by applicable United States regulations) for radiotelegraph, radioteletype, radiotelephone, radiotelephoto and similar services;

(2) one point-to-point circuit between the headquarters district and the office of the United Nations in Geneva (using single sideband equipment) to be used exclusively for the exchange of broadcasting programmes and inter-office communications;

(3) low power micro-wave, low or medium frequency facilities for communication within headquarters buildings only, or such other buildings as may temporarily be used by the United Nations;

(4) facilities for point-to-point communication to the same extent and subject to the same conditions as permitted under applicable rules and regulations for amateur operation in the United States, except that such rules and regulations shall not be applied in a manner inconsistent with the inviolability of the headquarters district provided by Section 9(a);

(5) such other radio facilities as may be specified by supplemental agreement between the United Nations and the appropriate American authorities

(b) The United Nations shall make arrangements for the operation of the services referred to in this section with the International Telecommunication Union, the appropriate agencies of the Government of the United States and the appropriate agencies of other affected governments with regard to all frequencies and similar matters.

(c) The facilities provided for in this section may, to the extent necessary for efficient operation, be established and operated outside the headquarters district. The appropriate American authorities will, on request of the United Nations, make arrangements, on such terms and in such manner as may be agreed upon by supplemental agreement, for the acquisition or use by the United Nations of appropriate premises for such purposes and the inclusion of such premises in the headquarters district.

/Section 5

Section 5

In the event that the United Nations should find it necessary and desirable to establish and operate an aerodrome, the conditions for the location, use and operation of such an aerodrome and the conditions under which there shall be entry into and exit therefrom shall be the subject of a supplemental agreement.

Section 6

In the event that the United Nations should propose to organize its own postal service, the conditions under which such service shall be set up shall be the subject of a supplemental agreement.*

ARTICLE III

Law and Authority in the Headquarters District

Section 7

(a) The headquarters district shall be under the control and authority of the United Nations as provided in this agreement.

(b) Except as otherwise provided in this agreement or in the General Convention, the federal, state and local law of the United States shall apply within the headquarters district.

(c) Except as otherwise provided in this agreement or in the General Convention, the federal, state and local courts of the United States shall have jurisdiction over acts done and transactions taking place in the headquarters district as provided in applicable federal, state and local laws.

(d) The federal, state and local courts of the United States, when dealing with cases arising out of or relating to acts done or transactionstaking place in the headquarters district, shall take into account the regulations enacted by the United Nations under Section 8.

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* The United Nations Postal Station, under an agreement between the United Nations and the United States dated 28 March 1951, is operated by the United States Post Office Department and sells only United Nations stamps. Sales of stamps for philatelic purposes are handled by the United Nations Postal Administration and the revenue from such sales is retained by the United Nations.

Section 8

The United Nations shall have the power to make regulations, operative within the headquarters district, for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions.* No federal, state or local law or regulation of the United States which is inconsistent with a regulation of the United Nations authorized by this section shall, to the extent of such inconsistency, be applicable within the headquarters district. Any dispute, between the United Nations and the United States, as to whether a regulation of the United Nations is authorized by this section or as to whether a federal, state or local law or regulation is inconsistent with any regulation of the United Nations authorized by this section, shall be promptly settled as provided in Section 21. Pending such settlement, the regulation of the United Nations shall apply, and the federal, state or local law or regulation shall be inapplicable in the headquarters district to the extent that the United Nations claims it to be inconsistent with the regulation of the United Nations. This section shall not prevent the reasonable application of fire protection regulations of the appropriate American authorities.

Section 9

(a) The headquarters district shall be inviolable. Federal, state or local officers or officials of the United States, whether administrative, judicial, military or police, shall not enter the headquarters district to perform any official duties therein except with the consent of and under conditions agreed to by the Secretary-General. The service of legal process, including the seizure of private property, may take place within the headquarters district only with

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* On the procedure for promulgating Headquarters Regulations see Report of the Secretary-General on Regulations to Give Effect to Article III, Section 8, of the Headquarters Agreement, infra, Annex I, p. 529, and General Assembly resolution 481(V), infra, Annex II, p. 557.

For regulations in effect see General Assembly resolution 604(VI), infra, Annex II, p. 558.

the consent of and under conditions approved by the Secretary-General.*

(b) Without prejudice to the provisions of the General Convention or Article IV of this agreement, the United Nations shall prevent the headquarters district from becoming a refuge either for persons who are avoiding arrest under the federal, state or local law of the United States or are required by the Government of the United States for extradition to another country, or for persons who are endeavouring to avoid service of legal process.

Section 10

The United Nations may expel or exclude persons from the headquarters district for violation of its regulations adopted under Section 8 or for other cause. Persons who violate such regulations shall be subject to other penalties or to detention under arrest only in accordance with the provisions of such laws or regulations as may be adopted by the appropriate American authorities.

ARTICLE IV

Communications and Transit

Section 11

The federal, state or local authorities of the United States shall not impose any impediments to transit to or from the headquarters district of (1) representatives of Members or officials of the United Nations, or of

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* Pursuant to the authority vested in him under this section, the Secretary-General consented to the service of legal process against all accounts maintained by the branches of the Chemical Bank and Trust Company located in the United Nations Headquarters District in Manhattan and on the property leased by the United Nations at Lake Success, N. Y.

Process served within the Headquarters District is, in the absence of a waiver void. /Cf. The Londsdale Shop v. Bibily, 213 N.Y.S. 170 (1925), where a consular treaty similarly provided for "inviolability" of the premises, a New York court held that process served within the consulate was void although the person served was not immune himself from process./

It is ordinarily suggested that staff members arrange to receive service outside the District, so that the provisions of Section 9(a) may not be used by staff members to avoid process.

specialized agencies as defined in Article 57, paragraph 2, of the Charter, or the families of such representatives or officials, (2) experts performing missions for the United Nations or for such specialized agencies, (3) representatives of the press, or of radio, film or other information agencies, who have been accredited by the United Nations (or by such a specialized agency) in its discretion after consultation with the United States,* (4) representatives of non-governmental organizations recognized by the United Nations for the purpose of consultation under Article 71 of the Charter, ** or (5) other persons invited to the headquarters district by the United Nations or by such specialized agency on official business. The appropriate American authorities

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* The question of the application of Section 11 and Section 13(a), Article IV, of the Headquarters Agreement arose when, in December 1947, certain correspondents accredited to the United Nations, upon entering the United States, were taken into custody by American immigration authorities. Meetings were then held between the representatives of the United Nations and those of the United States to discuss this matter. Consequently, an understanding was reached on the procedure for consultation on the accreditation to the United Nations of representatives of the press, radio, films and other information agencies (see United Nations Press Release M/373, 12 January 1948.) This procedure was revised in 1951 which provided that the initial accreditation, if granted by the United Nations, would be for a period of 120 days.

** The Secretary-General, in a memorandum dated 17 February 1951 to the Economic and Social Council, set out the position taken by himself and that taken by the representatives of the United States on the admission of non-governmental organizations representatives to the United Nations Headquarters, occasioned by the question of admission of a representative of the World Federation of Trade Unions to the Headquarters for the purpose of attending a General Assembly session (E/1921).

The Economic and Social Council in resolution 415 C (III) requested the "General Assembly to examine at its sixth session the question of the attendance of non-governmental organizations having consultative status at the discussions of the General Assembly or its committees on problems which concern non-governmental organizations and which are within the competence of the Economic and Social Council, and to make such arrangements in that connexion as it may deem advisable." For summary records of the discussion of the subject in the Council, see the Official Records, Economic and Social Council, eleventh session, Meetings 416, 417, 420, 428, 429, 435, 476 and 561.

After receiving the report of the Sixth Committee (infra, Annex I, p. 537), the General Assembly authorized the Secretary-General to make arrangements when appropriate for the attendance of non-governmental organization representatives at public meetings of the General Assembly. Resolution 606 (VI), infra, Annex II, p. 562.

/shall afford

shall afford any necessary protection to such persons while in transit to or from the headquarters district. This section does not apply to general interruptions of transportation which are to be dealt with as provided in Section 17, and does not impair the effectiveness of generally applicable laws and regulations as to the operation of means of transportation.

Section 12

The provisions of Section 11 shall be applicable irrespective of the relations existing between the Governments of the persons referred to in that section and the Government of the United States.

Section 13

(a) Laws and regulations in force in the United States regarding the entry of aliens shall not be applied in such manner as to interfere with the privileges referred to in Section 11. When visas are required for persons referred to in that Section, they shall be granted without charge and as promptly as possible.

(b) Laws and regulations in force in the United States regarding the residence of aliens shall not be applied in such manner as to interfere with the privileges referred to in Section 11 and, specifically, shall not be applied in such manner as to require any such person to leave the United States on account of any activities performed by him in his official capacity. In case of abuse of such privileges of residence by any such person in activities in the United States outside his official capacity, it is understood that the privileges referred to in Section 11 shall not be construed to grant him exemption from the laws and regulations of the United States regarding the continued residence of aliens, provided that:

(1) No proceedings shall be instituted under such laws or regulations to require any such person to leave the United States except with the prior approval of the Secretary of State of the United States. Such approval shall be given only after consultation with the appropriate Member in the case of a representative of a Member (or a member of his family) or with the Secretary-General or the principal executive officer of the appropriate specialized agency in the case of any other person referred to in Section 11;

(2) A representative of the Member concerned, the Secretary-General, or the principal executive officer of the appropriate specialized agency, as the case may be, shall have the right to appear in any such proceedings on behalf of the person against whom they are instituted;

/(3) Persons

(3) Persons who are entitled to diplomatic privileges and immunities under Section 15 or under the General Convention shall not be required to leave the United States otherwise than in accordance with the customary procedure applicable to diplomatic envoys accredited to the United States.

(c) This section does not prevent the requirement of reasonable evidence to establish that persons claiming the rights granted by Section 11 come within the classes described in that section, or the reasonable application of quarantine and health regulations.

(d) Except as provided above in this section and in the General Convention, the United States retains full control and authority over the entry of persons or property into the territory of the United States and the conditions under which persons may remain or reside there.

(e) The Secretary-General shall, at the request of the appropriate American authorities, enter into discussions with such authorities, with a view to making arrangements for registering the arrival and departure of persons who have been granted visas valid only for transit to and from the headquarters district and sojourn therein and in its immediate vicinity.

(f) The United Nations shall, subject to the foregoing provisions of this section, have the exclusive right to authorize or prohibit entry of persons and property into the headquarters district and to prescribe the conditions under which persons may remain or reside there.

Section 14

The Secretary-General and the appropriate American authorities shall, at the request of either of them consult as to methods of facilitating entrance into the United States, and the use of available means of transportation, by persons coming from abroad who wish to visit the headquarters district and do not enjoy the rights referred to in this Article.

ARTICLE V

Resident Representatives to the United Nations

Section 15*

(1) Every person designated by a Member as the principal resident representative to the United Nations of such Member or as a resident representative with the rank of ambassador or minister plenipotentiary,

(2) such resident members of their staffs as may be agreed upon between the Secretary-General, the Government of the United States and the Government of the Member concerned,

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* The names of persons within the categories described in (1) and (2) of this section are included in the "Bluebook" issued by the United States Mission to the United Nations in co-operation with the Protocol Division of the United Nations. A "white list" is also published which includes names of those staff members of delegations who are not entitled to diplomatic privileges under this section.

The application of this Section was invoked in the following cases:

City Court of New Rochelle dismissed proceedings for traffic violation against a third secretary of a delegation to the United Nations whose name appeared in the blue list issued by the United States Mission to the United Nations as entitled to diplomatic courtesy. (91 N. Y. Supp. (2d) 290 (1949).)

The Supreme Court of New York granted a motion of a Permanent Representative to the United Nations to set aside service of a summons and complaint in a divorce action where his government did not waive immunity. (86 N. Y. Supp. (2d) 556 (1949).)

The Municipal Court of New York City held that summary proceedings could properly be brought by a landlord to recover possession of realty occupied by a secretary of a delegation to the United Nations, stating that the proceeding was basically in rem and that real property held by a member of a delegation to the United Nations not pertaining to his diplomatic status was subject to the jurisdiction of the court. (99 N. Y. Supp. (2d) 245 (1950).)

New York State Supreme Court, Appellate Division, held that it lacked jurisdiction in a negligence action against a permanent representative to the United Nations and his wife and that the lack of jurisdiction could not be waived merely by reason of the defendant's making a general appearance and pleading to the merits. (86 N. Y. Supp. (2d) 369 (1949), reversing 84 N. Y. Supp. (2d) 148 (1948).)

A United States District Court held that a United Nations official was not entitled to the immunities enumerated in section 15 of the Headquarters Agreement. United States vs. Coplon, 84 F. Supp. 422 (D.C. N.Y. 1948).

/(3) every person

(3) every person designated by a Member of a specialized agency, as defined in Article 57, paragraph 2, of the Charter, as its principal resident representative, with the rank of ambassador or minister plenipotentiary, at the headquarters of such agency in the United States, and

(4) such other principal resident representatives of members to a specialized agency and such resident members of the staffs of representatives to a specialized agency as may be agreed upon between the principal executive officer of the specialized agency, the Government of the United States and the Government of the Member concerned, shall whether residing inside or outside the headquarters district, be entitled in the territory of the United States to the same privileges and immunities, subject to corresponding conditions and obligations, as it accords to diplomatic envoys accredited to it. In the case of Members whose governments are not recognized by the United States, such privileges and immunities need be extended to such representatives, or persons on the staffs of such representatives, only within the headquarters district, at their residences and offices outside the district, in transit between the district and such residences and offices, and in transit on official business to or from foreign countries.

ARTICLE VI

Police Protection of the Headquarters District

Section 16

(a) The appropriate American authorities shall exercise due diligence to ensure that the tranquility of the headquarters district is not disturbed by the unauthorized entry of groups of persons from outside or by disturbances in its immediate vicinity and shall cause to be provided on the boundaries of the headquarters district such police protection as is required for these purposes.

(b) If so requested by the Secretary-General, the appropriate American authorities shall provide a sufficient number of police for the preservation of law and order in the headquarters district, and for the removal therefrom of persons as requested under the authority of the United Nations. The United Nations shall, if requested, enter into arrangements with the appropriate American authorities to reimburse them for the reasonable cost of such services.

/ARTICLE VII

ARTICLE VII

Public Services and Protection of the Headquarters District

Section 17

(a) The appropriate American authorities will exercise to the extent requested by the Secretary-General the powers which they possess with respect to the supplying of public services to ensure that the headquarters district shall be supplied on equitable terms with the necessary public services, including electricity, water, gas, post, telephone, telegraph, transportation, drainage, collection of refuse, fire protection, snow removal, et cetera. In case of any interruption or threatened interruptions of any such services, the appropriate American authorities will consider the needs of the United Nations as being of equal importance with the similar needs of essential agencies of the Government of the United States, and will take steps accordingly, to ensure that the work of the United Nations is not prejudiced.

(b) Special provisions with reference to maintenance of utilities and underground construction are contained in Annex 2.

Section 18

The appropriate American authorities shall take all reasonable steps to insure that the amenities of the headquarters district are not prejudiced and the purposes for which the district is required are not obstructed by any use made of the land in the vicinity of the district. The United Nations shall on its part take all reasonable steps to ensure that the amenities of the land in the vicinity of the headquarters district are not prejudiced by any use made of the land in the headquarters district by the United Nations.

Section 19

It is agreed that no form of racial or religious discrimination shall be permitted within the headquarters district.

ARTICLE VIII

Matters Relating to the Operation of this Agreement

Section 20

The Secretary-General and the appropriate American authorities shall settle by agreement the channels through which they will communicate regarding the

application of the provisions of this agreement and other questions affecting the headquarters district, and may enter into such supplemental agreements as may be necessary to fulfill the purposes of this agreement. In making supplemental agreements with the Secretary-General, the United States shall consult with the appropriate state and local authorities. If the Secretary-General so requests, the Secretary of State of the United States shall appoint a special representative for the purpose of liaison with the Secretary-General.

Section 21

(a) Any dispute between the United Nations and the United States concerning the interpretation or application of this agreement or of any supplemental agreement, which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators, one to be named by the Secretary-General, one to be named by the Secretary of State of the United States, and the third to be chosen by the two, or, if they should fail to agree upon a third, then by the President of the International Court of Justice.

(b) The Secretary-General or the United States may ask the General Assembly to request of the International Court of Justice an advisory opinion on any legal question arising in the course of such proceedings. Pending the receipt of the opinion of the Court, an interim decision of the arbitral tribunal shall be observed by both parties. Thereafter, the arbitral tribunal shall render a final decision, having regard to the opinion of the Court.

ARTICLE IX

Miscellaneous Provisions

Section 22

(a) The United Nations shall not dispose of all or any part of the land owned by it in the headquarters district without the consent of the United States. If the United States is unwilling to consent to a disposition which the United Nations wishes to make of all or any part of such land, the United States shall buy the same from the United Nations at a price to be determined as provided in paragraph (d) of this section.

/(b) If the

(b) If the seat of the United Nations is removed from the headquarters district, all right, title and interest of the United Nations in and to real property in the headquarters district or any part of it shall, on request of either the United Nations or the United States, be assigned and conveyed to the United States. In the absence of such request, the same shall be assigned and conveyed to the subdivision of a state in which it is located or, if such subdivision shall not desire it, then to the state in which it is located. If none of the foregoing desires the same, it may be disposed of as provided in paragraph (a) of this section.

(c) If the United Nations disposes of all or any part of the headquarters district, the provisions of other sections of this agreement which apply to the headquarters district shall immediately cease to apply to the land and buildings so disposed of.

(d) The price to be paid for any conveyance under this section shall, in default of agreement, be the then fair value of the land, buildings and installations to be determined under the procedure provided in Section 21.

Section 23

The seat of the United Nations shall not be removed from the headquarters district unless the United Nations should so decide.

Section 24

This agreement shall cease to be in force if the seat of the United Nations is removed from the territory of the United States, except for such provisions as may be applicable in connexion with the orderly termination of the operations of the United Nations at its seat in the United States and the disposition of its property therein.

Section 25

Wherever this agreement imposes obligations on the appropriate American authorities, the Government of the United States shall have the ultimate responsibility for the fulfilment of such obligations by the appropriate American authorities.

Section 26

The provisions of this agreement shall be complementary to the provisions of the General Convention. In so far as any provision of this agreement and

any provisions of the General Convention relate to the same subject matter, the two provisions shall, wherever possible, be treated as complementary, so that both provisions shall be applicable and neither shall narrow the effect of the other; but in any case of absolute conflict, the provisions of this agreement shall prevail.

Section 27

This agreement shall be construed in the light of its primary purpose to enable the United Nations at its headquarters in the United States, fully and efficiently to discharge its responsibilities and fulfill its purposes.

Section 28

This agreement shall be brought into effect by an exchange of notes between the Secretary-General, duly authorized pursuant to a resolution of the General Assembly of the United Nations, and the appropriate executive officer of the United States, duly authorized pursuant to appropriate action of the Congress.

IN WITNESS WHEREOF the respective representatives have signed this Agreement and have affixed their seals hereto.

DONE in duplicate, in the English and French languages, both authentic, at Lake Success the twenty-sixth day of June 1947.

FOR THE UNITED NATIONS:

(Signed) Trygve Lie
Secretary-General

FOR THE UNITED STATES OF AMERICA:

(Signed) George C. Marshall
Secretary of State

ANNEX 1

The area referred to in Section 1 (a) (1) consists of (a) the premises bounded on the East by the westerly side of Franklin D. Roosevelt Drive, on the West by the easterly side of First Avenue, on the North by the southerly side of East Forty-Eighth Street, and on the South by the northerly side of East Forty-Second Street, all as proposed to be widened, in the Borough of Manhattan, City and State of New York, and (b) an easement over Franklin D. Roosevelt Drive, above a lower limiting plane to be fixed for the construction and maintenance of an esplanade, together with the structures thereon and foundations and columns to support the same in locations below such limiting plane, the entire area to be more definitely defined by supplemental agreement between the United Nations and the United States of America.

/ANNEX 2

ANNEX 2

Maintenance of Utilities and Underground Construction

Section 1

The Secretary-General agrees to provide passes to duly authorized employees of the City of New York, the State of New York, or any of their agencies or sub-divisions, for the purpose of enabling them to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the headquarters district.

Section 2

Underground constructions may be undertaken by the City of New York, or the State of New York, or any of their agencies or sub-divisions, within the headquarters district only after consultation with the Secretary-General, and under conditions which shall not disturb the carrying out of the functions of the United Nations.

INTERIM HEADQUARTERS AGREEMENT

THE UNITED NATIONS AND THE UNITED STATES OF AMERICA:

Desiring to extend to the temporary headquarters of the United Nations such of those provisions of the Agreement between the United Nations and the United States of America Regarding the Headquarters of the United Nations signed at Lake Success 26 June 1947, as are appropriate, having regard for the needs of the United Nations at its temporary headquarters;

Have appointed as their representatives for this purpose:

The United Nations:

Trygve Lie, Secretary-General,

and

The United States of America:

Warren R. Austin, United States Representative to the United Nations,

Who, being duly authorized, have agreed as follows:

ARTICLE I

This agreement shall be called the Interim Headquarters Agreement.

As used in this agreement:

(a) The expression "temporary headquarters" means (1) the land and buildings occupied and used by the United Nations for its official activities at Lake Success, Long Island, New York, and at Flushing Meadows, New York the precise limits of which are defined in the Annex to this agreement and (2) such other land and buildings occupied and used by the United Nations as may be defined from time to time by agreement between the United Nations and the United States of America after consultation with the appropriate state and local authorities.

(b) The expression "Headquarters Agreement" means the Agreement between the United Nations and the United States of America Regarding the Headquarters of the United Nations signed at Lake Success on 26 June 1947, and brought into effect in accordance with its provisions by an exchange of notes dated 21 November 1947.

ARTICLE II

The following provisions of the Headquarters Agreement, with the exception noted in Article III of this agreement and subject to the provisions of said article, having been found to be necessary and appropriate to enable the United Nations to carry on its functions at the temporary headquarters, shall have full force and effect with respect to the temporary headquarters of the United Nations and the expression "headquarters district" as used in the Sections of the Headquarters Agreement incorporated herein by reference shall be deemed to include the temporary headquarters of the United Nations until such time as the United Nations shall have ceased to use or occupy its temporary headquarters and this agreement shall be terminated:

Section 1 (except sub-section a)
Section 4
Section 7
Section 8
Section 9
Section 10
Section 11
Section 12
Section 13
Section 14
Section 15
Section 16
Section 17
Section 19

ARTICLE III

The United Nations agrees, in view of the fact that the premises occupied by it as the temporary headquarters are under lease from persons not parties to this agreement, that passes will be provided by the Secretary-General to such persons or their duly authorized agents for the purposes of enabling them to inspect, repair and maintain the said premises in accordance with the terms of the lease.

The United Nations further agrees that this Interim Agreement shall not affect any existing arrangements with respect to payment of taxes or payments in lieu of taxes on property under lease from persons not parties to this agreement or impair the power of any municipality to impose taxes on property so leased.

/ARTICLE IV

ARTICLE IV

It is understood that Sections 20, 21, 25, 26 and 27 of the Headquarters Agreement shall be applicable to the operation and construction of this agreement.

ARTICLE V

This agreement shall come into effect on the date of signature hereof. It shall continue in force until the United Nations shall have ceased to use or occupy the temporary headquarters.

IN WITNESS WHEREOF the respective plenipotentiaries have signed this agreement.

DONE in duplicate in the English language at Lake Success the eighteenth day of December 1947.

(Signed) TRYGVE LIE
Secretary-General

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

WARREN R. AUSTIN
United States Representative
to the United Nations

(3) EXCHANGE OF LETTERS BETWEEN THE SECRETARY-GENERAL AND THE FRENCH GOVERNMENT RELATING TO THE FACILITIES TO BE MADE AVAILABLE TO THE UNITED NATIONS FOR THE SIXTH SESSION OF THE GENERAL ASSEMBLY*

No. 106 Paris, 17 August 1951

Sir,

Pursuant to the conversations in the course of which the general principles were laid down for determination of the reciprocal obligations and responsibilities of the United Nations and the French Government in connexion with the organization of the Sixth Session of the United Nations General Assembly, I have the honour to submit the following draft agreement:

I. FINANCIAL OBLIGATIONS

The French Government and the United Nations shall conclude a supplementary agreement determining their respective financial obligations where such obligations are not already expressly defined in the present agreement.

It is understood that the total financial obligations of the United Nations as defined in the present agreement and in the supplementary agreement referred to above shall not involve greater expenditure by the United Nations than the sum authorized by resolution 499 (V).

II. PREMISES

(a) The French Government shall put at the disposal of the United Nations, free of charge, for the duration of the Sixth Session of the General Assembly, the premises indicated on the plans annexed hereto, comprising

- firstly, that portion of the Palais de Chaillot consisting of the auditorium and accessory premises of the Théâtre National Populaire.
- secondly, the buildings specially erected by the French Government for the occasion, adjacent to the Théâtre National aforesaid.

Mr. TRYGVE LIE
Secretary-General of the
United Nations
NEW YORK

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* Similar facilities were made available by the French Government to the United Nations for the holding of the third session of the General Assembly in Paris. See UN Doc. A/INF/21, 17 August 1948.

/(b) In the

(b) In the above premises, hereinafter referred to as the "Conference Area", shall be included:

1. A Hall for plenary meetings, with the necessary annexes, such as public rooms for delegates, the press and the public, cloakrooms, telephone booths etc.,
2. Committee rooms,
3. Offices for the Secretariat,
4. Premises for accredited correspondents, including workroom and offices.

(c) All the premises put at the disposal of the Organization shall be adequately arranged in accordance with the needs of the General Assembly, including, more particularly, platforms, booth for broadcasting cabins and cabins for simultaneous interpretation.

(d) The premises made available to the United Nations shall be furnished free by the French Government. However, in addition to the office furniture put at their disposal by the French Government under the terms of this Article, the United Nations agree to supply at their own expense 500 office desks, 200 typists' desks and 200 tables.

(e) The French Government shall assist delegations of Member States, at their request or at the request of the United Nations, to find, outside the Conference Area, such office space and office furniture as they may require.

(f) The French Government shall hand over to the United Nations, on 6 November 1951 all the premises fully equipped comprised in the Conference Area, with all work completed, except in as far as delay may be caused by "force majeure."

(g) The French Government shall endeavour to make available to the United Nations before 6 November 1951 a portion of the premises and installations in the Conference Area in conformity with the following schedule:

Premises and Installations		Date
Depot receiving material	50 days	before the opening date of the General Assembly
Document Reproduction and Distribution area and Supply storeroom	35 "	"
Reference Centre Area	21 "	"
Documents control, Library and Translation Areas	14 "	"
All radio installations required in the Conference Area	4 "	"

/(h) In

(h) In respect of the office area, the French Government shall make every endeavour to conform to the time table set out below:

No. of days before the opening of the Session	No. of persons to be accommodated
37	60
21	100
14	150
7	300
4	700
2	1,400

(i) Should the necessary work be unavoidably delayed, the French Government shall provide the United Nations with adequate alternative premises, if necessary outside the Conference Area, on the dates indicated in the time table above. This provision shall in no circumstances imply any modification of the obligation accepted by the French Government under paragraph (f) of this article.

The French Government further undertakes, should the need arise, to provide the United Nations with office space for not more than 40 persons, and if necessary outside the Conference Area, between the 98th and 37th days before the opening of the Session, for the use of United Nations officials ordered to Paris to carry out the preparatory work for the Session.

III. SERVICES TO BE SUPPLIED

The French Government shall take the necessary steps for providing suitable heat, light, water, power and all other customary public services. Financial responsibility in respect of these services shall be determined in conformity with the provisions of Article 1.

IV. TECHNICAL INSTALLATIONS

1. Telephone

(a) The United Nations shall transmit to the French Government detailed plans showing where the telephones are to be installed in the Conference Area.

(b) In the installing of telephones, the French Government shall conform, so far as possible, to the plans referred to in the preceding sub-paragraph.

/It shall

It shall instal the internal telephone circuit and the direct lines linking the main Centre with the most important sub-centres. It is understood that in carrying out its obligations under the terms of this article, the French Government will utilize the equipment generally in use in the French Government service.

(c) The United Nations shall pay the "abonnement," (telephone service) and the rental of the switchboards, the normal instrument rental charges and charges at official price for telephone calls over the network of the P.T.T. No charge shall be made for calls within the Conference Area.

(d) The French Government shall maintain in good repair the telephone equipment made available to the United Nations.

(e) The French Government shall provide the requisite staff for the efficient operation of the telephone installations placed at the disposal of the United Nations under the terms of this article.

(f) The respective financial responsibilities of the parties in respect of the installation and maintenance of telephone apparatus and of salaries of the staff concerned shall be determined in conformity with the provisions of Article 1 above.

2. Telegraph

The French Government shall, on request, furnish the teletype machines required, at the prevailing French Government service rate.

3. Radio Services

(a) The French Government shall furnish and instal at its own expense the technical installations required to afford the United Nations the means of providing satisfactory coverage of the Sixth Session of the General Assembly. The cost of material and the expense of installation and wiring of the same shall be borne by the French Government.

(b) Operating, rental and repair charges relating to the equipment referred to in the preceding paragraph shall be borne by the United Nations at the rates and on conditions to be prescribed under a special agreement between the United Nations and the French Government.

(c) The French Government shall also make available to the United Nations the radio transmitting facilities necessary for the General Assembly at rates and on conditions to be specified in the agreement aforesaid.

4. Simultaneous Interpretation

(a) The United Nations shall supply the technical equipment for simultaneous interpretation requisite for the proper conduct of the work of the Sixth Session of the General Assembly and shall be responsible for maintenance of such equipment.

(b) The French Government shall, if so requested by the United Nations, instal the said equipment, the United Nations bearing the cost of installation.

5. Car-calling System

The United Nations shall supply, instal, operate and maintain the necessary equipment. The French Government shall, if need be, afford assistance to the United Nations in the installation and maintenance of such equipment.

6. Amplification

(a) The French Government shall furnish and instal at its own expense all sound and amplification equipment required by the United Nations.

(b) All operating, rental and repair charges in respect of the sound and amplification equipment needed by the United Nations and supplied to them under the terms of the preceding sub-paragraph shall be borne by the United Nations at rates and on conditions to be included in the special agreement (referred to in paragraph 3 above) to be concluded between the United Nations and the French Government.

7. Lighting for Motion Picture Photography, etc.

(a) The French Government shall furnish and instal at its own expense the necessary lighting equipment for motion picture photography etc.

(b) Operating and maintenance charges in respect of such materials shall be borne by the United Nations. The French Government shall facilitate such operation and maintenance.

V. INTERNAL SERVICES

(a) Cleaning.

The United Nations shall be responsible for the cleaning of the premises.

Financial responsibility in respect of this service shall be determined in conformity with the provisions of Article 1 above.

/(b) Expenses

(b) Expenses in connexion with the following services:

- Daily arrangement of Conference Rooms,
- Cloakrooms,
- Ushers,
- Lifts,

shall be borne by the United Nations. The French Government nevertheless undertakes to afford the United Nations assistance in the organization of the above services, should the need for such help become apparent.

(c) Expenses in respect of general maintenance of the building other than the expenses mentioned above shall be borne by the French Government (e.g. maintenance of heating installations).

(d) The French Government undertakes to instal at its own expense an efficient system for the protection of the Conference Area against fire; it shall furnish at its own expense the staff and equipment necessary to operate this system and to protect in such other manner as it may see fit all persons and property in the Conference Area against fire.

VI. STAFF

(1) Staff generally

Except as otherwise provided in this Agreement, the United Nations shall furnish at its own expense all the staff required for the proper functioning of the General Assembly.

(2) Locally recruited staff

(a) The French Government shall assist the United Nations in engaging all necessary local recruits if requested to do so by the United Nations.

(b) Whenever it is necessary for the United Nations to engage local recruits as cloakroom attendants or for other duties of a similar character, the United Nations shall give priority to the staff of the Théâtre National Populaire of the Palais de Chaillot.

(c) The United Nations shall, generally engage, in so far as practicable, members of the staff of the Théâtre National Populaire for the services for which personnel is being recruited locally.

VII. OFFICE MACHINES AND EQUIPMENT

(a) Except as otherwise provided in this Agreement, the French Government shall make available to the United Nations free of charge all miscellaneous furniture, office furniture and office equipment required in the Conference Area for the efficient functioning of the General Assembly.

(b) It is stipulated that all furniture put at the disposal of the United Nations by the French Government will be of French manufacture.

(c) Subject to the proviso that nothing in this sub-paragraph shall be deemed to limit in any way the scope of sub-paragraph (a) above, the French Government shall supply free of charge to the offices within the Conference Area waste paper baskets, letter trays, ash trays, filing cabinets and shelves.

(d) The United Nations undertake to do their best to supply, at their own charges, the office machinery necessary for the holding of the General Assembly.

(e) Such office machinery and equipment as the United Nations are unable to supply, or provision of which by the French Government is not expressly stipulated in this agreement, shall, if possible, be supplied by the French Government on a rental basis at a rate to be fixed by the parties to this agreement. Without in any way restricting the general scope of the preceding sentence, the French Government undertakes to make available to the United Nations up to 90 typewriters with international keyboards at a monthly rental not exceeding 2,500 fr. per typewriter. The United Nations shall be responsible for the maintenance of these typewriters for the entire hire period.

(f) The United Nations shall forward detailed plans showing how all the furniture, office machinery and office equipment to be used in the Conference Area shall be placed or installed. Except as otherwise stipulated in this agreement, the French Government shall at its own expense place or instal such furniture, office machinery and office equipment in conformity with the aforesaid plans on or before the date or dates specified in sub-paragraphs (g) and (h) of Article II above.

(g) After furniture, office equipment and office machinery have been put in place in conformity with the plans referred to in sub-paragraph (f) above, all removals of such furniture, machinery and office equipment shall be at the charge of the United Nations.

/VIII. MISCELLANEOUS

VIII. MISCELLANEOUS SERVICES

The French Government shall instal at its own expense a system of reception services comprising:

- a tourist service,
- a theatre agency,
- a travel agency,
- a tobacco stall,
- a newsstand.

The French Government shall at its own expense make available to the United Nations premises suitable for the operation of a bank for the convenience of the Organization.

IX. POSTAL SERVICE

(a) The French Government shall provide a temporary post office for the United Nations;

(b) The United Nations shall be entitled to sell in the Conference Area or by mail United Nations stamps for philatelic purposes.

X. INVENTORY

(a) When the United Nations take delivery of the furniture, typewriters, equipment and goods covered by Article VII above, an inventory shall be made, in the presence of representatives of both parties, of the furniture, typewriters, other equipment and other goods of all kinds put at the disposal of the United Nations by the French Government, whether or not at the charges of the former. A second inventory shall be made in the presence of representatives of both parties when the furniture, typewriters, equipment and goods aforesaid are returned to the French Government on the expiry of this agreement.

(b) Save as otherwise stipulated in this agreement, the United Nations shall be responsible for any shortages as indicated by the two inventories.

XI. TRANSPORT

The French Government shall, on request, provide facilities for the hire in France of motor cars for the transport of delegations, of the Secretariat and of foreign press and other correspondents accredited to the United Nations.

/XII. PRINTING

XII. PRINTING

(a) The French Government shall, at the request of the United Nations, provide all facilities for printing and distributing the "Journal of the United Nations" before 8 a.m. daily. The same facilities shall, if requested by the United Nations, be granted for the printing, within a reasonable time-limit, of the records of the General Assembly and of any other official organ of the United Nations.

(b) All printing done under the provisions of the preceding sub-paragraph shall be payable by the United Nations at the official printing rates.

XIII. HOTELS AND RESTAURANTS

(a) The French Government undertakes to facilitate the procurement of satisfactory hotel accommodation for members of delegations and of the United Nations Secretariat and for any other person officially attending the proceedings of the General Assembly, including accredited correspondents and representatives of the Specialized Agencies.

(b) The French Government undertakes to ensure that prices charged by hotel-keepers shall not exceed the normal rates obtaining in Paris at that season of the year.

(c) The French Government shall provide and operate restaurants for delegates, members of the United Nations Secretariat and press correspondents accredited to the United Nations for the service of meals at prices fixed by the French Government.

XIV. SECURITY AND PROTECTION

The security service within and at the entrances to the premises made available to the organization shall be provided by the United Nations and at their charges.

The same will apply for any security requirements deemed necessary by the United Nations within, or at entrances to, the premises aforesaid.

XV. CHARGES PAYABLE BY THE UNITED NATIONS

It is understood that the United Nations shall bear the cost of travel and living expenses of their permanent staff, salaries and any travel expenses payable for additional staff recruited for the Sixth Session of the General Assembly, freight charges on material brought by the Secretariat, purchases of

/paper and

paper and office supplies and, generally speaking, all other expenses arising in connexion with the functioning of the Assembly other than those explicitly undertaken by the French Government under the terms of this agreement or the additional agreements to be concluded.

Similar provisions shall apply in respect of charges arising from alterations in the fitting out and allocation of premises requested by the United Nations after their approval of the plans drawn up for the holding of the General Assembly.

XVI. PRIVILEGES AND IMMUNITIES

The Convention on the Privileges and Immunities of the United Nations, signed and ratified by France, shall be applied at the Sixth Session of the General Assembly in Paris. In accordance with that Convention, no restriction shall be placed on transfers of the Organization's funds.

The Convention shall be supplemented by the following provision:

(A) Inviolability and protection of the premises put at the disposal of the United Nations for the holding of the General Assembly.

Section I

(1) The part of the Palais de Chaillot and

(2) The premises erected as detailed in Section II of this letter, shall, during the entire period of their occupancy by the United Nations, be considered premises of the United Nations and enjoy inviolability.

They shall be placed under the control and authority of the United Nations, which shall have the sole right to authorize or forbid access thereto and to expel any person therefrom.

Section II

The competent French authorities shall take the necessary measures to ensure that the tranquility of the premises specified in Section I is not disturbed by the unauthorized entry of any person or persons, acting individually or in groups, or by disturbances of the peace occurring in the immediate vicinity. To that end they shall provide all necessary police protection outside the said premises.

As provided in Article XIV above, the United Nations shall be responsible for security within the area enjoying inviolability. The French Government undertakes to furnish the United Nations at their request with any additional personnel needed to supplement their staff of guards; in this eventuality the salaries and allowances of such personnel shall be reimbursed to the competent French authorities.

Should the Secretary-General deem it necessary, for the preservation of law and order within the area or for the expulsion of any person, temporarily to call for supplementary police services to assist the forces described in the paragraph above, the French authorities will comply with this request. Reimbursement of the reasonable expenses arising from such request shall be made at the request of the French authorities after being agreed by the United Nations.

Section III

The premises described in Section I shall remain at the disposal of the United Nations for a length of time to be determined later, which shall comprise:

(1) a preparatory period;

(2) the duration of the Session of the General Assembly;

(3) a liquidation period of approximately one month, unless otherwise agreed.

During the periods referred to in sub-paragraphs 1 and 3, the competent French authorities shall be allowed full latitude to carry out any necessary work.

(B) Right of entry into and sojourn in French territory

(1) Without prejudice to the provisions of the Convention on the Privileges and Immunities of the United Nations, the French Government undertakes to authorize the entry into France, without visa costs or delay, and the sojourn in Paris and in the Department of the Seine for the duration of their functions with, or mission to, the Sixth Session of the General Assembly, of the following persons:

(a) Representatives of Member States and officials of the United Nations and of the Specialized Agencies and the families (spouses and children of such representatives and officials;

(b) Subject to the provisions of sub-paragraph 2, representatives of the press, radio, cinema and any other information agencies accredited by the United Nations;

/(c) Representatives

(c) Representatives of non-governmental organizations admitted to consultative status by the United Nations;

(d) Any other persons invited by the United Nations to the Session of the General Assembly on official business.

(2) Without prejudice to their discretionary right of accreditation or to the provisions of the present text, the United Nations undertake to communicate to the competent French authorities, ten days in advance, the names of representatives of the press, radio, cinema or any other information agency not yet accredited by the United Nations and having applied for accreditation solely for the duration of the Sixth Session.

(3) Without prejudice to any special immunities they may enjoy, the persons described in sub-paragraph 1 shall not, during the entire length of their functions or mission, including the time of travel in French territory, be liable to arrest or to expulsion proceedings unless they have abused the privileges of sojourn accorded them by engaging in an activity not related to their functions with, or mission to, the Sixth Session.

(4) Arrest may be ordered or expulsion proceedings initiated only after consultation with the Government of the Member State concerned, in the case of a representative of a Member State or a member of a representative's family, or with the Secretary-General of the United Nations in the case of any other person.

(5)Subject to the foregoing provisions and to the terms of the Convention on the Privileges and Immunities of the United Nations, the French authorities retain the full right of decision and control with respect to the entry of persons into France and the conditions under which those persons shall be permitted to remain or reside in French territory.

(6) It is stipulated that the persons described in sub-paragraph 1 are not exempt from the reasonable application of quarantine and public health regulations.

(C) Diplomatic Status

In addition to the persons described in Section 19 of the General Convention on Privileges and Immunities, the French Government has decided to grant, for the duration of their mission, including the time of travel in French territory, the privileges, immunities, exemptions and facilities accorded to diplomatic envoys accredited to the French Government, to the following:

(1)

(a) Representatives of delegations of Member States of the United Nations accredited to the Sixth Session;

(b) Permanent representatives and permanent members of their staff who enjoy diplomatic privileges and immunities at the Headquarters of the Organization;

(2) Directors of the United Nations Secretariat assigned for duty at the Sixth Session and bearers of United Nations laissez-passer.

Members of delegations and of the Secretariat shall enjoy exemption from customs duties on their personal effects and on any goods which are part of their personal baggage. The United Nations are authorized to import, free of duty, victuals, spirits, tobacco and clothing for sale to members of delegations and of the Secretariat for personal consumption by themselves and their families. Personal parcels, on the other hand, shall be subject to the normal regulations.

As regards miscellaneous taxation and imposts, personnel of delegations and the Secretariat shall enjoy the same exemptions and facilities as members of the Diplomatic Corps regularly accredited for service in France. Such personnel shall be exempt from the visitors' tax.

XVII. DAMAGE AND ACCIDENTS TO PERSONS AND THINGS

The responsibilities of the United Nations and the French Government respectively in connexion with damage and accidents to the premises, equipment, materials and furniture made available to the United Nations for the holding of the Sixth Session of the General Assembly or to persons in the premises aforesaid shall be as follows:

(1) The French Government shall not be responsible under any cause whatsoever in respect of accident, loss or damage suffered by any person (with the exception of its own servants on duty) as a result of their being on premises made available to the United Nations throughout the period during which such premises are under United Nations jurisdiction, save where such accidents are imputable to the French Government or its servants or are occasioned by defects in construction of the premises or in the technical installation therein or in the organization of the fire service.

/(2) The United Nations

(2) The United Nations shall be responsible for the loss of any furniture, typewriters or other articles placed at their disposal and for damage to, or deterioration of, the same during the period defined in paragraph 1 above, save where such loss, damage or deterioration is imputable to the French Government or its servants or arises from defects in the construction of the premises or in the technical installation therein or the organization of the fire service.

In this connexion it is agreed that reimbursement for deficiencies shall be made by the United Nations:

- at replacement value in the case of all new material or material in new condition;

- at the rate of two-thirds of replacement value in the case of all other material.

(3) The United Nations shall be liable in respect of all accidental damage or deterioration of the premises and installations placed at their disposal, subject to the reservations stipulated in paragraph 1 above, including the responsibilities of the tenant as defined in French law in respect of the premises placed at their disposal by the French Government.

In the assessment of damage the French Government undertakes, so far as practicable, to make a distinction between damage to permanent and damage to temporary premises or installations.

In this connexion it is understood that the French Government shall be entitled to take all necessary steps for the physical protection, more particularly against fire, of the premises described above.

(4) If so requested, the French Government shall lend its good offices to the United Nations in the defence and settlement of any claim arising from the provisions of this article which it may prove impossible to terminate before the expiry date laid down in paragraph 1 above.

XVIII. DISPUTES

Any dispute between the United Nations and the French Government concerning the interpretation or application of this agreement or of any supplementary agreement, if not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators, of whom one shall be named by the Secretary-General, one by the Minister of Foreign Affairs of the French Government and the third co-opted by the other

/two, or,

two, or, if they should fail to agree upon a third member, he shall be appointed by the President of the International Court of Justice.

XIX. DURATION OF AGREEMENT

The date at which this agreement or any part thereof shall cease to be effective shall be laid down in an agreement to that end to be concluded in due course between the Secretary-General or his representative and the French Government.

(Signed) SCHUMAN

17 August 1951

Your Excellency,

I have the honour to acknowledge receipt of your letter of 17 August 1951, communicating the French Government's proposals with regard to the facilities which it is prepared to make available to the United Nations for the sixth session of the General Assembly.

I am happy to accept those proposals, it being understood that a supplementary agreement will be concluded in accordance with the provisions of Article I of the draft agreement.

I take this opportunity of conveying to you the appreciation of the United Nations for the co-operation and help offered by the French Government, to which I am sure that the work of the sixth session of the General Assembly will thereby be greatly facilitated.

Please accept, sir, the assurances of my highest consideration.

TRYGVE LIE
Secretary-General

His Excellency Mr. Robert Schuman,
Minister for Foreign Affairs,
57 Quai d'Orsay,
Paris

(4) EXCHANGE OF LETTERS CONCERNING PRIVILEGES AND IMMUNITIES TO BE ACCORDED TO THE UNITED NATIONS IN KOREA.

A. Letter from Personal Representative of the Secretary-General to the President of the Republic of Korea.

Pusan
21 September 1951

Sir,

I. I have the honour to refer to Article 104 of the Charter of the United Nations which provides that the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and for the fulfilment of its purposes, and to Article 105 of the Charter which provides that the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes and that representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Organization.

II. I have the further honour to refer to Resolution 376 (V) adopted by the General Assembly at its 294th plenary meeting on 7 October 1950 establishing the United Nations Commission for the Unification and Rehabilitation of Korea and to Resolution 410 (V) adopted by the General Assembly on 1 December 1950 establishing the United Nations Korean Reconstruction Agency, particularly to Part B, paragraph 16 (14), which provides that the personnel of the United Nations shall be accorded within Korea the privileges, immunities and facilities necessary for the fulfilment of their functions.

III. It is understood in this connexion that the Government of the Republic of Korea wishes to accord to the United Nations, as represented at any time in the territory of the Republic of Korea by its various organs, to

/representatives

representatives of Members of the United Nations and to officials of the Organization, those privileges and immunities which in accordance with Article 104 and 105 of the Charter must be regarded as necessary for the exercise of the functions of the United Nations and the fulfilment of its purposes.

IV. In this matter it is therefore proposed and agreed on behalf of the United Nations that:

The Organization

1. The United Nations, as represented in the territory of the Republic of Korea by its various organs, shall enjoy all the privileges and immunities set out in Article I through III of the Convention on the Privileges and Immunities of the United Nations namely those provisions relating to its juridical personality, its property, funds and assets, archives, communications, and currency transactions.

United Nations Laissez-Passer

2. The United Nations Laissez-Passer shall be recognized and accepted as a valid travel document by the Republic of Korea in accordance with the provisions of Article VII of the Convention on the Privileges and Immunities of the United Nations.

Radio Broadcasting Facilities

3. The United Nations may establish and operate in Korea its own sending and receiving radio broadcasting facilities.

Representatives of Member States and Officials

4. (1) Representatives of Member States serving on United Nations Commissions operating in Korea and the members of their delegations,

(2) Representatives of organs of the United Nations who may exercise official functions in Korea,

(3) the Agent General of the United Nations Korean Reconstruction Agency, his Deputies and other officials of the staff of the Agency,

(4) the personal representative of the Secretary-General, the Principal Secretary and other United Nations Secretariat staff of organs of the United Nations operating in Korea,

/(5) Officials

(5) Officials of the United Nations Specialized Agencies and any further United Nations Secretariat staff who may exercise official functions in Korea,

shall enjoy the privileges and immunities, exemptions and facilities as are granted to diplomatic envoys of similar rank in accordance with international law. The names of representatives and officials included in the above categories shall from time to time be communicated to the Government of the Republic of Korea.

Experts on Missions for the United Nations

5. Experts (other than officials coming within the scope of the preceding sub-paragraph 4, but including officials of voluntary agencies) performing missions for the United Nations in Korea shall be accorded the privileges and immunities set out in Article VI of the Convertion on the Privileges and Immunities of the United Nations.

Locally recruited personnel

6. Locally recruited personnel attached to any United Nations organs operating in Korea shall enjoy immunity from jurisdiction in respect of all acts and functions performed by them in their official capacity. Locally recruited personnel who are considered essential to the work of the United Nations because of their special qualifications, shall enjoy immunity from military or other compulsory service. A list of locally recruited personnel considered essential will be furnished periodically to the Government of the Republic of Korea.

Persons invited to consult or assist the United Nations

7. Persons invited to consult with or render assistance to the United Nations and its various organs represented in Korea shall be afforded free access to these organs, and shall enjoy full immunity and protection with respect to any act performed or any statement made in the course of such consultation or assistance.

Settlement of disputes

V. It is further proposed and agreed on behalf of the United Nations that any disputes between the Republic of Korea and the United Nations concerning the interpretation or application of this agreement which is not settled by

negotiation or other agreed mode of settlement shall be referred for final settlement to a Tribunal of three arbitrators, one to be named by the Secretary-General of the United Nations, one by the Government of the Republic of Korea and a third to be chosen by the two. If the two arbitrators should fail to agree on the choice of a third, or if one party should fail to appoint an arbitrator, the President of the International Court of Justice may be asked by one party to appoint an arbitrator. The failure of one party to appoint an arbitrator shall not preclude the making of a binding award by the other two.

Final clause

VI. This letter and your Excellency's reply accepting the foregoing proposals will constitute an agreement between the United Nations and the Government of the Republic of Korea in respect of the contents thereof.

VII. It is understood that nothing in this agreement shall in any way prejudice or detract from the privileges and immunities granted under any other agreement concluded or to be concluded between the United Nations and its various organs in Korea on the one hand and the Republic of Korea on the other.

I have the honour to be,

Sir,

Your obedient Servant,

(Signed) C. A. STAVROPOULOS
For the Secretary-General

His Excellency Syngman Rhee
President of the Republic of Korea,
Pusan.

B. Letter to Secretary-General from Minister of Foreign Affairs of the Republic of Korea.

September 21, 1951

Sir,

I have the honour to acknowledge receipt of your letter of 21 September 1951 concerning the privileges and immunities to be enjoyed by the United Nations in Korea, and to express the full agreement of the Government of the Republic of Korea to the provisions contained in paragraph IV, 1 to 7, and paragraph V of that letter.

This exchange of letters will constitute an agreement between the United Nations and the Government of the Republic of Korea in respect to the contents thereof.

It is understood that nothing in this agreement shall in any way prejudice or detract from the privileges and immunities granted under any other agreement concluded or to be concluded between the United Nations and its various organs in Korea on the one hand and the Republic of Korea on the other.

I have the honour to be,
Sir,
Your obedient Servant
For the President
(Signed) Y. T. Pyun
Yung Tai Pyun
Minister of Foreign Affairs

Mr. Trygve Lie
Secretary-General,
United Nations,
New York, N.Y.

(5) AGREEMENT BETWEEN THE UNITED NATIONS AND JAPAN ON PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS*

WHEREAS Article 104 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes; and

WHEREAS Article 105 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes, and that representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Organization; and

WHEREAS the United Nations has found it essential to maintain offices in Japan, in particular for the purpose of servicing its missions in Korea and it is necessary for United Nations representatives and officials to pass through Japan en route to and from their missions in Korea; and

WHEREAS Japan, desiring to co-operate toward the furtherance of the cause of the United Nations, wishes to accord to the United Nations, as represented at any time in the territory of Japan by its various organs, and to the representatives of the Members of the United Nations and officials of the Organization located in or passing through Japan, those privileges and immunities which in accordance with Articles 104 and 105 of the Charter must be regarded as necessary for the exercise of the functions of the United Nations and the fulfilment of its purposes;

Now, therefore, the United Nations and Japan have agreed as follows:

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* The Agreement was signed in Tokyo in the English language on 25 July 1952, by the United Nations and Japan.

ARTICLE I

(1) The United Nations shall enjoy in the territory of Japan such privileges and immunities as are defined in Articles I, II and III of the Convention on the Privileges and Immunities of the United Nations, hereinafter called "the General Convention".

(2) Privileges and immunities granted under Sections 5 and 7, Article II of the General Convention shall not extend to financial and commercial transactions going beyond the normal necessities of diplomatic missions, such, for example, as bulk purchases of relief goods in Japan by the United Nations Korean Reconstruction Agency, which would be of a commercial nature and could form the subject of special agreements between the United Nations Korean Reconstruction Agency and the competent authorities of the Japanese Government.

ARTICLE II

The following representatives of Member States exercising their official functions in Japan or passing through Japan to or from Korea and the following officials of the United Nations and its specialized agencies:

(a) representatives of Member States serving on any United Nations missions in Korea and the members of their delegations,

(b) the Secretary-General and Assistant Secretaries-General of the United Nations,

(c) representatives of organs of the United Nations,

(d) the Agent General, the Deputy Agent General and other officials of the United Nations Korean Reconstruction Agency,

(e) personal representatives of the Secretary-General, Principal Secretaries and other United Nations Secretariat officials of organs of the United Nations,

(f) any further United Nations Secretariat officials, and

(g) any officials of the United Nations specialized agencies serving on any United Nations missions in Korea

shall enjoy the privileges and immunities, exemptions and facilities provided for in Articles IV and V of the General Convention.

/ARTICLE III

ARTICLE III

Experts (other than officials coming within the scope of Article II but including officials of voluntary agencies) performing missions for the United Nations in Japan or passing through Japan shall be accorded such privileges and immunities as are defined in Article VI of the General Convention.

ARTICLE IV

The names of representatives, officials and experts referred to in Articles II and III of this Agreement shall from time to time be communicated to the Government of Japan by the Secretary-General of the United Nations or by the heads of the organizations concerned.

ARTICLE V

The United Nations laissez-passer shall be recognized and accepted as a valid travel document by Japan in accordance with the provisions of Article VII of the General Convention. The holders of United Nations laissez-passer shall be granted facilities for speedy travel.

ARTICLE VI

The United Nations shall be accorded every facility for the use of commercial radio and wire services, including the right to direct wires from the United Nations offices to the International Telegraph Office in Tokyo, and the Government of Japan shall accord to the United Nations for its official communications a priority in accordance with the regulations annexed to the International Telecommunication Convention.

ARTICLE VII

Any dispute between the United Nations and Japan concerning the interpretation of this Agreement which is not settled by negotiation or other agreed means of settlement shall be referred for final settlement to a Tribunal of three arbitrators, one to be named by the Secretary-General, one by Japan, and the third to be chosen by the first two. If the two

/arbitrators

arbitrators should fail to agree on the choice of a third, or if one party should fail to appoint an arbitrator, the President of the International Court of Justice may be asked by one party to appoint an arbitrator. The failure of one party to appoint an arbitrator shall not preclude the making of a binding award by the other two.

ARTICLE VIII

Nothing in this Agreement shall in any way prejudice or detract from the privileges and immunities granted under any other agreement between the United Nations or its various organs on the one hand and Japan on the other.

ARTICLE IX

Those articles of the General Convention which are referred to in this Agreement are reproduced in the Annex hereto. When the term "Member" is used in Sections 6, 8, 9, 21 and 24 of the General Convention in reference to an acceding State, it shall be understood that for the purposes of the present Agreement "Japan" shall be read in place of "Member".

ARTICLE X

This Agreement shall become effective from the date of signature.

ARTICLE XI

(1) The present Agreement shall remain in force for a period of five years as from the date of signature.

(2) Thereafter either Contracting Party shall have the right to give notice to the other of its intention to terminate the present Agreement, and at the expiration of six months after such notice is given this Agreement shall cease to be in force.

/ANNEX*

ANNEX*

Articles of the Convention on the Privileges and Immunities of the United Nations referred to in the Agreement on Privileges and Immunities of the United Nations between the United Nations and Japan.

* The Annex reproduced Article I, Section 1 to Article VII, Section 28 inclusive of the Convention on the Privileges and Immunities of the United Nations. For text of these Articles, see p. 26A, supra.

EXCHANGE OF LETTERS WITH THE FOREIGN MINISTER OF JAPAN CONCERNING LOCALLY RECRUITED PERSONNEL OF THE UNITED NATIONS IN JAPAN, 25 AUGUST 1952.

25 August 1952

Sir,

I have the honour to acknowledge your letter of 25 July 1952 addressed to the Principal Secretary of the United Nations Commission for the Unification and Rehabilitation of Korea, whom I had authorized to conclude with you on that day an agreement concerning the privileges and immunities of the United Nations in Japan, the terms of which letter read as follows:

"I have the pleasure to inform you that the Japanese Government, willing to protect the interests of the United Nations in Japan, will extend to locally recruited personnel of the United Nations' organs and missions operating in Japan the same treatment as that accorded to employees of diplomatic missions residing in this country.

"Employees of foreign diplomatic missions whose names have duly been notified to this Ministry

(1) receive identification cards issued by this Ministry certifying that they are in the service of such diplomatic missions and stating that necessary steps to facilitate the performance of their official functions will be taken by the authorities concerned;

(2) are not arrested without prior approval of the head of the mission involved or its member acting on his behalf. However, this will not prevent arrest of the offender in case of flagrant delict in which threat to public safety necessitates immediate action. Such arrests will be made only in connexion with serious crimes such as murder, arson, assault, burglary, etc., while no such actions will be taken in regard to lesser offenses including traffic violations and infringements of laws and regulations concerning economic or financial controls.

His Excellency,
Mr. K. Okazaki,
Minister for Foreign Affairs,
Tokyo, Japan.

/"Clauses

"Clauses defining the treatment of the United Nations' locally recruited personnel set forth in the preceding paragraphs are included in new instructions, dealing with the treatment of diplomatic agents, members of the Security Forces and foreigners in general, which are now being issued by the Metropolitan Police Board. These instructions are expected to give precedents and bases to similar regulations to be adopted by the National Rural Police and other Municipal Police authorities. You will have been informed that privileges and immunities of foreign diplomatic envoys and their suites have always been regulated in this country by this type of regulation, which is to be construed as the sole authoritative enactment concerning this matter."

Accept, Sir, the assurances of my highest consideration.

Trygve Lie
Secretary-General

C. Commissions, Missions, Subsidiary Organs

1. OPERATIONS AND OFFICES IN HOST COUNTRIES

(1) UNITED NATIONS RELIEF IN THE NEAR EAST

A. Model of Agreements Negotiated in 1948 with the Arab States by the United Nations Mediator for Palestine Disaster Relief Project*

The Government of

And the Mediator of the United Nations in Palestine

Considering that the problem of the Refugees of Palestine is of primary importance and requires an immediate solution;

Considering that all measures which might aid in relieving the distress of the refugees should be taken urgently,

Have agreed to the following:-

ARTICLE I

The Government of agrees to provide without any charges whatsoever, for the goods, supplies, products and equipment to the refugees in Palestine, residing in , the following services:-

(a) Depots and warehouses

(b) Protection and watch

(c) Manpower for unloading and handling

(d) Transportation by railway and trucks on the territory

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* At the time these agreements were negotiated, only Egypt had acceded to the General Convention on the Privileges and Immunities of the United Nations. Upon termination of the Mediator's Mission, Syria, Lebanon and Jordan undertook by exchanges of letters to apply the terms of their 1948 agreements to the United Nations Relief for Palestine Refugees and to co-operating voluntary agencies. Egypt negotiated a separate agreement with UNRPR which is reproduced below at p. 106. The General Assembly in paragraph 17 of Resolution 301 (IV) establishing the United Nations Relief and Works Agency, called upon the Governments concerned to accord to that Agency "the privileges, immunities, exemptions and facilities which have been granted to the United Nations Relief for Palestine Refugees, together with all other privileges, immunities, exemptions, and facilities necessary for the fulfilment of its functions." Lebanon, by letter dated 27 March 1950, agreed to apply to UNRWA the 1948 Agreement with the Mediator as well as the Convention on Privileges and Immunities of the United Nations to which it had by then acceded. Egypt and Jordan negotiated new agreements with UNRWA which are reproduced below at pp. 109 and 113.

/ARTICLE 2

ARTICLE 2

The goods, supplies, products and equipment for the refugees of Palestine or from an Arab State, will be admitted in transit in exempted from all customs duties, taxes or charges of any kind collected for account of the State, of an administration or of any company.

The Government of renounces to the right of inspection of said camps, supplies, products and goods.

ARTICLE 3

The Government of will enter into an agreement with the other Arab States in order that they might assume the charge of the services mentioned in Article 1, concerning the goods, supplies, products and equipments to be provided to the refugees residing on their respective territories, as well as the payment of all charges covering services rendered, which might ultimately be claimed by a company or a private party.

It will also enter into an agreement with the other Arab States in view of taking over the charge of the services mentioned in Article 1, concerning said equipments, products, supplies and goods for the refugees of Palestine, on Palestine territory, as well as the payment of the taxes referred to in the preceding paragraph.

ARTICLE 4

The goods, supplies, products and equipments introduced into in accordance with the preceding articles remain the property of the United Nations or of the donor Organization until their distribution to the individual beneficiaries.

They cannot be sold or exchanged.

ARTICLE 5

In order to safeguard the regularity of above-mentioned operations, the goods, supplies, products and equipment will be accompanied by a certificate from the United Nations, describing the articles concerned and the statement that they are destined to the refugees in Palestine only.

/ARTICLE 6

ARTICLE 6

The Government of takes the engagement of granting to the representatives of the United Nations affected to the service of the refugees in Palestine, all privileges, exemptions and facilities generally granted to the diplomatic staff, and which are required in view of the accomplishment of their mission, this for the persons as well as for all the objects used by them in that connexion.

In witness whereof, the Minister of Foreign Affairs of for the Government of and the Mediator of the United Nations have approved and signed the present agreement.

B. Agreement between the Government of the Kingdom of Egypt; the Director, United Nations Relief for Palestine Refugees and The American Friends Service Committee

WHEREAS the Director of United Nations Relief for Palestine Refugees has appointed the American Friends Service Committee to undertake responsibility for the distribution of refugee relief supplies in those areas of Southern and South-western Palestine now occupied by Egyptian forces, and may appoint such other voluntary agencies as the Red Crescent and the Committees for Palestine Relief.

WHEREAS the supplies to be distributed represent gifts of Member States of the United Nations for the relief of Palestine refugees, and

WHEREAS those supplies may reach Southern Palestine by way of Port Said, passing therefrom through territory of the Kingdom of Egypt, and

WHEREAS the distribution activities of the American Friends Service Committee represent an extension or development of the activities formerly undertaken by the United Nations Disaster Project of the United Nations Mediator, and

WHEREAS the representatives of the American Friends Service Committee have received assurances from the Egyptian Government of its willingness to facilitate in every way the successful operation of this relief programme,

The Director, United Nations Relief for Palestine Refugees now sets forth, in response to the request of the Egyptian Government, a list of those facilities the provision of which by the Egyptian Government he regards as essential to the successful operation of this relief programme.

ARTICLE 1

The Egyptian Government agrees to grant to each representative of the Director, of the American Friends Service Committee or other voluntary agencies subsequently appointed by the Director, a written permit which will

(a) enable him/her to move freely and at any time throughout those Egyptian-controlled areas of Southern Palestine in which substantial groups of refugees may be found, and

(b) enable him/her to move freely and at any time between the Southern Palestine area and the Kingdom of Egypt.

It is understood that the American Friends Service Committee is a completely non-political organization which guarantees that its representatives will not engage in any form of political activity, but will on the contrary confine themselves to their humanitarian task.

The Egyptian Government further agrees to issue written permits, upon the request of the Director, United Nations Relief for Palestine Refugees, and/or his Deputy, which will enable local persons employed by the American Friends Service Committee (e.g., doctors, nurses, drivers, messengers) or other voluntary agencies appointed by the Director to move freely within the above-mentioned areas and/or between those areas and the Kingdom of Egypt.

The Egyptian Government agrees to issue permits which will enable vehicles operated by such voluntary agencies to move freely and at any time within the above-mentioned areas.

ARTICLE 2

The Egyptian Government agrees to furnish without any cost, for goods, stores, produce and equipment destined for the refugees in Southern Palestine, the following services:

(a) labour for unloading and handling

(b) warehouses and stores

(c) transport by rail and lorries, and fuel therefor

(d) safe conduct during storage and transit.

/ARTICLE 3

ARTICLE 3

The goods, stores, produce and equipment destined for the refugees in Southern Palestine will be admitted exempt of all custom duties, taxes, or import or export duties of any sort collected for the profit of the State, or any administration or any society whatsoever.

The Egyptian Government renounces the right of inspection of the aforementioned equipment, stores, produce and goods.

ARTICLE 4

The goods, stores, produce and equipment brought through Egypt into Southern Palestine, by virtue of the preceding articles, remain the property of the United Nations and/or the American Friends Service Committee or other appointed voluntary agencies until delivery to the individual beneficiaries.

ARTICLE 5

Recognizing the need of constant rapid communication between Gaza and Port Said in the implementation of this programme, the Egyptian Government undertakes to provide rapid means of communication including facilities for the despatch of letters for delivery without delay, between Gaza and Port Said, and also if necessary full opportunities to make telecommunications between Gaza and Port Said, using the facilities of the Egyptian Army.

It is understood that all facilities will be used solely for the purpose of communications relating to the operation of the relief programme.

The above articles are hereby made a matter of agreement between the Government of the Kingdom of Egypt, the Director, United Nations Relief for Palestine Refugees, and the American Friends Service Committee or such other voluntary agencies as the Director may appoint.

(Signed)

United Nations
Director, Relief for Palestine Refugees

The Foreign Minister of the Kingdom of Egypt:

(Signed)

The American Friends Service Committee:

(Signed)

December 31, 1948

C. Agreement between the Government of the Kingdom of Egypt and the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East

WHEREAS the General Assembly of the United Nations by Resolution 302 at its Fourth Session established the United Nations Relief and Works Agency for Palestine Refugees in the Near East, hereinafter referred to as the Agency, and this Agency has taken over responsibility for relief to Palestine Refugees in that portion of Palestine occupied and administered by the Egyptian Government where responsibility for direct relief was formerly vested in the United Nations Relief for Palestine Refugees and the American Friends Service Committee,

WHEREAS the Egyptian Government at the Fourth Session of the General Assembly adhered to and supported the Resolution establishing the Agency,

WHEREAS the relief for Palestine refugees was formerly the subject of an Agreement between the Royal Egyptian Government, the Director of the United Nations Relief for Palestine Refugees and the American Friends Service Committee, dated 31 December 1948, and this Agreement has been continued by grace of the Royal Egyptian Government perding the conclusion of a new Agreement between that Government and the Agency,

WHEREAS the supplies to be distributed represent gifts of Member States of the United Nations and others for the relief of Palestine refugees and these supplies reach that area of Palestine occupied and administered by the Royal Egyptian Government thrcugh ports and territories of the Kingdom of Egypt,

WHEREAS the Agency recognizes that assistance is necessary for the relief of Palestine refugees to prevent conditions of starvation and distress among them and to promote conditions of peace and stability and that constructive measures should be undertaken at an early date with a view to the termination of international assistance for relief and that, to that end, consultations shall be instituted between the Agency and the Royal Egyptian Government at the earliest practical date,

WHEREAS the Royal Egyptian Government has advised the Director of the Agency and his Advisory Commission of its continued co-operation in the programme of relief for Palestine refugees, the Director now sets forth those facilities and immunities the provision of which by the Royal Egyptian Government he regards as essential to the successful continuation of the United Nations relief programme.

/ARTICLE 1

ARTICLE 1

The Royal Egyptian Government agrees to grant each representative of the Director of the Agency a written permit which will

(a) enable him or her to move freely and at any time throughout Egypt and Egyptian-controlled areas of Southern Palestine in which substantial groups of refugees may be found, and

(b) enable him or her to move freely and at any time between this area of Southern Palestine and the Kingdom of Egypt.

The Royal Egyptian Government agrees to accept written permits issued by the Director or his Deputy which will enable local persons employed by the Agency to move freely within the above-mentioned areas and/or between those areas and the Kingdom of Egypt, it being understood that upon the written request of the appropriate Minister of the Royal Egyptian Government, and such permits as may have been issued will be withdrawn upon evidence being represented on security grounds or of unlawful actions.

The Royal Egyptian Government agrees to issue permits which will permit cars and vehicles of the Agency to move freely and at any time within the above-mentioned areas and from those areas to the Kingdom of Egypt, including facilities for speedy transit across the Suez Canal.

The Royal Egyptian Government agrees to grant to the Director of the Agency, the Members of his Advisory Commission, and the senior officials of the Agency, as may be agreed in writing between the Royal Egyptian Government and the Director, the privileges and immunities normally enjoyed by international custom, by diplomatic envoys, employed staff members of the Agency, appropriate visas which will permit them to enter and leave the Kingdom of Egypt and will exempt them from quarantine, customs and other fees of similar nature when travelling upon official business of the Agency.

ARTICLE 2

The Royal Egyptian Government agrees to furnish without any cost for goods, stores, produce and equipment destined for the refugees in Southern Palestine the following services:

(a) labour for unloading and handling

(b) transport by rail and lorries and fuel therefor

(c) warehouses and stores

(d) safe conduct during storage and transport.

/ARTICLE 3

ARTICLE 3

The goods, stores, produce and equipment, including petroleum products, destined for the refugees in Southern Palestine will be admitted exempt of all customs duty, taxes, or import or export duties of any sort collected for the profit of the State or any administration or any society whatsoever.

The Royal Egyptian Government renounces the right of inspection of the aforementioned goods, stores, produce and equipment and further grants exemption from the need to obtain export permits from Egypt, import permits into Southern Palestine, or foreign exchange permits.

ARTICLE 4

The goods, stores, produce and equipment, including petroleum products, brought into Southern Palestine by virtue of the preceding Articles remain the property of the United Nations until delivery to the individual beneficiaries.

ARTICLE 5

The Royal Egyptian Government undertakes to provide rapid means of communication including, if necessary, full opportunity for telecommunication between Gaza and Port Said or Cairo, including the use of the facilities of the Royal Egyptian Army, it being understood that such facilities will be used solely for the purpose of communications directly relating to the operation of the relief and works programme.

ARTICLE 6

With a view to facilitating the Agency's mission:

(1) The Royal Egyptian Government will appoint a Liaison Officer, whose name will be sent to the Director of the Agency, who will centralize all the Agency's requests in the territory of Southern Palestine under Egyptian control, and who will be the intermediary between the Agency and the Public Authorities in this territory.

(2) The Royal Egyptian Government will put at the Agency's disposal the lists in its possession of refugees now in Egypt or in the said territory of Southern Palestine under Egyptian control.

/(3) The final

(3) The final lists will be brought up to date by the addition of new names of refugees by mutual agreement between the Governor General of Southern Palestine under Egyptian control and the Director of the Agency or his Deputy. Any deletion from the lists, or discontinuance of supplies or goods to refugees whose names are already on these lists will be made by the sole authority of the Governor General, after consultation with the Director of the Agency, or his Deputy.

ARTICLE 7

The Royal Egyptian Government agrees to grant to the Director of the Agency, his Deputy, and to the Members of the Advisory Commission provided for in the aforementioned Resolution of the United Nations General Assembly, the privileges and immunities normally enjoyed by international custom by diplomatic envoys of equivalent rank. They will be exempted, as will all the internationally employed staff members of the Agency, from quarantine, customs and other fees of similar nature when travelling upon official business of the Agency.

The above Articles are hereby a matter of Agreement between the Government of the Kingdom of Egypt and the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. It will come into force from the date of signature subject to approval by the Egyptian Parliament.

For THE EGYPTIAN GOVERNMENT
MINISTER OF FOREIGN AFFAIRS p.i.

Ibrahim Jaraq

For UNRWA
THE DIRECTOR

Howard Kennedy

12th September, 1950

D. Agreement between the Government of the Hashemite Kingdom of the Jordan and the United Nations Relief and Works Agency for Palestine Refugees

WHEREAS the General Assembly of the United Nations, at its Fourth Session, by Resolution 302 (IV) of 8 December 1949, established the United Nations Relief and Works Agency for Palestine Refugees in the Near East, hereinafter referred to as the Agency, to carry out the terms of the said Resolution,

WHEREAS the relief for Palestine refugees was formerly the subject of an agreement between the Hashemite Kingdom of the Jordan and the Director of the United Nations Relief for Palestine Refugees, and that this agreement has been continued by grace of the Hashemite Kingdom of the Jordan pending the conclusion of a new agreement between that Government and the Agency,

WHEREAS the Hashemite Kingdom of the Jordan identifies itself with the above quoted Resolution of the General Assembly and with the Resolution adopted by the General Assembly at its 315th Plenary meeting of 2 December, 1950, which Resolutions have been agreed to by the Arab Member Nations, and whereas the Hashemite Kingdom of the Jordan has at the same time introduced legislative measures which permit the reintegration of Palestine refugees within the Kingdom of the Jordan at the request of the refugees concerned, the Hashemite Kingdom of the Jordan and the Agency have agreed that the present machinery established by the Ministry of Development and Reconstruction and the Agency for the consideration and implementation of reintegration and other projects shall be maintained,

WHEREAS the supplies to be distributed and the funds to be expended represent gifts of Member States of the United Nations and others for the implementation of the provisions of the above quoted Resolutions,

WHEREAS the Agency as a matter of policy will endeavour to utilize its funds to the maximum advantage of the refugees,

WHEREAS the Hashemite Kingdom of the Jordan has expressed its desire to co-operate with the Agency in giving effect to the provision of the above quoted Resolutions with which the Hashemite Kingdom of the Jordan has identified itself, the Hashemite Kingdom of the Jordan and the Agency have agreed that the following facilities and immunities are necessary for the successful continuation of the Agency's programme:

/ARTICLE 1

ARTICLE 1

The Hashemite Government of the Jordan agrees to grant the Director of the Agency, the members of his Advisory Commission and the senior officials of the Agency, as may be agreed upon in writing between the Hashemite Government of the Jordan and the Director of the Agency, the privileges and immunities normally granted in accordance with international custom to Diplomatic Envoys of equivalent rank. The Hashemite Government of the Jordan further agrees to grant all internationally recruited members of the Agency's staff the privileges and immunities, including freedom from income and other taxes provided for under the Convention on the Privileges and Immunities of the United Nations, with which the Hashemite Government of the Jordan identifies itself. Copy of the Convention is annexed to this Agreement.

ARTICLE 2

The Hashemite Government of the Jordan agrees to grant the international and local staff of the Agency whose names are communicated to the Hashemite Government of the Jordan certificates of identity or travel permits which will authorize them to:

(1) move freely at any time throughout the Hashemite Kingdom of the Jordan, in and between areas in which substantial groups of refugees may be found, or where reintegration projects are proposed or undertaken;

(2) move freely between the Hashemite Kingdom of the Jordan and the neighbouring Arab states;

(3) such certificates or permits may be withdrawn by the Minister of Foreign Affairs for international staff, and by the Minister of Reconstruction and Development for local personnel, at any time for reasons connected with public security or for unlawful actions which may have been committed, but in all cases not before notification has been made to the responsible officers of the Agency;

(4) the Government further agrees to issue permits which will permit passengers, cars and freight vehicles of the Agency to move freely at any time within the Kingdom and to grant facilities for speedy crossing of the frontiers; it being understood that the

freedom of movement described above shall be subject to regulations pertaining to military security in areas where such regulations are in force;

(5) the Hashemite Government of the Jordan agrees to issue to the Director of the Agency, the members of his Advisory Commission, and all members of his staff, appropriate visas which will permit them at all times to enter and leave the Hashemite Kingdom of the Jordan, and agrees to exempt all such persons, when travelling on official business of the Agency, from quarantine, customs, visas or other fees or taxes of a similar nature collected for the profit of the Kingdom or any administration or society whatsoever.

ARTICLE 3

The Agency agrees that as a matter of policy, and given equal conditions, priority in the selection of personnel and in the utilization of services will be given to refugees or to services operated or owned by the refugees; and further agrees, all conditions being equal, to purchase such supplies as may be required and are available from local markets.

The appointment of local staff shall be made upon the recommendations of an Agency selection board in which the Government shall be represented.

ARTICLE 4

The Hashemite Government of the Jordan agrees to pay to the Agency, with effect from 1 March 1951, contributions amounting to five thousand Jordanian Dinars per month for all relief and administration purposes.

The Government further agrees to provide safe conduct of goods, produce, stores and equipment at all times within the Hashemite Kingdom of the Jordan.

The Agency agrees to pay to the Jordan Government, with effect from 1 March 1951, the sum of five hundred Jordanian Dinars per month towards all costs arising out of rents for land occupied by refugee camps and for charges of water consumed by refugees within the Hashemite Kingdom of the Jordan; it being understood that the responsibility for the provision of camp sites and of water and for resolving all questions arising out of their procurement shall rest with the Government.

/The Hashemite

The Hashemite Government of Jordan agrees to bear all costs arising out of rents for land occupied by refugee camps and for charges of water consumed by refugees in excess of five hundred Jordanian Dinars per month.

ARTICLE 5

The goods, stores, produce and equipment including petroleum products destined for the refugees in the Jordan shall be admitted exempt of all customs duty, taxes or import duties of any sort collected for the profit of the Kingdom or any administration or society whatsoever.

The Hashemite Kingdom of the Jordan, without prejudice to reasonable security requirements, waives the right of inspection of the aforementioned goods, stores, produce and equipment and further grants exemption from the need to obtain export permits and import permits; it being understood that the Government reserves the right to withdraw this exemption upon the submission of evidence to the responsible officers of the Agency that it has been abused.

ARTICLE 6

The goods, stores, produce and equipment, including petroleum products, brought into the Hashemite Kingdom of the Jordan by virtue of the preceding Articles shall remain the property of the United Nations until delivery to individual beneficiaries or formal transfer by the Agency to the Government.

ARTICLE 7

The Agency agrees that a schedule of refugees shall be established upon the completion of the current census of refugees within the Hashemite Kingdom of the Jordan to which the Government has given its support, and thereafter agrees that this schedule may be amended by eliminations and addition by the Chief District Officer of UNRWA in Jordan after consultations with* the Hashemite Minister of Development and Reconstruction; keeping in mind the necessity of encouragement of able-bodied refugees to find employment as well as the responsibility of the Agency to spend its funds in conformity with its mandate.

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* Arabic copy reads: "in agreement with ..."

ARTICLE 8

The Hashemite Government of the Jordan agrees that any funds which are the property of the Agency at the end of its programme and which are on deposit or current account within Jordan as the result of an official transfer, may, at the request of the Director of the Agency, be reconverted into the original foreign currency at the current official rates obtaining at the time of reconversion.

The Agency further agrees that all transfers of Agency funds into the Hashemite Kingdom of the Jordan shall be effected through official channels.

ARTICLE 9

The specific conditions under which works and reintegration projects are to be carried out shall be laid down in special agreements between the Government of the Hashemite Kingdom of the Jordan and the Agency.

ARTICLE 10

The Hashemite Government of the Jordan undertakes to accept responsibility for guarding within the Kingdom the stores, warehouses, water and other installations of the Agency and generally undertakes to give all such facilities which may assist the Agency in achieving the objectives set out in the Resolutions of the General Assembly which are annexed to this Agreement and to which the Hashemite Government of the Jordan now adheres and supports in common with the action taken by other Arab Governments at the Fourth and Fifth Sessions of the General Assembly.

ARTICLE 11

The terms and obligations of this Agreement shall be regarded as being binding upon the contracting parties from the date of signature. The provisions of Articles IV and V concerning contributions and services to be given by the Government of the Hashemite Kingdom of the Jordan save when otherwise indicated shall be binding as from 1 May 1950.

Signed this 14th day of March, 1951.

(Signed) Howard Kennedy, Director
On behalf of the United Nations Relief and Works Agency for Palestine Refugees in the Near East

(Signed) Anastas Hanina
Minister for Development and Reconstruction
The Hashemite Kingdom of Jordan

(2) PERMANENT CENTRAL OPIUM BOARD COMMUNICATIONS FROM GOVERNMENTS PURSUANT TO RESOLUTION 123 (VI) OF THE ECONOMIC AND SOCIAL COUNCIL CONCERNING PRIVILEGES AND IMMUNITIES OF MEMBERS OF THE PERMANENT CENTRAL OPIUM BOARD*

A. Letter from the Swiss Federal Political Department**

FEDERAL POLITICAL DEPARTMENT
o.F.53.11.1.21.01. CE.
In reply please quote Ref. No.
ad: C.N.25.1948. NARCOTICS

The Federal Political Department presents its compliments to the Secretary-General of the United Nations and, in reply to the note addressed by him on 26 March 1948 with regard to the resolutions adopted by the Economic and Social Council on 2 March in respect of narcotic drugs, has the honour to transmit hereafter the views of the Swiss Government on privileges and immunities to be granted to the members of the Permanent Central Opium Board.

Pursuant to the provisional arrangement on the privileges and immunities of the United Nations concluded between the Swiss Federal Council and the Secretary-General of the United Nations, the members of the Permanent Central Opium Board will be granted on the territory of the Swiss Confederation the following privileges and immunities:

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

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* Resolution 123 (VI) of the Economic and Social Council, adopted on 2 March 1948, provided in part:

"E - Privileges and Immunities of Members of the Permanent Central Opium Board

THE ECONOMIC AND SOCIAL COUNCIL,

TAKING INTO ACCOUNT the responsibilities and functions of the Permanent Central Opium Board under the international Conventions on Narcotic Drugs of 1925 and 1931 and its relations with the Council,

RECOMMENDS that Governments should extend to the members of the Permanent Central Opium Board privileges and immunities on the lines laid down in the Convention on Privileges and Immunities as approved by the General Assembly on 13 February 1946;

INVITES Governments to report as soon as possible what measures they have taken to carry out this recommendation."

** Original in French. Translation by the Secretariat.

/(b) Immunity

(b) Immunity from any judicial action in regard to acts performed by them in the course of their missions, including their words and writings. This immunity shall continue to be granted to them even after these persons shall have completed their mission on behalf of the United Nations;

(c) Inviolability of their papers and documents;

(d) The right to make use of codes and to receive documents and correspondence by mail or sealed pouches for their communications with the United Nations;

(e) The same facilities as regards monetary or exchange regulations as those granted to representatives of foreign governments on official temporary mission;

(f) The same immunities and facilities as regards their personal luggage as those granted to diplomatic agents.

With respect to the waiving of the privileges and immunities of a member of the Central Board, it shall be possible to apply either to the Central Board itself or to the Economic and Social Council.

Berne, 14 July 1948

B. Letter of Permanent Representative of Greece to Secretary-General

August 10, 1948

Sir,

With regard to the resolution of the Economic and Social Council on March 2, 1948, concerning Narcotic Drugs (E/750 of March 5), I have the honour to inform you that my Government is ready to extend to the members of the Permanent Central Opium Board privileges and immunities along the lines laid down in the Convention on Privileges and Immunities, as approved by the General Assembly on February 13, 1946.

I have the honour to be,

Sir,

Your obedient Servant,

(Signed)

Alexis Kyrou
Permanent Representative of Greece

His Excellency
Mr. Trygve Lie
Secretary General
United Nations
Lake Success, New York

C. Letter to Secretary-General from the Permanent Representative of the United Kingdom

UNITED KINGDOM DELEGATION TO THE UNITED NATIONS
Empire State Building
New York 1, N.Y.

10th January, 1949.

Sir,

I have the honour to refer to letter LEG 87/01/PM of August 19th from the Director of the Legal Department concerning the extension of Privileges and Immunities to the members of the Permanent Central Opium Board.

2. I note that the members of the Permanent Central Opium Board are considered to fall within the category of experts performing missions for the United Nations under Article VI of the General Convention on Privileges and Immunities of United Nations. As His Majesty's Government have acceded to the Convention and have given effect to it by Order-in-Council No. SRO 1772 of August 8th, 1947, it would appear that no further action is required on the part of His Majesty's Government.

3. His Majesty's Government assume that when members of the Permanent Central Opium Board travel in their official capacity they will be in possession of a valid document stating that they are experts on missions for the United Nations so that they may receive the relevant privileges and immunities.

I have the honour to be,

Sir,

Your Excellency's obedient Servant,

J.E.S. FAWCETT

(for Sir Alexander Cadogan

His Excellency,
Monsieur Trygve Lie,
Secretary-General,
United Nations,
Lake Success, Long Island, N.Y.

D. Letter to Secretary-General from the Permanent Representative of Denmark

PERMANENT DELEGATION OF DENMARK
TO THE UNITED NATIONS

New York, 4 October 1950

Sir,

With reference to resolution No. 123 adopted 2 March 1948 by the Economic and Social Council, I have the honour to inform you that the Royal Government of Denmark considers the members of the Permanent Central Opium Board as having the same status as experts on special missions for the United Nations so that the provisions of Article VI of the Convention on the Privileges and Immunities of the United Nations, approved by the General Assembly on 13 February 1946, are directly applicable with regard to the aforementioned Board.

Please accept, Sir, the assurances of my highest consideration.

Mr. Trygve Lie,
Secretary-General of the United Nations

(3) COMMISSION OF INQUIRY ON COCA LEAF

Letter to the Secretary-General from the Bolivian Delegation to the United Nations*

SG-100/49

19 October 1949.

Sir,

In reply to your note No. SOA 363/03/PJB of 14 October 1949, I have the honour to inform you in the name of my Government that, by virtue of resolution No. 29703, the Government of Bolivia acceded to the Convention on Privileges and Immunities of the United Nations, which was approved by the General Assembly on the report of the Sixth Committee and which the Assembly proposed for accession by all Members.

Consequently, the Commission of Inquiry on the Coca Leaf will enjoy all the privileges and immunities contemplated in the said Convention which has not as yet been ratified by Bolivia.**

Accordingly, I request you to inform the members of the Commission of Inquiry on the Coca Leaf that they may proceed to Bolivia without delay.

A legalized copy of the Bolivian Government's resolution is attached hereto.

I have the honour, etc.

A. Costa du Rels

Chairman of the Bolivian Delegation to the United Nations

Enc. 1 Legalized Copy***

The Secretary General of the United Nations,
New York.

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* Original in Spanish. Translation by the Secretariat.

** Bolivia ratified the Convention on 23 December 1949.

*** Omitted.

(4) UNITED NATIONS COMMISSIONER IN LIBYA

A. Letter from the Secretary-General to the United Kingdom Representative to the United Nations*

12 January 1950

Sir,

I have the honour to inform you that Mr. Adrian Pelt, United Nations Commissioner in Libya, appointed by the General Assembly under the terms of its Resolution 289(IV) of 21 November 1949 on the Question of the Disposal of the Former Italian Colonies, is leaving on 12 January 1950 for Libya where he is due to arrive in Tripoli on or about 18 January 1950. It is understood that the purpose of Mr. Pelt's present visit to Libya is to make a preliminary survey of the situation there in so far as it relates to his functions. He is therefore bringing with him only a few assistants but expects to establish his Headquarters with a full staff by March of this year.

I am confident that, in the exercise on behalf of the United Nations of the functions entrusted to him in virtue of the aforesaid resolution, the Commissioner will have the full co-operation of the Administering Powers in Libya and, in particular, will be accorded, in conformity with Article 105 of the Charter, all privileges and immunities necessary for the independent exercise of these functions.

It is noted that the Convention on the Privileges and Immunities of the United Nations does not appear to contain any express provision specifically applicable to an office such as that of the Commissioner in Libya. Nevertheless, it is my considered opinion that, in view of the high office which the Commissioner in Libya holds as an agent of this Organization and of the important functions entrusted to him, it would be necessary for the independent exercise of these functions that

His Excellency,
The Right Honourable Sir Alexander Cadogan, G.C.M.G., K.C.B.,
United Kingdom Representative to the United Nations,
61st Floor, 350 Fifth Avenue
New York 1, N.Y.

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* A similar letter of the same date was written to the Permanent Representative of France to the United Nations.

/the Commissioner

the Commissioner in Libya enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic envoys and which are accorded to the Secretary-General and the Assistant Secretaries-General of the United Nations under Section 19 of the Convention on the Privileges and Immunities of the United Nations.

I have the honour, therefore, to express to Your Excellency the hope that your Government will be good enough to agree to extend to Mr. Pelt the privileges and immunities, exemptions and facilities accorded to diplomatic envoys in accordance with international law, and that the British Authorities in Libya be notified accordingly.

I have the honour to be,
Sir,
Your obedient Servant,

Trygve Lie
Secretary-General

B. Letter to the Secretary-General from the Permanent Representative of France to the United Nations*

FRENCH REPUBLIC

DELEGATION TO THE
UNITED NATIONS

NEW YORK, 6 March 1950

Sir,

On 12 January last you drew my attention to the desirability of granting Mr. PELT the necessary privileges and immunities to enable him freely to exercise his functions.

The French Government, to which I communicated this request, has informed me that it has decided to grant the United Nations Commissioner in Libya all the privileges, immunities and exemptions, and facilities granted in accordance with international law to diplomatic envoys and under Section 19 of the Convention

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* Original in French. Translation by the Secretariat.

/on the

on the Privileges and Immunities of the United Nations to the Secretary-General and the Assistant Secretaries-General.

The necessary instructions have been transmitted to the French authorities concerned.

I have the honour etc.

Jean Chauvel
French Ambassador

Mr. Trygve Lie,
Secretary-General of the United Nations,
Lake Success.

C. Letter to Secretary-General from the United Kingdom Representative to the United Nations

United Kingdom Delegation
to the United Nations,
New York.

20th January, 1950

Sir,

I have the honour to inform you, in reply to your Excellency's letter No. LEG 240/01(2)/CS of 12th January, that His Majesty's Principal Secretary of State for Foreign Affairs has instructed the British Resident at Benghazi, and the Chief Administrator at Tripoli to extend to Mr. Pelt, the United Nations Commissioner for Libya, the privileges and immunities, exemptions and facilities which are normally accorded to diplomatic envoys.

I have the honour to be
Sir,
Your obedient Servant,
Alexander Cadogan.

His Excellency
Monsieur Trygve Lie,
Secretary-General,
United Nations,
Lake Success,
L.I.

(5) UNITED NATIONS COMMISSION FOR INDONESIA

Exchange of letters with Minister of Foreign Affairs of Indonesia

23 May 1950.

Sir,

I have the honour to acknowledge receipt of your letter dated 23 May 1950 reading as follows:

" I have the honour to inform you that, in view of clarifying the status of the representatives on the United Nations Commission for Indonesia and the personnel attached to the Commission, the Government of the Republic of the United States of Indonesia confirms that the three Representatives on the Commission and the personnel of their delegations, the Principal Secretary and the members of the Secretariat enjoy all privileges and immunities granted to the members of the Diplomatic Corps of similar rank accredited in Indonesia. It is understood however, that these immunities and privileges will not apply to locally recruited personnel.

" I would appreciate it if you could kindly acknowledge receipt of the present letter; this exchange of letters would then constitute an agreement between the Republic of the United States of Indonesia and the United Nations Commission for Indonesia."

I am authorized by the Secretary-General of the United Nations to take note of this communication, which together with my present reply, constitutes an agreement between the United Nations and the Republic of the United Statesoof Indonesia with regard to the privileges and immunities of the members and staff of the United Nations Commission for Indonesia.

I have the honour to be,

Sir,

Your obedient servant.

/s/

J.A. Romanos,
Principal Secretary

His Excellency
Dr. Mohammad Hatta,
Prime Minister and
Minister for Foreign Affairs,
Republic of the United States
of Indonesia,
DJAKARTA.

(6) ADVISORY COUNCIL FOR SOMALILAND

A. Exchange of Letters with Italian Observer

a. Letter and attached aide-mémoire from the Director of the Division of Immunities and Treaties to the Italian Observer to the United Nations.

10 March 1950

Sir,

I have the honour to refer to the preliminary exchange of views which we held in my office on Friday, 3 March 1950, concerning the privileges and immunities of the staff assigned by the Secretary-General to the Advisory Council for Somaliland and the privileges and immunities of the United Nations.

In accordance with your request, you will find enclosed an aide-mémoire relating to these questions and three copies of the text of the Convention on the Privileges and Immunities of the United Nations. In response to my suggestion you were kind enough to point out, during our conversation, that, pending the conclusion of a formal agreement between the Secretary-General and the Italian Government, the latter would be prepared to extend to the Secretariat all the privileges, immunities and facilities required for the free performance of its duties.

I should be obliged if you would be so good as to send me confirmation of your Government's agreement on this matter. You will also recall that we felt that any agreement on the questions with which we are concerned could be effected by an exchange of letters.

I have the honour to be etc.

C. Stavropoulos,
Director,
Division of Immunities and Treaties

Mr. Renato della Chiesa,
First Secretary of Legation,
Office of the Italian Observer
to the United Nations,
37 Beekman Place,
New York, N.Y.

/AIDE-MEMOIRE

AIDE-MEMOIRE

1. The question of the privileges and immunities of the United Nations and of the members and Secretariat of the Advisory Council for Somaliland was discussed at the fourth meeting of the sixth session of the Trusteeship Council, held at Geneva on Tuesday, 24 January 1950.

2. During these discussions particular consideration was given to the question of the privileges and immunities of the Secretariat of the Advisory Council. On several occasions, Mr. Cerulli, the representative of Italy, stated that his Government was prepared to settle the question of the privileges, immunities and facilities of the staff assigned by the Secretary-General to the Advisory Council by a friendly agreement with the Secretary-General concluded independently of the Trusteeship Agreement.

3. Even before the vote on article 10 of the draft trusteeship agreement, Dr. Hoo, Assistant Secretary-General in charge of the Trusteeship Department, asked Mr. Cerulli to confirm that he could, in reporting to the Secretary-General, convey the assurance that the Italian Government would come to an agreement with the Secretary-General on the immunities to be granted to United Nations property and to the members of the Secretariat.

Mr. Cerulli gave this confirmation.

4. Article 10 of the draft trusteeship agreement was then adopted unanimously. This article lays down that: "...members of the Advisory Council shall enjoy full diplomatic privileges and immunities, and their staff shall enjoy the privileges and immunities which they would enjoy if the Convention on the Privileges and Immunities of the United Nations were applicable to the Territory." It should therefore be noted that the provisions of article 10 respecting the Secretariat represent a minimum and that they were unanimously adopted only after Mr. Cerulli had given the confirmation for which Dr Hoo had asked as described above.

5. In this connexion, certain distinctions should be made among the staff assigned by the Secretary-General to the Advisory Council under paragraph 2(c) of part D of General Assembly resolution 289 (IV): (a) staff assigned to hourly rates not entitled to any privileges or immunities; (b) locally recruited staff, but not assigned to hourly rates, who are to be entitled to the privileges and immunities

/set

set forth in the Convention on the Privileges and Immunities of the United Nations;
(c) regular Secretariat staff and other internationally recruited staff entitled to the privileges and immunities stipulated in the following paragraph.

6. Privileges and immunities to be extended to Secretariat officials not locally recruited:

(a) Immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) Exemption from taxation on the salaries and emoluments paid to them by the United Nations;

(c) Immunity from national service obligations;

(d) Exemption for themselves, their spouses and relatives dependent on them, from immigration restrictions and alien registration;

(e) In respect of exchange facilities, the same privileges as are accorded to the officials forming part of diplomatic missions to the Italian Government;

(f) The same repatriation facilities, for themselves, their spouses and relatives dependent on them, as diplomatic envoys, in time of international crisis;

(g) Immunity from personal arrest or detention and from seizure of their personal baggage.

(h) Exemption from all customs duties, import prohibitions and restrictions in respect of their personal baggage and articles imported for their personal use. These articles shall also be exempt from all duties and taxes. It is understood, however, that articles imported under such exemption will not be sold in the territory of Italian Somaliland.

(i) The laissez-passer issued to Secretariat staff shall be recognized and accepted as valid travel documents. Applications for visas from holders of these laissez-passer shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel;

(j) Right to travel freely and without let or hindrance in the territory of Italian Somaliland;

/(k) The

(k) The privileges and immunities listed above are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations.

Most of these privileges and immunities are included in the general Convention adopted by the United Nations General Assembly on 13 February 1946.

7. Similar privileges and immunities have been granted to the Secretariat, for example during the meeting in Turkey of the Ad Hoc Committee of the Principal Opium-Producing Countries of the Commission on Narcotic Drugs. Special privileges, immunities and facilities were also granted by the French Government to Secretariat staff on the occasion of the holding in France of the third regular session of the United Nations General Assembly in Paris in 1948. It should be noted, in this connexion, that France had acceded to the Convention on the Privileges and Immunities of the United Nations on 18 August 1947, but that the French Government, in view of the special circumstances of the Paris session, granted more than was provided in the Convention. Again, the privileges and immunities Agreement with Switzerland and the practical arrangement for implementing it go further than the Convention, particularly as far as the privileges and immunities of the officials of the European office are concerned. More examples could be quoted, since all United Nations commissions have enjoyed, in the territory of the countries where they have met or where they are performing their duties by virtue of General Assembly resolutions, not only in respect of themselves but also of their members and secretariats, privileges and immunities which have invariably exceeded the scope of the privileges mentioned in the Convention and which have corresponded explicitly or in fact to full diplomatic privileges.

8. The United Nations possesses, in the Territory of Italian Somaliland, juridical capacity and enjoys the privileges and immunities which it requires, including:

(a) The capacity to contract, to acquire or dispose of movable and immovable property and to institute legal proceedings;

(b) Its property and assets, wherever located and by whomsoever held, enjoy immunity from every form of legal process;

(c) Its premises are inviolable. Its property and assets, wherever located and by whomsoever held, are immune from search, requisition, confiscation, expropriation, and any other form of interference, whether by executive, administrative, judicial or legislative action;

(d) Authority to hold funds, gold or currency of any kind and to operate accounts in any currency, to transfer freely, to receive and to despatch funds and currency and to convert any currency into any other currency;

(e) Application of the most favourable treatment in respect of rates of exchange;

(f) The assets, income or other property of the United Nations are exempt from all direct taxes or customs duties and prohibitions and restrictions on imports or exports in respect of articles imported or exported for its official use;

(g) Exemption from excise duties and from taxes on the sale of movable and immovable property purchased by the United Nations for its official use. The Italian Government will make appropriate administrative arrangements for this purpose;

(h) No censorship may be applied to the official correspondence and other official communications. Right to use codes and to despatch and receive its correspondence by courier or in bags, which shall have the same privileges and immunities as diplomatic couriers and bags. Official communications (cables, telegrams, radiograms, telephotos, telephone and other communications) shall have priority and shall be accorded the most favourable treatment in respect of rates and charges.

9. Pending the conclusion of an agreement on the privileges and immunities enumerated above, it is understood that the Italian Government will grant all the privileges, immunities and facilities to the Secretariat in order to enable it to perform its duties freely and efficiently.

10. The members of the Secretariat so far assigned by the Secretary-General to the Advisory Council under paragraph 2(c) of part D of General Assembly resolution 289 (IV) consist of:

Principal Secretary	grade 18
Deputy Principal Secretary	grade 17
Political Officer	grade 14
Political Officer	grade 13
Interpreter/translator	grade 13
Administrative and finance officer	grade 10
Secretary	grade 7
Secretary	grade 6
Secretary	grade 4

Subject to any resolutions or recommendations of the General Assembly or Trusteeship Council which might involve an increase in staff, it seems unlikely that the size of the staff will change noticeably in the ordinary course of events, at least as far as the staff whose privileges and immunities are described in paragraph 6 of this aide-mémoire is concerned.

b. Letter and attached aide-mémoires to the Director of the Division of Immunities and Treaties from the Italian Observer to the United Nations.

25 July 1950

Sir,

With reference to your letter LEG 240/01(3) of 10 March 1950 concerning the privileges and immunities of personnel made available by the Secretary-General to the Advisory Council for Somaliland and to the privileges and immunities of the United Nations, I have the honour to forward herewith two aide-mémoires containing the Italian Government's reply to the Secretary-General's aide-mémoire which was attached to the above-mentioned letter.

The two aide-mémoires, one of which relates to the privileges and immunities of personnel made available to the Advisory Council for Somaliland by the

Secretary-General and the other to the immunities of the United Nations, are based on the Italian Government's sincere desire to reach agreement on the matter with the Secretariat as soon as possible.

At the same time, and in accordance with the wishes expressed in your letter, I have the honour and pleasure to inform you that meanwhile, that is, until the agreement in question is completed, the Italian Government is prepared to make the provisions of Article 10 of the Trusteeship Agreement applicable to Secretariat officials in Somaliland and to grant them every recognized local facility.

I have the honour etc.

(signed) Luciano Mascia
Minister Plenipotentiary
Italian Observer to the
United Nations

Mr. C. Stavropoulos,
Director, Division of Immunities and Treaties,
United Nations,
Lake Success, L.I., N.Y.

PRIVILEGES AND IMMUNITIES OF THE SECRETARIAT PERSONNEL OF THE ADVISORY COUNCIL FOR SOMALILAND

The Italian Government, while maintaining the juridical reservations made during the discussion at the fourth meeting of the sixth session of the Trusteeship Council, held at Geneva on 24 January 1950, is pleased to confirm that it is prepared, as indicated by its representative, Mr. Cerulli, to take up the matter of the privileges and immunities of personnel made available to the Advisory Council for Somaliland by the Secretary-General of the United Nations.

Accordingly, and with particular reference to the proposals submitted by the Secretariat in the aide-mémoire it sent to the Office of the Italian Observer to the United Nations with its letter of 10 March 1950, the Italian Government has the honour to state that:

(1) It is in complete agreement with paragraph 5 a), concerning staff assigned to hourly rates;

/(2) It is

(2) It is also prepared to grant the privileges and immunities set forth in the Convention on the Privileges and Immunities of the United Nations to non-indigenous personnel locally recruited but not assigned to hourly rates; the Advisory Council would oblige the Italian Administrator by sending it a list of such persons;

(3) With regard to the privileges and immunities to be granted to personnel mentioned in paragraph 5 c) and listed in paragraph 10 of the aide-mémoire, and with particular reference to the proposals in paragraph 6, the Italian Government agrees with the proposals set forth in sub-paragraphs a), b), c), d), f), i) and h).

It is considered necessary to include the expression "of comparable ranks" after the word "official" in sub-paragraph e) in the same way as in paragraph (e) of section 18 of the above-mentioned Convention.

Sub-paragraphs g) and h) should be amended as follows. Sub-paragraph g): The same immunity from personal arrest or detention and from seizure of their personal baggage as is accorded to officials of comparable ranks forming part of diplomatic missions to the Italian Government; sub-paragraph h): The same exemption from all customs duties, import prohibitions and restrictions in respect of their personal baggage and articles imported for their personal use as is accorded to officials of comparable ranks forming part of diplomatic missions to the Italian Government. These articles shall also be exempt from all duties and taxes. It is understood, however, that articles imported under such exemption will not be sold in the territory of Italian Somaliland.

It is considered advisable to omit sub-paragraph j), concerning the right to travel freely in the territory, since that right is guaranteed without restriction by Article 9, paragraph (8), of the annex on constitutional principles which is an integral part of the Trusteeship Agreement for the Territory of Somaliland.

Finally, the Italian Government will continue to do its utmost to make every recognized local facility available to the above-mentioned personnel.

JURIDICAL CAPACITY, PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

With regard to the questions to which reference is made in paragraph 8 of the aide-mémoire sent to the Italian Observer to the United Nations, together with

/letter

letter LEG/240/01(3) of 10 March 1950, the Italian Government as Administering Authority for Somaliland has the honour to state that in the matter of United Nations activities in that territory it is prepared, in accordance with the provisions of the United Nations Charter and of the Trusteeship Agreement approved by the Trusteeship Council at Geneva on 27 January 1950, to grant the United Nations recognition of its juridical capacity and enjoyment of the privileges and immunities listed in the above-mentioned paragraph of the Secretariat's aide-mémoire.

B. Further exchange of Letters with Italian Observer

a. Letter from Assistant Secretary-General, Legal Department to the Italian Observer to the United Nations.

8 August 1950

Sir,

I have the honour to acknowledge the receipt of your letter No. 1493 of 25 July 1950, and to express the satisfaction and full accord of the United Nations that the privileges and immunities approved in the two aide-mémoires of the Italian Government attached to your letter are to be granted to Secretariat personnel made available to the Advisory Council for Somaliland and to the Organization itself, pending the conclusion of a more formal agreement. I trust that immediate instructions have been sent by your Government to its appropriate sub-divisions on the territory on which the Advisory Council will function, in order that prompt effect may be given to the terms of this exchange of notes.

With reference to the proposed omission of autochthonous personnel from the groups enjoying the general list of privileges and immunities accorded to the regular international staff, we have no disagreement with the view that personnel recruited from the purely local population should not be entitled to a status which would afford them customs exemption, for example, or exchange facilities.

The Italian Observer to the United Nations,
270 Park Avenue,
New York 17, N.Y.

/At the

At the same time, I should like to record our understanding, in the absence of objection from your Government, that basic privileges and immunities normally accorded under prevailing diplomatic practice and necessary for the exercise of their functions in connexion with the Organization will not be denied to personnel serving the Advisory Council merely because they are autochthonous. These basic rights would not be expected to go beyond immunity from jurisdiction or arrest in respect of words spoken or written and acts performed by them in their official capacity. As in all other cases, these immunities will be accorded solely in the interests of the United Nations and not for the personal benefit of the individuals themselves. I make this point because any other result, whereby an interpreter or chauffeur, for example, could be arrested or served with process for acts performed in the course of his official duties merely because he was a Somali rather than an internationally recruited staff member, would naturally be in conflict not only with the efficient functioning of the Advisory Council but with the basis purposes of the Trusteeship Agreement.

Please accept, Sir, the renewed assurances of my highest consideration.

Assistant Secretary-General
Legal Department

b. Letter to Director of Division of Immunities and Treaties from the Italian Observer to the United Nations.

2 November 1950

Sir,

I have the honour, further to my letter of 21 August in reply to your letter of 8 August, to communicate the following concerning the privileges and immunities of personnel made available to the Advisory Council for Somaliland by the Secretary-General.

I wish to confirm that the Italian Government, desirous of coming to an agreement on the matter with the Secretariat as soon as possible, is prepared to grant local indigenous personnel employed by the Advisory Council the privileges and immunities accorded under international practice to personnel of local

nationality engaged by diplomatic and consular missions and acting in their official capacity. The enjoyment of the above-mentioned privileges and immunities is, of course, limited to staff recruited locally but not assigned to hourly rates, and the Advisory Council would oblige the Italian Administration by sending it a list of such persons.

I have the honour to be etc.

(signed) Luciano Mascia

Mr. C. STAVROPOULOS,
Director, Division of Immunities and Treaties,
United Nations, Lake Success, L.I., N.Y.

(7) TECHNICAL ASSISTANCE PROGRAMMES

A. Model Text of Provision for Privileges and Immunities in Basic Agreements Concerning Technical Assistance

"The Government undertakes, in so far as it is not already legally bound to do so, to apply to the Organizations, their property, funds and assets, and to their officials including technical assistance experts, the provisions of the Convention on the Privileges and Immunities of the United Nations and the Convention on the Privileges and Immunities of the Specialized Agencies."

In cases where the respective Government has acceded to the Convention on the Privileges and Immunities of the United Nations, the clause will start as follows:

"The Government, having acceded to the Convention on the Privileges and Immunities of the United Nations on ....., undertakes to apply to the Organizations, its property,....."

/B. Provisions

B. Provisions for Privileges and Immunities contained in Agreement dated 1 October 1951 between the United Nations and the Government of Bolivia for the Provision of Technical Assistance

ARTICLE XX

The contracts of employment shall provide for such privileges and immunities as are necessary for the adequate exercise of the functions of the administrative assistants in Bolivia.* In particular, no tax shall be imposed on any payments made under Article XIII above.**

. . .

ARTICLE XXII

The Special Representative of the United Nations shall enjoy in Bolivia the privileges and immunities accorded by the Government to diplomatic envoys

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* The contracts of employment between the Bolivian Government and the Administrative Assistants, recruited under United Nations auspices for positions in the Bolivian Civil Service, typically provide for the following privileges and immunities:

"The appointee shall
(a) be immune from all legal process in respect of words spoken or written and all acts performed by him when concerned with any political matter or in his official capacity or in the course of his employment under this contract;
(b) be accorded the same privileges in respect of exchange facilities as are accorded to officials forming part of diplomatic missions to the Government of the Republic of Bolivia;
(c) be immune from national service obligations to the Government of the Republic of Bolivia;
(d) have the right to import free of duty his furniture and effects required in connexion with establishing residence in Bolivia;
(e) be exempt, together with his spouse and dependents, from immigration restrictions and alien registration;
(f) be given, together with his spouse and dependants, the same repatriation facilities as are afforded diplomatic envoys under international custom;
(g) be provided with appropriate identification cards for himself and his spouse and dependants."

** Article XIII of the Agreement provides for a fund to be set aside by the United Nations from which payments are to be made to the Administrative Assistants as supplements to their salaries as Bolivian Civil Servants.

accredited to it. The United Nations in general, its property and assets, and any staff of the United Nations who may be assigned to serve in Bolivia, shall enjoy the privileges and immunities provided in the Convention on the Privileges and Immunities of the United Nations, to which Bolivia is a party.

(8) UNITED NATIONS TRIBUNAL IN ERITREA

Letter from the Minister of Foreign Affairs of Ethiopia, 16 September 1952

16 September 1952

Your Excellency,

I have the honour to acknowledge receipt of your communication dated 11 September 1952, concerning the grant of diplomatic privileges and immunities to the members of the United Nations Tribunal in Eritrea.

You informed me that the Secretary-General of the United Nations has asked you to be so good as to arrange, by an exchange of letters, with the Imperial Government of Ethiopia, as the Federal Government, for the grant of these privileges and immunities. At the same time, you informed me that the same privileges and immunities have already been accorded, by analogy with Article 19 of the Statute of the International Court of Justice, to the same persons when they sat in Libya as members of the United Nations Tribunal there.

In reply, I have the honour to inform you that the Imperial Government of Ethiopia is pleased to extend to the members of the United Nations Tribunal in Eritrea diplomatic privileges and immunities based, *mutatis mutandis*, on the provisions of Article 19 of the Statute of the Inter[illegible]al Court of Justice.

I have the honour to be,

(Signed)

His Excellency
Eduardo Anze Matienzo
United Nations Commissioner in Eritrea
ASMARA

2. CONFERENCES, SESSIONS, MEETINGS IN HOST COUNTRIES

(1) ECONOMIC COMMISSION FOR LATIN AMERICA

A. Exchange of Cablegrams concerning facilities, privileges and immunities to be accorded by the Government of Chile to the first session of the Economic Commission for Latin America in Santiago

a. Cablegram from Secretary General to Minister for Foreign Affairs of Chile

30 APR 48

SANTIAGO (CHILE)

3 HAVE HONOUR REFER MY LETTER 902-3-1-6/IR OF 18 MARCH URGING ACCESSION CHILE GENERAL CONVENTION PRIVILEGES IMMUNITIES UNITEDNATIONS ESPECIALLY IN VIEW ESTABLISHMENT HEADQUARTERS ECONOMIC COMMISSION FOR LATINAMERICA SANTIAGODECHILE OF WHICH FIRST SESSION BEGINS 7 JUNE. FIRST GROUP SECRETARIAT HEADED BY MR EUGENIO CASTILLO DEPUTY EXECUTIVE SECRETARY COMMISSION ARRIVES SANTIAGO 16 MAY AND SECOND GROUP 24 MAY. OFFICE EQUIPMENT ALREADY SHIPPED. MEMBERS DELEGATIONS AND REPRESENTATIVES SPECIALIZED AGENCIES EXPECTED ARRIVE BEGINNING JUNE.

SINCE CHILE HAS NOT YET ACCEDED CONVENTION HAVE HONOUR STRESS IMPORTANCE GRANTING PROVISIONAL PRIVILEGES AND IMMUNITIES NECESSARY FOR FULFILLMENT AND EFFICIENT EXERCISE FUNCTIONS AND PURPOSE COMMISSION

TRYGVE LIE SECRETARY GENERAL

/b. Cablegram

b. Cablegram from Minister for Foreign Affairs of Chile to Secretary General

TRYGVE LIE

I HAVE THE HONOUR TO REFER YOUR CABLE 30 APRIL AND INFORM YOU THAT GENERAL CONVENTION ON PRIVILEGES AND IMMUNITIES UNITED NATIONS IS STILL PENDING CONSIDERATION CONGRESS.* NEVERTHELESS GOVERNMENT WILL GRANT ALL PROVISIONAL PRIVILEGES IMMUNITIES AND OTHER FACILITIES NECESSARY FULFILMENT AND EFFECTIVE ACCOMPLISHMENT OF FUNCTIONS AND PURPOSES OF ECONOMIC COMMISSION FOR LATIN AMERICA.

GERMAN VERGARA, MINISTER FOR FOREIGN AFFAIRS

B. Exchange of letters concerning privileges and immunities to be accorded by the Government of Uruguay to the sessions in Montivideo of the Subcommission on Freedom of Information and of the Press, and of the Economic Council for Latin America

a. Letter to the Secretary General from Permanent Representative of Uruguay to the United Nations

DELEGATION OF URUGUAY
TO THE UNITED NATIONS

Montevideo 19 April 1950

The Secretary-General,
United Nations,
Lake Success, N.Y.

Sir,

Article 104 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes,

Furthermore Article 105 of the Charter provides that the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes, and that representatives of the Members of the United Nations and officials of the Organization shall similarly

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* Chile acceded to the Convention on the Priveleges and Immunities of the United Nations on 15 October 1948.

enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Organization. Accordingly I have the honour to inform you that for so long as Uruguay has not acceded to the Convention on the Privileges and Immunities of the United Nations, my Government will apply the provisions of the Convention in its relations with the United Nations and its officials, and with representatives of its Members and experts employed in United Nations missions, and that during the sessions in Montevideo of the Sub-Commission on Freedom of Information and of the Press and the Economic Commission for Latin America, which are to commence in May 1950, the Government of Uruguay is willing to grant the following privileges, immunities and facilities:

Premises

The premises made available to the above Commissions for the duration of their sessions will be inviolable and exempt from registration, occupation, confiscation, expropriation or any other form of action resulting from executive, administrative, judicial or legislative measures.

Such premises shall be deemed to be premises of the United Nations and shall be placed under the control and authority of the United Nations and the United Nations alone shall have the right to authorize or prohibit entry to these premises and to expel any person from them.

The competent authorities of Uruguay shall make adequate arrangements to prevent any disturbances in the said premises due to the unauthorized entry of groups of persons or to disorders in their immediate vicinity. To this end they shall supply any necessary police protection outside the premises.

At the request of the competent United Nations authorities, police detachments of adequate size to maintain order within the said premises and expel any persons therefrom shall be supplied, in conformity with any instructions which may be issued under the authority of the United Nations.

The said premises shall remain at the disposal of the Commissions for the duration of their sessions, and this duration shall include a preparatory period prior to the date set for the opening of each session and a supplementary period immediately following the official closure thereof.

/The Government

The Government of Uruguay shall place at the disposal of the United Nations, free of charge, the necessary staff for the cleaning and care of the premises,

Freedom of access to the premises placed at the disposal of the Commissions, and right of entry and sojourn in the territory of Uruguay

Freedom of access to the premises of the Commissions is guaranteed without restriction.

The Government of Uruguay undertakes to authorize the following persons, who will be granted visas free of charge and for an unlimited period, to enter Uruguay and sojourn in Montevideo for the duration of their duties or missions in connexion with each Commission:

(a) representatives of States Members and officials of the United Nations;

(b) representatives of the press, the radio, the films and other information agencies recognized by the United Nations;

(c) persons designated by the specialized agencies and non-governmental organizations granted consultative status by the United Nations and representing such agencies or organizations in the Commissions;

(d) any other persons invited by the Commissions for official purposes.

Without prejudice to any special immunities which may have been granted to them, the persons referred to in the foregoing paragraphs shall enjoy immunity, for the duration of their duties or missions including the travel time through the territory of Uruguay, against personal detention or arrest, the seizure of their baggage and deportation measures, unless they abuse the privileges of residence granted to them by these presents by conducting activities in the territory of Uruguay unrelated to their duties and punishable under Uruguayan laws.

Telecommunications

In addition to the privileges accorded in this regard under the Convention on the Privileges and Immunities of the United Nations, the Government of Uruguay shall assume the responsibility for all necessary internal and external telephone installations. The Government of Uruguay shall not demand any sum as payment for the rent of telephone and telegraph equipment.

Special privileges and immunities

The Government of Uruguay has resolved to grant the privileges, immunities, exemptions and facilities accorded to diplomatic envoys accredited to the Government of Uruguay not only to the persons referred to in Section 19 of the Convention on the Privileges and Immunities of the United Nations but, in addition, for the duration of their duties including their travel time in the territory of Uruguay, to the following persons:

(1) representatives of States Members in the above-mentioned Commissions;

(2) high officials of the United Nations, a list of whom shall be communicated to the Government of Uruguay. All other officials of the United Nations, including those engaged locally but excluding those paid by the hour, shall enjoy the privileges and immunities enumerated in Section 18 of the Convention on the Privileges and Immunities of the United Nations.

Laissez-passer

In addition, the Government of Uruguay undertakes, in accordance with the terms of the Convention on the Privileges and Immunities of the United Nations, to recognize the "laissez-passer" issued by the United Nations as valid travel documents.

(Signed) E.R. Fabregat
Enrique Rodriguez Fabregat
Permanent representative of Uruguay to the
United Nations

b. Letter from Assistant Secretary General to Permanent Representative of Uruguay

5 May 1950

Sir,

I am directed by the Secretary-General to acknowledge the receipt of your letter of 19 April 1950 relating to the Privileges and Immunities that the Uruguayan Government is willing to grant during the sessions, in Montevideo, of the Sub-Commission on the Freedom of Information and of the Press, and of the Economic Commissions for Latin America.

/I have

I have taken due note of the contents of this communication and I shall not fail to forward you, in due course, the list of high officials of the United Nations who should enjoy, for the duration of their duties with the Commissions, including their travel time in the territory of Uruguay, the privileges and immunities as provided for in paragraph 2 of the heading of the paragraph of your letter, entitled "Special Privileges and Immunities".

I have the honour to be,

Sir,

Your obedient Servant

Ivan Kerno
Assistant Secretary-General
Legal Department

His Excellency
the Permanent Representative of
Uruguay to the United Nations,
Permanent Delegation of Uruguay
to the United Nations,
Hotel Brittany, Room 1506,
55 East 10th Street,
New York 3, N.Y.

(2) COMMISSION ON THE STATUS OF WOMEN

EXCERPTS FROM EXCHANGE OF LETTERS CONCERNING PRIVILEGES AND IMMUNITIES TO BE APPLIED BY THE GOVERNMENT OF LEBANON TO THE 1949 SESSION OF THE COMMISSION ON THE STATUS OF WOMEN

A. Letter and attached aide mémoire from the Secretary General to Foreign Minister of Lebanon

17 January 1949

Your Excellency,

I have the honour to draw your attention to section D of resolution 120 (VI), adopted by the United Nations Economic and Social Council on 3 March 1948, which states:

"THE ECONOMIC AND SOCIAL COUNCIL,

"HAVING REGARD to the invitation of the Government of Lebanon that the Commission on the Status of Women should hold its session of 1949 in that country,

"REQUESTS the Secretary-General to make suitable arrangements for holding the 1949 session of the Commission in Lebanon, to last not more than three weeks, provided that he should further consult the Council at its seventh session if the arrangements are found to involve substantial extra costs to the United Nations over those of a meeting at Headquarters;"

Accordingly I have the honour to give below particulars regarding the arrangements to be made and the facilities to be granted by the Lebanese Government for the 1949 session of the Commission on the Status of Women at Beirut:

. . . . . .

(9) As Lebanon has not yet acceded to the Convention on the Privileges and Immunities of the United Nations, the privileges and immunities to be enjoyed by the Commission in Lebanese territory have been specified in a document annexed hereto.

H.E. The Minister of Foreign Affairs
of the Republic of Lebanon,
Beirut, Lebanon.

/This

This document provides that the Lebanese Government will extend to the Commission, to the representatives of the countries which are members thereof, and to its Secretariat, some of the privileges specified in the said Convention. It also reproduces, with regard to the question of free access to the conference area of the Commission, the provisions contained in the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations.

It should be mentioned in this connexion that those provisions, which are of an essential nature, were reproduced in the agreement specifying the privileges and immunities to be granted to the United Nations by the French Government during the holding of the third session of the General Assembly in Paris, and, furthermore, that the need to guarantee free access to the Headquarters of the United Nations, and to any other premises in which the United Nations may hold meetings, was emphasized during the recent discussions of the Legal Committee of the General Assembly.

. . . . . .

I have the honour to be, etc.

(Signed) Trygve Lie
Secretary-General

PRIVILEGES AND IMMUNITIES TO BE ACCORDED BY THE LEBANESE GOVERNMENT TO THE COMMISSION ON THE STATUS OF WOMEN, TO THE REPRESENTATIVES OF THE STATES MEMBERS THEREOF, AND TO ITS SECRETARIAT

A. Inviolability and protection of the premises placed at the disposal of the Commission on the Status of Women* for the duration of its session.

I

The premises placed at the disposal of the Commission for the duration of its session shall be inviolable. They shall be immune from search, requisition, confiscation, expropriation and any other form of interference,

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* Hereinafter referred to simply by the short title "the Commission".

whether by executive, administrative, judicial or legislative action.

The premises shall be considered premises of the United Nations and shall be placed under the control and authority of the United Nations, which shall have the sole right to authorize or forbid access thereto and to expel any person therefrom.

II

The competent Lebanese authorities shall take the necessary measures to ensure that the tranquillity of the premises specified in section I is not disturbed by the unauthorized entry of groups of persons or by disturbances of the peace occurring in the immediate vicinity. To that end they shall provide all necessary police protection outside the said premises.

If so requested by the competent authority of the United Nations, a sufficient number of police shall be provided for the preservation of law and order inside the premises specified in section I and for the removal therefrom of persons as requested under the authority of the United Nations.

III

The premises described in section I shall remain at the disposal of the Commission for the duration of its session, the duration to include a preparatory period to commence fifteen days before the date appointed for the opening of the session and a liquidation period of fifteen days to follow the official closure of the Commission's session.

B. Freedom of access to the premises placed at the disposal of the Commission and right of entry into and sojourn in Lebanese territory

Freedom of access to the premises of the Commission is guaranteed without restriction.

The Lebanese Government undertakes to authorize the entry into Lebanon, without visa costs or delay, and the sojourn in Beirut for the duration of their functions with, or mission to, the Commission, of the following persons:

(a) Representatives of Member States and officials of the United Nations;

(b) Representatives of the press, radio, cinema and any other information agencies approved by the United Nations. The United Nations

/will

will communicate to the Lebanese Government, eight days in advance, the names of the persons concerned;

(c) Persons designated by the specialized agencies or the non-governmental organizations admitted to consultative status by the United Nations, to represent them before the Commission;

(d) Any other persons invited by the Commission on official business.

Without prejudice to any special immunities they may enjoy, the persons referred to in the foregoing paragraphs shall not, during the entire length of their functions or mission, including the time of travel in Lebanese territory, be liable to arrest, to seizure of their personal baggage or to expulsion proceedings, unless they have abused the privileges of sojourn accorded to them hereby by engaging, in Lebanese territory, in an activity irrelevant to their functions and punishable under Lebanese law.

C. Status

Representatives of States Members of the United Nations, members of the Secretariat and experts appointed by the United Nations shall enjoy, during the period of their mission to the Commission, including the time of travel in Lebanese territory, the benefit of the privileges, immunities, exemptions and facilities specified in articles IV, V and VI of the General Convention on the Privileges and Immunities of the United Nations.

D. United Nations laissez-passer

The Lebanese Government undertakes to recognize and accept as valid travel documents the laissez-passer issued by the United Nations.

E. Facilities in respect of communications and questions concerning property, funds and assets

The Commission shall enjoy the privileges and immunities specified in sections 2, 4, 5, 6, 7, 8 and 9 of the Convention on the Privileges and Immunities of the United Nations.

/Cable

/B. Cable

B. Cable from Foreign Minister to of Lebanon to Secretary-General

CABLEGRAM

FROM : HAMID FRANGIE, MINISTER OF FOREIGN AFFAIRS OF LEBANON, BEYROUTH.

DATED: 15 FEBRUARY 1949

TO : SECRETARY-GENERAL

132/S HAVE HONOUR TO INFORM YOU OF LEBANESE GOVERNMENT'S AGREEMENT TO CONTENTS OF YOUR LETTER SOA 175-02 JPH-CL CONCERNING MEETING OF COMMISSION ON STATUS OF WOMEN. LEB NON ACCEDED TO CONVENTION ON PRIVILEGES AND IMMUNITIES OF UNITED NATIONS ON 11 NOVEMBER 1948. DEPOSIT OF INSTRUMENTS OF RATIFICATION IMMINENT.

3. ECONOMIC AND SOCIAL COUNCIL

Excerpts from Memorandum of Agreement dated 30 January 1951 concerning facilities, priveleges, and immunities to be accorded by the Government of Chile to the Twelfth Session of the Economic and Social Council in Santiago

* * *

Part I

Administration and Finance

* * *

ARTICLE VII

Police Protection

1. The Government shall furnish at its own expense such police protection as may be necessary to ensure the efficient functioning of the Conference without interference of any kind. Without restricting the generality of the preceding sentence, the Government shall station guards at such points in and around the Conference area as may be designated by the United Nations, and the Government shall also provide at its own expense police escorts and other police protection as and when required by the United Nations for the protection of personnel, furniture, equipment and supplies on such occasions and for such periods as the United Nations shall designate.

2. Without restricting the generality of this Article, the Government shall also provide at its own expense a sufficient number of police to ensure that the tranquility of the Conference area is not disturbed by any person or group of persons attempting unauthorized entry, or creating disturbances.

3. While all police furnished under the provisions of Sub-section 1 and 2 of this Article shall be under the administrative control of the Government, the United Nations may give the persons immediately in charge of all such police, such directions as the United Nations may see fit for the purpose of ensuring that the United Nations receives such protection as may be necessary for the purpose of conducting the Conference without any interference of any kind.

* * *

/ARTICLE XI

ARTICLE XI

Rate of Exchange

1. Any calculation relating to determining what is the equivalent of United States dollars in Chilean pesos shall be governed by the most favourable legal rate of exchange obtainable by the United Nations from any source prevailing on the date on which any payment is required to be made under the terms of this Agreement.

2. The United Nations may at any time convert United States dollars into Chilean pesos at the most favourable legal rate of exchange obtainable by the United Nations from any source.

Part II

Privileges and Immunities

ARTICLE XIII

Status of Conference Area

The Conference area for the purpose of this Agreement shall be regarded in every respect as being United Nations property. Without restricting the generality of the preceding sentence, the Conference area shall be under the control and authority of the United Nations which shall have the sole right to authorize or prohibit entry of any persons or any property to the Conference area or to remove any persons or property therefrom.

ARTICLE XIV

Freedom of Entry

1. The Government shall permit the following persons irrespective of their nationalities to enter and leave Chile at will and to sojourn in Chile for the duration of their duties in connexion with the Conference:

(a) Representatives of Member States and their families

(b) Officials of the United Nations and their families

(c) Officials of the Specialized Agencies and their families

(d) Representatives of non-governmental organizations granted consultative status to the Economic and Social Council of the United Nations

(e) Representatives of the Press, Radio, Film and other Information Agencies accredited by the United Nations

(f) Any other person invited by the United Nations to attend the Conference on official business related to the Conference

2. Any visas which may be required by any persons referred to in Sub-section 1 of this Article shall be granted as promptly as possible without charge, provided however that no visas shall be required for holders of United Nations laissez-

ARTICLE XV

Representatives of Member States

1. The Government shall grant the privileges and immunities, exemptions, and facilities accorded to diplomatic envoys accredited to the Government, to the representatives of Member States to the Economic and Social Council regardless of whether or not the Government maintains diplomatic relations with the Governments of any such Member States.

ARTICLE XVI

Status of Officials of the United Nations and of the Specialized Agencies

1. The Government shall grant to all officials of the United Nations and to all officials of specialized agencies attending the Conference other than the personnel referred to in Sub-section 1 of Article VI the same privileges and immunities, exemptions and facilities as are accorded to diplomatic envoys of similar rank accredited to the Government. Personnel who are recruited under Sub-section 1 of Article VI, excluding such personnel as are paid at hourly rates, shall enjoy the privileges and immunities enumerated in Section 18 of the Convention on Privileges and Immunities of the United Nations as adopted by the General Assembly of the United Nations on 13 February 1946.

2. A list of all officials of the United Nations, excluding the officials referred to in Sub-section 1 of Article VI, shall be communicated by the United Nations to the Government in due time before the opening of the Conference.

ARTICLE XVII

Customs

Without restricting the generality of the provisions of this Agreement, all property belonging to the United Nations and all personal baggage belonging to the persons enumerated in clauses (a), (b) and (c) of Sub-section 1 of Article XIV may be imported and exported from Chile free of all customs and excise or other taxes whatsoever.

Part III

General Provisions

ARTICLE XVIII

Supplementary to Immunities Convention

The provisions of this Agreement shall be construed as being supplementary to the provisions of the Convention on the Privileges and Immunities of the United Nations as adopted by the General Assembly of the United Nations on 13 February 1946 which Convention shall be deemed in no way prejudiced or otherwise impaired by the provisions of this Agreement.

ARTICLE XIX

Liaison

The United Nations and the Government shall conduct all operations envisaged under the terms of this Agreement through appropriate liaison officers appointed for this purpose.

PART III

NATIONAL LEGISLATION

THE COMMONWEALTH OF AUSTRALIA

INTERNATIONAL ORGANIZATIONS (PRIVILEGES AND IMMUNITIES) ACT 1948 (NO. 72 OF 1948)

An act relating to the Privileges and Immunities of the United Nations and other International Organizations, and for other purposes.

[Assented to 17th December, 1948]

[Date of commencement, 14th January, 1949]

Be it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:

Short title.

1. This Act may be cited as the International Organizations (Privileges and Immunities) Act 1948.

2. In this Act, "The Convention" means the General Convention on the Privileges and Immunities of the United Nations which was adopted by the General Assembly of the United Nations on the thirteenth day of February, One thousand nine hundred and forty-six, and a copy of which is set out in the Schedule to this Act.

Accession to Convention.

3. Approval is hereby given to the accession by Australia to the Convention.

Protection of name, &c., of United Nations.

4. (1) Except with the consent in writing of the Minister, a person shall not assume or use in connexion with any trade, business, calling or profession the name, official seal or emblem of the United Nations or of any other prescribed international organization, or any seal or emblem so nearly resembling any such seal or emblem as to be likely to deceive.

/Penalty:

Penalty: Twenty pounds.

(2) A copy of each seal and emblem in relation to which the last preceding sub-section applies shall be published in the Gazette.

(3) Evidence of any seal or emblem in relation to which sub-section (1) of this section applies may be given by the production of the Gazette purporting to contain a copy of the seal or emblem.

Regulations.

5. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for giving effect to this Act, and in particular -

(a) for giving effect to the provisions of the Convention; and

(b) for giving effect, in relation to any international organization, to the provisions of any convention on the privileges and immunities of that international organization to which Australia has acceded.

INCOME TAX ASSESSMENT ACT 1936-1949

An Act to consolidate and amend the Law relating to the Imposition Assessment and Collection of a Tax upon Incomes.

.....

Part III - Liability to Taxation

Division 1. - General

.....

Exemptions.

23. The following income shall be exempt from income tax:

.....

/(x) the income

(:) the income of any prescribed organization of which Australia and one or more other countries are members; and

(y) the official salary or emoluments of an official of an organization the income of which is exempt under the last preceding paragraph, where that salary is, or those emoluments are, derived from sources -

(i) in Australia by a non-resident;

(ii) in Australia by a resident who, under the terms of an international convention or other international agreement by which Australia is bound, is to be exempt from income tax on his salary or emoluments derived from that organization; or

(iii) out of Australia by a resident who is appointed for service with that organization out of Australia.

INCOME TAX REGULATIONS

Part I - Preliminary

.....

Part II - Administration

.....

Organizations prescribed for purposes of S. 23(x)

4AB. For the purposes of paragraph (x) of section 23 of the Act,* the following organizations are prescribed as organizations the income of which shall be exempt from income tax, viz.:

(a) The international organization known as the United Nations established by the Charter signed at San Francisco on the twenty-sixth day of June, 1945, including the principal

* Referring to the Income Tax Assessment Act, 1936-1949.

/organs

organs specified in Article 7 of the Charter, but, subject to this regulation, not including any specialized agency brought into relationship with the United Nations under Articles 57 and 63 of the Charter;

(b) The United Nations Relief and Rehabilitation Administration;

(c) The International Refugee Organization; and

(d) The South Pacific Commission.

CUSTOMS TARIFF PROPOSALS No. 1, 8 SEPTEMBER 1948(*)

IMPORT DUTIES

Tariff Items	British Preferentials Tariff	Intermediate Tariff	General Tariff
DIVISION XVI. - MISCELLANEOUS			
373. By adding a new sub-item (c) as follows: "(C) Articles imported by or purchased in bond for the official use of the United Nations Organization or a Specialized Agency of the United Nations Organization	Free	Free	Free
By adding a new sub-item (D) as follows: "(D) Articles imported by or purchased in bond for the personal or official use of the Secretary-General or an Assistant Secretary-General of the United Nations Organization or the Executive Head or an Assistant Executive Head of a Specialized Agency of the United Nations Organization, or a member of the family of any person mentioned in this sub-item	Free	Free	Free

/"(E) Furniture

Tariff Items	British Preferentials Tariff	Intermediate Tariff	General Tariff
By adding a new sub-item (E) as follows: "(E) Furniture and effects of an Official of the United Nations Organization or a Specialized Agency of the United Nations Organization provided importation is made at the time such official first takes up post in Australia...	Free	Free	Free

THE COMMONWEALTH OF AUSTRALIA

EXCISE TARIFF PROPOSALS No. 1, 9 SEPTEMBER 1948(*)

EXCISE DUTIES

Articles	Rate of duty
.....	
10. By adding a new sub-item (F) as follows: "(F) Articles which are owned (prior to clearance for home consumption) by and are for the official use of the United Nations Organization or a Specialized Agency of the United Nations Organization	Free
By adding a new sub-item (G) as follows: "(G) Articles which are owned (prior to clearance for home consumption) by and are for the personal or official use of the Secretary-General or an Assistant Secretary-General of the United Nations Organization or the Executive Head or an Assistant Executive Head of a Specialized Agency of the United Nations Organization or a member of the family of any person mentioned in this sub-item	Free

(*) These proposals amend the Schedule to the Customs Tariff Act 1933-1948 and the Schedule to the Excise Tariff Act 1921-1948 respectively.

/CANADA

CANADA

THE PRIVILEGES AND IMMUNITIES (UNITED NATIONS) ACT
(II GEO VI, CHAP. 69)

An Act to provide for Privileges and Immunities in respect of the United Nations and related International Organizations

(Assented to 17th July 1947)

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. This Act may be cited as The Privileges and Immunities (United Nations) Act.

2. The Governor in Council may authorize the accession of Canada to the Convention on the Privileges and Immunities of the United Nations (in this Act called the "Convention"), set out in the Schedule to this Act, with the reservation that exemption from taxation imposed by any law in Canada on salaries and emoluments shall not extend to a Canadian citizen residing or ordinarily resident in Canada, and may make such orders as appear to him to be necessary for that purpose and for the purpose of carrying out the obligations of Canada thereunder.

3. (1) For the purposes of this section, the expression "organization" means any specialized agency of which Canada is a member and which is brought into relationship with the United Nations in accordance with Article 63 of the Charter of the United Nations.

(2) Subject to subsection (3) of this section, the Governor in Council may, by order, provide that

(a) an organization shall have the legal capacities of a body corporate;

(b) an organization shall, to such extent as may be specified in the order, have the privileges and immunities set forth in Articles II and III of the Convention for the United Nations;

(c) representatives of states and governments that are members of an organization shall, to such extent as may be specified in the order, have the privileges and immunities set

/forth in

forth in Article IV of the Convention for representatives of Members; and

(d) such officials of an organization as may be designated by the Governor in Council shall, to such extent as may be specified in the order, have the privileges and immunities set forth in Article V of the Convention for officials of the United Nations.

(3) Nothing in any order made under subsection (2) of this section shall exempt a Canadian citizen, residing or ordinarily resident in Canada, from liability for any taxes or duties imposed by any law in Canada.

4. (1) No order made under this Act has effect until it is published in the Canada Gazette.

(2) Every order made under this Act shall be laid before Parliament within fifteen days after it is made or, if Parliament is not then in session, within fifteen days after the commencement of the next ensuing session thereof.

SCHEDULE

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON 13 FEBRUARY 1946

(For text of the Convention, see Part II, 1. p. 26, supra)

ORDER IN COUNCIL (P.C. 3946)

AT THE GOVERNMENT HOUSE AT OTTAWA

WEDNESDAY, the 1st day of OCTOBER 1947

PRESENT:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL:

/WHEREAS

WHEREAS the Privileges and Immunities (United Nations) Act, Chapter 69 of the Statutes of Canada, 1947, provides that the Governor in Council may authorize the accession of Canada to the Convention on the Privileges and Immunities of the United Nations with the reservation that exemption from taxation imposed by any law in Canada on salaries and emoluments shall not extend to a Canadian citizen residing or ordinarily resident in Canada, and may make such orders as appear to him to be necessary for that purpose and for the purpose of carrying out the obligations of Canada thereunder;

THEREFORE, His Excellency the Governor General in Council, on the recommendation of the Right Honourable W.L. Mackenzie King, the Prime Minister, is pleased to authorize and doth hereby authorize the Secretary of State for External Affairs to execute, on behalf of Canada, an Instrument of Accession to the Convention on the Privileges and Immunities of the United Nations with the reservation that exemptions from taxation imposed by any law in Canada on salaries and emoluments shall not extend to a Canadian citizen residing or ordinarily resident in Canada.

His Excellency in Council, for the purpose of carrying out the obligations of Canada under the said Convention, is further pleased to make and doth hereby make the following Order:

ORDER

1. The United Nations shall have the legal capacities of a body corporate.

2. The United Nations shall in Canada have the immunities and privileges set out in sections two, three, four, five, seven and nine of the Convention on the Privileges and Immunities of the United Nations, hereinafter referred to as the "Convention".

3. (1) Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations shall, while exercising their functions and during their journey to and from the place of meeting, have in Canada the privileges and immunities set out in section eleven of the Convention.

(2) Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United

Nations shall continue to have the immunities set forth in paragraph (a) of section eleven of the Convention in respect of words spoken or written and all acts done by them in discharging their duties notwithstanding that they are no longer the representatives of Members.

(3) Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations are present in Canada for the discharge of their duties shall not be considered as periods of residence.

(4) Subsections (1), (2) and (3) of this section do not apply to a representative of Canada or to a Canadian citizen.

(5) For the purposes of this section the expression "representatives" includes delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

4. (1) Officials of the United Nations whose names are included in the categories specified by the Secretary-General pursuant to section seventeen of the Convention shall in Canada have the immunities and privileges set forth in section eighteen of the Convention.

(2) The Secretary-General and all Assistant Secretaries-General, their spouses and minor children shall in Canada have the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

5. Experts, other than officials of the United Nations within the meaning of section four of this Order, performing missions for the United Nations shall in Canada have the privileges and immunities set forth in paragraphs (a), (b), (c), (d), (e) and (f) of section twenty-two of the Convention except insofar as any such privilege or immunity is waived by the Secretary-General pursuant to section twenty-three of the Convention.

6. Nothing in this Order shall be construed as exempting a Canadian citizen residing or ordinarily resident in Canada from taxation imposed by any law in Canada on salaries and emoluments.

(signed)
Asst. Clerk of the Privy Council

ORDER IN COUNCIL (P.C. 3766)

PRIVY COUNCIL
CANADA

AT THE GOVERNMENT HOUSE AT OTTAWA

WEDNESDAY the 25th day of August 1948

PRESENT:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL

WHEREAS the Permanent Representative of Canada to the United Nations deposited with the Secretary-General of the United Nations on January 22nd, 1948, the Instrument of Accession of Canada to the Convention on the Privileges and Immunities of the United Nations, whereupon the provisions of the Convention became applicable within Canada by virtue of Order in Council P.C. 3946 of 1st October 1947;

THEREFORE, His Excellency the Governor General in Council, on the recommendation of the Minister of National Revenue and under the powers conferred by the Privileges and Immunities (United Nations) Act, Chapter 69 of the Statutes of Canada, 1947, is pleased to make and doth hereby make the following Order:

ORDER

Authority is hereby granted, effective January 22nd, 1948, for the refund or remission of the following Sales and Excise taxes imposed under the Excise Tax Act on goods supplied to and services performed in Canada for the United Nations, when the charges for such goods and services are made directly to the United Nations and not to individuals:

Reference to PART of Act and designation of tax	Conditions	Procedure
PART V: Excise tax on transportation tickets or right of transportation, and on seats, berths or other sleeping accommodation.	When the charge for such service is made by the transportation company directly to the United Nations and not to individual officers.	The charges for such accounts are rendered periodically, usually monthly by the company supplying the transportation. A senior executive officer should, when making payments include a certificate over his

The Honourable
the Secretary of State for External Affairs.

/signature

Reference to PART of Act and designation of tax	Conditions	Procedure
		signature to the effect that the account is paid with the funds of the United Nations and that exemption is properly allowable under the provisions of this Order.
PART IV: Excise tax on cable, telegraph and telephone messages.	When the charges for such despatches or long-distance telephone calls are made directly to the United Nations and not to individuals.	The charges for such accounts are rendered periodically, usually monthly, by the company supplying the service. A senior executive officer should, when making payments, include a certificate over his signature to the effect that the account is paid with the funds of the United Nations and that exemption is properly allowable under the provisions of this Order.
PART VI: Excise tax on official cheques.	When such cheques are drawn on accounts in Canadian banks maintained with funds of the United Nations.	The exemption from the excise tax on cheques is granted only for cheques drawn on the official accounts. Cheques issued against personal accounts are subject to the excise stamp tax.
PART XIII: Consumption or sales tax on official publications of the United Nations and materials used or consumed in the production thereof, including paper, ink, binding materials, electros, cuts, photographs, zinc plates, designs, drawing, engravings and other art work or illustrations, lithographic transfers, glass negatives and positives for printing or lithographing.	When printed matter of the United Nations and materials used or consumed in the production thereof are purchased or imported under appropriate certificate.	A senior executive officer should, when ordering the goods, include a certificate over his signature to the effect that the account is to be paid with the funds of the United Nations and that exemption is properly allowable under the provisions of this Order.

(signed) A. D. P. HEENEY
Clerk of the Privy Council

CHINA

REGULATIONS REGARDING PRIVILEGES AND IMMUNITIES TO BE EXTENDED TO THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES

(Promulgated by the Executive Yuan on June 10, 1947, effective from same date)

1. The Offices of the United Nations and its Specialized Agencies, while established in China, shall enjoy the following privileges and immunities:

(a) Their premises, archives and documents shall be inviolable.

(b) Their official papers and communications including those in the form of code shall be free from censorship.

(c) Their assets, income and other property shall be exempt from all direct taxes; articles or publications imported or exported for their official use shall likewise be exempt from customs duties and import and export restrictions.

2. The officials of the United Nations and its Specialized Agencies, while exercising their functions in China, shall enjoy the following privileges and immunities:

(a) immunity from legal process in respect of all acts performed by them in their official capacity;

(b) exemption from taxation on the salaries and emoluments paid to them by the United Nations;

(c) exemption from customs duties on their personal effects and belongings at the time of their first arrival in China; and

(d) special facilities for their travel on official mission.

3. Representatives of the Members to conferences convened by the United Nations and its Specialized Agencies (including delegates, deputy delegates, advisers, technical experts and secretaries of delegations) shall enjoy such privileges and immunities as are or may be accorded to foreign diplomats accredited to the Chinese Government.

/DENMARK

DENMARK

ORDINANCE CONCERNING EXEMPTION OF INTERNATIONAL ORGANIZATIONS AND THE LIKE FROM CUSTOMS DUTIES AND FEES*

We, Frederick the Ninth, by the Grace of God King of Denmark etc., Hereby proclaim: In pursuance of Act No.43 of 20 February 1948[1/] concerning privileges and immunities of international organizations and the like the following rules are hereby promulgated:

Article 1

Where the United Nations, the International Court of Justice, the specialized agencies connected with the United Nations, and officials of such organizations are so entitled under an international convention to which Denmark is a party, the customs authorities shall be authorized, subject to appropriate supervision,

(1) to permit the importation free of duty

(a) of goods and articles imported into Denmark by the said organizations for their official use, or

(b) of publications issued by the said organizations;

(2) to grant to officers in the employment of the said organizations who come to reside in Denmark in the course of such employment exemption from customs duties in respect of their furniture and effects at the time of first taking up their post in Denmark, and, where appropriate, exemption from customs duties in conformity with the rules applicable to missions representing in Denmark the heads of foreign States; and

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1/ Act No.43 provides that "in pursuance of international agreements the United Nations, the International Court of Justice and the specialized agencies connected with the United Nations, their officials, persons acting on their behalfs, and representatives or envoys of Member States may be granted special privileges and immunities", and that "specific provision for giving effect to such agreements shall be made by Royal ordinance".

* Original in Danish. Translation by the Secretariat.

/(3) to grant

(3) to grant exemption from excise duties when the said organizations are making important purchases for official use of property on which such duties are chargeable.

Article 2

Exemption from customs duties and fees under Article 1 (except the exemption under sub-paragraph 1, b) shall be forfeited if the goods or articles are transferred to third parties.

The customs authorities may however in special circumstances waive a claim to payment of customs duties and fees on goods etc. in respect of which exemption from customs duties and fees has been forfeited under the foregoing paragraph.

Article 3

The customs authorities shall make rules for giving effect to this Ordinance.

Article 4

This Ordinance shall come into force forthwith.

This Ordinance shall be binding on all concerned.

Given at Amalienborg, 10 May 1949

Under Our Royal Hand and Seal

Frederick R.

(Seal)

H. C. Hansen

ORDINANCE CONCERNING EXEMPTION FROM MILITARY DUTIES OF REPRESENTATIVES, OFFICIALS ETC. OF INTERNATIONAL ORGANIZATIONS AND THE LIKE*

We, Frederick the Ninth, by the Grace of God King of Denmark, etc., hereby proclaim:

Pursuant to Article 2 of Act No.43 of 20 February 1948 concerning

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* Original in Danish. Translation by the Secretariat.

privileges and immunities of international organizations and the like, the following regulations concerning exemption from military duties of representatives, officials etc. of international organizations are hereby promulgated:

Article 1

In conformity with the conventions adopted by the General Assembly of the United Nations on 13 February 1946 and 21 November 1947 concerning respectively the privileges and immunities of the United Nations and those of the specialized agencies and acceded to by Denmark on 10 June 1948 and 25 January 1950 respectively, the following persons shall be exempt from military duties in Denmark, including the duty of performing civil defence and civilian labour service;

(a) representatives (delegates, alternates, counsellors, technical advisers and secretaries of delegations) of States Members of the United Nations at its principal or subsidiary organizations and at conferences or meetings convened by the United Nations or by one of the specialized agencies, while exercising their functions and during their journey to and from the place of meeting. Such exemption shall likewise apply to spouses of representatives, but not to representatives who are nationals of Denmark or are or have been representatives of Denmark;

(b) officials of the United Nations in certain categories specified by the Secretary-General;

(c) experts dispatched on special missions on behalf of the United Nations, for the duration of such missions, including journeys in connexion therewith;

(d) officials of the specialized agencies in certain categories specified by the said agencies. An official of a specialized agency who has Danish nationality shall however enjoy exemption only if his name has been entered, by virtue of his duties, in a list compiled by the chief administrative officer of the specialized agency and approved by the Danish State.

/Article 2

Article 2

Exemption from military duties under Article 1 shall apply to all obligations resulting from the said duties, including the obligation to apply for enrolment in the national service register, appear before and report changes of address to the national service boards, obtain permission for journeys abroad, etc.

This Ordinance shall come into force forthwith.

This Ordinance is binding on all concerned.

Given at Amalienborg, 7 October 1950.

Under Our Royal Hand and Seal.

Frederick R.

(Seal)

J. Smrum

ORDINANCE CONCERNING EXEMPTION OF INTERNATIONAL ORGANIZATIONS ETC. FROM TAXATION*

We, Frederick the Ninth, by the Grace of God King of Denmark etc.,

Hereby proclaim:

In pursuance of Act No.43 of 20 February 1948 concerning the privileges and immunities of international organizations etc., the following regulations are hereby promulgated and shall be put into effect in all cases in which these organizations etc. now enjoy or may hereafter be granted exemption from taxation as provided herein by virtue of any international agreement to which Denmark is a party.

Article 1

1. The United Nations, the International Court of Justice and the specialized agencies connected with the United Nations shall be exempt from income and capital tax and, if they own immovable property in Denmark, from

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* Original in Danish. Translation by the Secretariat.

any property or land taxes due to the State, the joint communal equalization fund or a commune, and from land appreciation tax.

2. The said organizations shall likewise be exempt from stamp or registration tax on any document drawn up in connexion with the acquisition of immovable property, or on any agreement to lease such property, for their own use.

Article 2

Periods during which representatives of other States Members of the said organizations are present in Denmark at principal or subsidiary organs of the United Nations situated in Denmark or at conferences convened by the United Nations or any of the specialized agencies connected with the United Nations, or during which agents, advisers or attorneys representing the International Court of Justice are present in Denmark for the discharge of their duties, shall not be taken into account in determining whether they have been resident in Denmark for a period rendering them liable to taxation therein.

Article 3

Where it is provided by any of the said organizations that one or more categories of its officials are to be exempt from taxation on salaries and emoluments paid to them by the organization, such tax exemption shall be applied in accordance with the following rules:

A. (a) Where a person subject without restriction to taxation in Denmark enters the service of the organization, either in Denmark or abroad, any emoluments ceasing by reason thereof shall, if included in his income assessment for the current fiscal year, be deducted therefrom as from the first day of the month next after he enters the service of the organization. In subsequent fiscal years he shall be liable, if he retains his domicile in Denmark, to taxation in respect of all income in excess of his salary from the organization, other than income ceasing by reason of his entry into its service. If he ceases to be domiciled in Denmark his liability to taxation shall cease in conformity with the general rules of revenue law.

(b) A person

(b) A person who, by reason of his employment in or engagement by the organization, removes to Denmark from abroad shall be liable to taxation in conformity with the general rules of revenue law; but his assessment to tax shall be based on his expected future annual income less his emoluments from the organization. The same shall apply in subsequent assessments, as long as his employment in the organization continues.

B. A person who leaves the service of the organization shall, as from the first day of the month next following separation, or, if he removes to Denmark from abroad, as from the date on which he becomes liable to taxation under the general rules of revenue law, be liable to income tax, in respect of his income in the previous fiscal year, less his emoluments from the organization but plus any earnings which may be expected to replace them in the future. The same shall apply, as necessary, to his assessment for the next tax year.

A person who has been domiciled in Denmark solely by reason of his employment in the organization and ceases owing to transfer or separation to be so domiciled shall cease to be liable to taxation by reason of domicile as from the first day of the month next following his removal.

Article 4

1. Senior administrative staff of the United Nations and the specialized agencies connected with the United Nations and persons acting in their absence on their behalf, members of their households and judges of the International Court of Justice shall so long as they occupy those posts be exempt from taxation in conformity with the rules applicable to envoys of foreign States.

2. In other respects the rules laid down in Article 3 with reference to entry into or separation from the service of such organizations shall apply.

Article 5

Where in conformity with the foregoing rules an assessment is based on estimated future earnings, the taxation board shall on the expiry of the fiscal year adjust the assessment in accordance with the available information.

Article 6

The Minister of Finance shall make rules for giving effect to this Ordinance.

This Ordinance is binding on all concerned.

Given at Amalienborg, 18 January 1951.

Under Our Royal Hand and Seal.

Frederick R.

(Seal)

Thorkil Kristensen

CIRCULAR RELATING TO ROYAL ORDER NO. 18 OF 18 JANUARY 1951 ON TAX EXEMPTION FOR INTERNATIONAL ORGANIZATIONS, ETC.*

(Addressed to tax assessment authorities, communal authorities and district collectors' offices)

Enclosed are copies of the Royal Order of 18 January 1951 on tax exemption for international organizations, etc.

The Order lays down the rules to be applied where tax exemptions in favour of international or similar organizations under the United Nations are or may be granted under any international agreement to which Denmark is a party.

Tax exemption provisions are contained in the Convention on the Privileges and Immunities of the United Nations, approved by the United Nations General Assembly on 13 February 1946 and acceded to by Denmark on 10 June 1948 (cf. Foreign Ministry Notice of 10 July 1948).

This Convention deals with the privileges and immunities of the United Nations and its subsidiary organs.

Denmark also, on 25 January 1950, acceded to the Convention on the Privileges and Immunities of the Specialized Agencies, which was approved

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* Original in Danish. Translation by the Secretariat.

by the United Nations General Assembly on 21 November 1947 (cf. Foreign Ministry Notice of 11 April 1950).

This accession applies to the following agencies: the International Labour Organisation, the United Nations Food and Agriculture Organization, the International Civil Aviation Organization, the United Nations Educational, Scientific and Cultural Organization, the International Monetary Fund, the International Bank for Reconstruction and Development, the World Health Organization, the Universal Postal Union, the International Refugee Organization and the International Telecommunications Union.

By ratifying the Charter of the United Nations and the Accompanying Statute of the International Court of Justice (cf. Foreign Ministry Notice of 26 June 1945), Denmark further undertook to grant to the International Court of Justice certain tax concessions in accordance with Article 19 of the Statute and with a resolution adopted by the United Nations General Assembly on 11 December 1946.

The following remarks concern the content and application of the Order.

Part I

Organizations

Article 1 of the Order contains provisions on tax exemption for the organizations themselves, and lays down that the United Nations, the International Court of Justice and the specialized agencies shall be exempt from income and capital tax and, in respect to immovable property owned by them in Denmark, from property and land tax payable to the State, the joint communal equalization fund or a commune, and from land increment tax.

These organizations will not be included in the assessment to income and capital tax and will not be required to make tax returns.

Communal authorities and district collectors' offices are authorized to record immovable property in Denmark belonging to these organizations as exempt from property and land tax payable to the State and to the joint communal equalization fund, and from property increment tax, but such property will be appraised in the ordinary way after an ownership form has been completed. Such

property will likewise be recorded as exempt from communal property and land tax, and in addition no roads upkeep tax may be levied upon it.

Part II

Representatives of Member States

Article 2 of the Order provides that the time during which representatives of other States Members of these organizations are resident in Denmark while employed by a principal or subsidiary organ of the United Nations situated here, or while attending conferences convened by the United Nations or by a specialized agency, and the time during which agents, advisers and advocates before the International Court of Justice are resident in Denmark while performing their duties, shall be disregarded in determining whether such persons have been resident in Denmark long enough to become liable to tax.

The provision of Article 2, first paragraph, of the Tax Assessment Act are thus varied, in that the tax-free period of residence therein provided for is extended by the period during which the person is resident in Denmark while performing his duties.

The expression "representatives" includes all representatives, alternates, advisers, technical experts and secretaries of delegations.

Part III

Officials referred to in Article 3 of the Order

Article 3 of the Order is intended to exempt officials employed by these organizations from tax on salaries and other remuneration received therefrom.

As provided in a resolution of the United Nations General Assembly, the expression "official" includes all members of the staff of the organizations, with the exception of those who are recruited locally and are assigned to hourly rates.

This expression therefore does not include experts sent out on special missions by the United Nations and similar organizations. Those experts are

accordingly outside the scope of the tax exemption provisions of Article 3 of the Order. The attention of the tax assessment authorities must be drawn to this fact so that, if a doubt arises whether a person is really an official or has merely been sent out on a special mission, they may require the person, before they apply Article 3 of the Order, to produce evidence from the organization that he should be regarded as an official.

The provisions of Article 3 of the Order do not in general alter the provisions of the ordinary tax law governing the beginning and end of tax liability. There is just this one exception: that a person who has been resident in Denmark solely for the purpose of performing his duties with the organization and gives up such residence on transfer or separation from the organization will be exempt from unlimited tax liability in Denmark from the first day of the month following his removal (cf. Article 3 B, second part).

The Order does, on the other hand, modify the general basis for assessment of taxable income.

A

Tax procedure upon entry into the organization

When a person resident in Denmark is employed in Denmark or abroad by one of these organizations, a reassessment of his income as from the first day of the month following the start of such employment will be undertaken for the purpose of eliminating from his original assessment any income which, on account of his employment by the organization, he no longer receives.

Example: A person with unlimited tax liability in Denmark enters United Nations employment on 15 October.

His taxable income was originally composed as follows:

Cash salary		12,000 kroner
Taxable profit from sale of securities		5,000 kroner
Income from interest		6,000 kroner
	Total	23,000 kroner
Less taxes and insurance paid		8,500 kroner
Taxable income		14,500 kroner

/On engagement

On engagement by the organization he resigns his position, with the result that his income from wages ceases. An assessment effective as from 1 November is then made as follows:

Assessed income	14,500 kroner
Income from wages, deducted from assessment	12,000 kroner
Taxable income	2,500 kroner

On the basis of this assessment the tax for the entire current tax year is computed, and the total obtained is multiplied by five (the number of months remaining in the tax year) and divided by twelve. In computing the tax, the ordinary tax-free deductions corresponding to the reduced income will be allowed.

If the taxpayer continues to be resident in Denmark, the assessment of income for the succeeding tax year will follow the same procedure, and United Nations earnings will, of course, continue to be disregarded.

If as a result of his employment with the organization the taxpayer gives up his residence in Denmark, his tax liability ceases in the ordinary manner at the end of the tax year in which he removes from the country.

Employment by one of these organizations does not affect a limited liability to tax in Denmark - e.g. that arising from ownership of immovable property.

When a person employed in one of these organizations, or in connexion with his employment in it, removes to Denmark, his tax liability will begin in the ordinary manner. As provided in Article 3 A (b) of the Order, however, his taxable income for the tax period will be determined in accordance with an estimate of his expected annual income less salary received from the organization and any deductions (tax deductions etc.) to which he is ordinarily entitled.

Later assessments will follow the same procedure so long as he is employed by the organization.

B

Tax procedure on separation from the organization

When a person ceases to be employed by one of these organizations he will, as provided in Article 3, B, of the Order, be assessed to tax on his income for the preceding income year, less remuneration received from the organization but plus such income as will presumably take its place. If the taxpayer is resident in Denmark, the new assessment will take effect on the first day of the month following the termination of his employment. If he removes to Denmark from abroad, his tax liability will begin in the ordinary manner. The same procedure will be followed so far as necessary in the assessment for the succeeding tax year.

Attention is drawn in this connexion to the special case, previously referred to in the fourth paragraph of Part III, of a person who removes from Denmark on the termination of his employment after residing in Denmark solely for the purpose of carrying out his duties with the organization (Article 3 B, second part).

If the period of a person's employment with the organization is so short that his income for the preceding income year includes earnings disregarded in the assessment made at the start of his employment with the organization, these earnings shall likewise be disregarded in the reassessment made after termination. In this case also the assessment will be based on his estimated future earnings.

The following example will serve as an illustration:

A person permanently resident in Copenhagen who maintains a family but is not entitled to a wife's or children's allowance is employed for several years with the United Nations and is separated on 15 October 1950.

He is assessed, as provided in Article 3 A of the Order, for the tax year 1950-51 on the following income (for the calendar year 1949):

Income from interest	6,000 kroner
Less taxes and insurance	1,500 kroner
Taxable income	4,500 kroner

1. Reassessment for the current tax year (1950-51)

A new assessment effective from 1 November 1950 will be made, because from that date onwards the taxpayer will be liable for tax on the income replacing his salary from the organization.

Assume that on 1 November 1950 the taxpayer obtained a position at a salary of 1,200 kroner a month, i.e. 14,400 kroner per annum.

The assessment will then be as follows:

Previously-assessed income	4,500 kroner
Plus expected annual income	14,400 kroner
Total	18,900 kroner

A tax deduction corresponding to the expected income of 14,400 kroner will then be allowed.

This will be computed according to the tax rates in force for the tax year 1950-51, as follows:

On an assessed income of 18,900 kroner the following taxes will be levied:

State tax	3,379 kroner	
Defence tax	380 kroner	
Joint communal tax	555 kroner	14 öre
Commune tax	2,004 kroner	
Church tax	70 kroner	14 öre
Total	6,388 kroner	28 öre

The portion attributable to the expected income will be:

$$\frac{14{,}400 \times 6388.28}{18{,}900} = 4867 \text{ kroner } 26 \text{ öre}$$

The income will therefore be reassessed at	18,900 kroner
Minus tax deduction	4,867 kroner
i.e., at	14,033 kroner

/From this

From this income is computed the tax for the entire tax year, and as five months (1 November 1950 to 31 March 1951) of the tax year remain, 5/12 of the sum so computed will be collected as tax.

This reassessment is provisional, and the district tax board will readjust the assessment at the end of the tax year in accordance with the information then available (cf. Article 5 of the Order). If, for example, the taxpayer's income from wages during the period 1 January - 31 March 1951 was 1,400 kroner a month, the adjustment would take the following form:

Income from wages 1 November - 31 December 1950	2,400 kroner
Income from wages 1 January - 31 March 1951	4,200 kroner
Total	6,600 kroner

This represents an annual income of 6,600 kroner x $\frac{12}{5}$ = 15,840 kroner, which in the adjustment replaces the expected annual income of 14,400 kroner used in the provisional assessment. This adjustment also entails a re-calculation of the tax deduction computed on the basis of the provisional assessment.

2. Assessment for the succeeding tax year (1951-52)

During the calendar year 1950 the person referred to in section 1 was employed by the United Nations up to 15 October and received no income from wages before 1 November. From 1 November, i.e. for two months, he earned 2,400 kroner in wages. In the calendar year 1950 he had an income from interest of 5,800 kroner, paid taxes amounting to 2,000 kroner, and was entitled to a deduction on account of insurance of 400 kroner.

At the time of the assessment it appeared that on 1 January 1951 his earnings from wages rose from 1,200 kroner to 1,400 kroner a month.

The assessment thus takes the following form:

Income from interest in 1950		5,800 kroner
Income from wages, 1 November - 31 December 1950		2,400 kroner
		8,200 kroner
Deduction for taxes paid	2,000 kroner	
Deduction for insurance	400 kroner	2,400 kroner
Balance		5,800 kroner

His expected income is 1,400 kroner a month. Since in 1950 he received income from wages for two months and no income from wages for one-half of a month, account must be taken of the expected income for the remainder of a twelve-month period, i.e. for 9 1/2 months. The expected income to be taken into account will accordingly be 9 1/2 x 1400 kroner, or - 13,300 kroner

Total 19,100 kroner

As mentioned in section 1, a tax deduction from the expected income of 13,300 kroner is allowed. The tax will be computed according to the rates for the tax year 1951-52.

The tax deduction will be computed as follows:

On an assessed income of 19,100 kroner the following taxes will be levied:

State tax	3,441 kroner
Supplementary income tax	144 kroner
Defence tax	780 kroner
Joint communal tax	662 kroner 90 öre
Commune tax	2,112 kroner 50 öre
Church tax	73 kroner 92 öre
Total	7,214 kroner 32 öre

/The portion

The portion attributable to expected income is:

$$\frac{13,300 \times 7214.32}{19,100} = 5,023 \text{ kroner } 58 \text{ öre}$$

Income for the tax year 1951-52 will thus be assessed at	19,100 kroner
Less the computed tax deduction	5,023 kroner
i.e.	14,077 kroner

This assessment also may have to be adjusted at the end of the 1951-1952 tax year (cf. Article 5 of the Order).

As regards this adjustment it must be remembered that the assessment for the tax year 1951-52 is based partly on actual income in the income year (income from wages 2,400 kroner for 1 November - 31 December 1950) and partly on an expected income from wages for a period of 9 1/2 months. This latter income is the one that may have to be adjusted. The income used for any adjustment will be the income for the tax year 1951-52. Thus, instead of the expected income for 9 1/2 months, i.e. 13,300 kroner, on which the 1951-52 assessment is based, the income for the purposes of the adjustment will be $9\frac{1}{2}/12$ of the actual income received by the taxpayer during the tax year 1951-52, that is from 1 April 1951 to 31 March 1952.

As in the adjustment described in the preceding section, the tax deduction must now be recalculated, because in the assessment for the tax year 1951-52 it was computed on the expected income.

The assessment for the full tax year following the taxpayer's separation from the organization will not always be based, as in the example, partly on actual and partly on expected income. If the taxpayer, for example, did not leave the organization until the end of 1950, there would be no "actual" income (other than income from interest) in the income year, i.e. the calendar year 1950. The expected income from wages would then have to be assessed for a period of twelve months, and any adjustment which might be necessary at the end of the tax year 1951-52 would have to be based on the income from wages received by the taxpayer during the entire tax year 1951-52.

3. Assessment for the second successive tax year (1952-53)

The assessment for this tax year would be based in the ordinary way on the income for the particular income year, i.e. the calendar year 1951, less any taxes paid during the income year.

Part IV

Executive heads etc.

Under Article 4 of the Order, the executive head of the United Nations or any of its specialized agencies, any person acting on his behalf during his absence from duty, members of his family and judges of the International Court of Justice will, while in office, be exempt from taxes (i.e. personal taxes) in accordance with the provisions in force with regard to diplomatic envoys of foreign states.

Thus, if a person permanently resident in Denmark is appointed to one of these posts, the tax for which he is liable for the remainder of the tax year will be remitted from the first day of the month following his appointment. If he receives income of the kind referred to in Article 2, item 3, of the State Tax Act, a new assessment effective on the date on which the taxes are remitted will be made to determine his liability for tax on this income only. As from the same date, a reassessment to commune tax may also have to be made as provided in Chapter IV of the Commune Tax Act.

When he leaves the organization he will be assessed, from the first day of the month following his separation, in accordance with the rules in Part III B dealing with persons leaving the organization (cf. Article 4, second paragraph, of the Order).

If a person referred to in this Part becomes resident in Denmark while occupying one of these posts, he will be treated for tax purposes in exactly the same manner as a diplomatic envoy of a foreign State.

Part V

Further provisions for applying the tax ememption provided for in Parts III and IV

Any person who by reason of entering or leaving the service of one of these organizations wishes to have the provisions of the Order brought into effect must make an application for that purpose (cf. also the provisions of Part VI). The procedure for such application shall be the same as for an application for a tax reduction under Article 7, sixth paragraph, of the State Tax Act in the case of a widow's first tax assessment after her husband's death, i.e. as provided in Article 23, last paragraph, of the State Tax Act (cf. Article 28, last paragraph).

The application, accompanied by documentary evidence that the taxpayer is or was employed by one of these organizations in a capacity entitling him to tax exemption, must be submitted to the communal tax assessment authority, which will obtain from the taxpayer the information necessary for making the assessment and forward the application with its own remarks to the district tax board. The board will announce its decision, and the assessment will then be made as provided in the Order and in this circular. The decision will contain particulars of the period to which the assessment applies.

A copy of the decision will be sent to the taxpayer and, in any case where a previous assessment must be corrected, to the communal tax assessment authority for its use in correcting the assessment to commune tax. In any such case the district tax board will at the same time make the necessary recalculation of income tax payable to the State and to the joint communal equalization fund, and will then issue the required tax remission orders to the communal authority and the proper tax collection authority.

An appeal against the district tax board's decision may be made to the national tax court as provided in Act No. 108 of 31 March 1938.

If the assessment is to be based provisionally on estimated future income, as provided in Articles 3 and 4 of the Order, the district tax board will adjust it at the end of the tax year in accordance with the information then available (cf. Part III hereof). This modification of the assessment does not require the authorization of the State Tax Assessment Office.

If a person removes from Denmark as provided in Article 3 B, second part, of the Order (Part III, fourth paragraph of this circular), or if a person resident in Denmark is appointed to a post referred to in Article 4 (Part IV of

the circular), such taxes payable by him to the State and to the joint communal equalization fund as are based on residence will be remitted, as from the first day of the month following such removal or appointment, by a decision of the district tax board, which will notify the tax collection authorities in the ordinary way. Communal taxes will likewise be remitted by the proper communal authority.

Persons employed by one of these organizations will make tax returns in the ordinary manner, showing income received from the organization.

The organization is bound, if so requested, to provide the tax assessment authorities with particulars of salary and other remuneration paid, and of recipients' names and addresses.

Part VI

Entry into force etc.

The provisions of the Order may, in accordance with international obligations assumed by Denmark, be brought into effect as from the 1945-46 tax year. There thus arises the question of amending income tax assessments made since the 1945-46 tax year and conflicting with the provisions of the Order.

If a taxpayer applies before 1 September 1951 for a review, in accordance with the provisions of the Order, of his tax assessments for those tax years, the district tax board may amend them without previous authorization from the State Tax Assessment Office.

Applications already in the hands of the tax authorities will now be dealt with as provided in the Order and in this circular.

Questions of doubt relating to the application of the Order or of this circular will be submitted to the Tax Department or, in matters concerning communal taxes only, to the Ministry of Home Affairs.

Taxation Department, 12 June 1951

ACT

(No. 72 of 7 March 1952)

Concerning privileges and immunities of international organizations etc.*

We, Frederick the Ninth, by the Grace of God King of Denmark etc. Hereby Proclaim: The Rigsdag has passed and We do signify Our consent to the following Act:

Article 1

The following organizations, agencies and persons may by international agreement be granted such special privileges and immunities as may be necessary for fulfilling their objects and for ensuring the independent performance of the functions connected therewith:

The United Nations, the International Court of Justice, the specialized agencies in relationship with the United Nations, the Organization for European Economic Co-operation, the Council of Europe, the North Atlantic Treaty Organization, and any other international organizations of which Denmark is or may subsequently with the consent of the Rigsdag become a member;

Members' representatives and delegations before the said organizations and agencies;

Officials and other persons representing these organizations or agencies; and

Experts working for these organizations or agencies.

Article 2

Specific provision for giving effect to such agreements shall be made by Royal Ordinance.

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* Original in Danish. Translation by the Secretariat.

Article 3

Act No. 43 of 20 February 1948 on the privileges and immunities of international organizations etc. is hereby repealed.

Article 4

This Act shall come into force forthwith.

This Act is binding on all concerned.

Given at Christiansborg, 7 March 1952.

Under Our Royal Hand and Seal.

FREDERICK R.

(Seal)

Ole Bjørn Kraft

INDIA

ACT NO. XLVI OF 1947

(Passed by the Dominion Legislature)

(Received the assent of the Governor General on the 20th December 1947)

AN ACT TO GIVE EFFECT TO THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

Whereas it is expedient to give effect to the Convention on the Privileges and Immunities of the United Nations, and to enable similar privileges and immunities to be enjoyed by other international organizations and their representatives and officials;

It is hereby enacted as follows:

1. Short title - This Act may be called the United Nations (Privileges and Immunities) Act, 1947.

2. Conferment on United Nations and its representatives and officers of certain privileges and immunities -

(1) Notwithstanding anything to the contrary contained in any other law, the provisions set out in the Schedule to this Act of the Convention on the Privileges and Immunities, adopted by the General Assembly of the United Nations on the 13th day of February 1946, shall have the force of law in India.

(2) The Central Government may, from time to time, by notification in the official Gazette, amend the Schedule in conformity with any amendments, duly made and adopted, of the provisions of the said Convention set out therein.

3. Power to confer certain privileges and immunities on other international organizations and their representatives and officers - Where in pursuance of any international agreement, convention or other instrument it is necessary to accord to any international organization and its representatives and officers privileges and immunities in India similar to those contained in the provisions set out in the Schedule, the Central Government may, by notification in the official Gazette, declare that the provisions set out in the Schedule shall, subject to such modifications,

/if any,

if any, as it may consider necessary or expedient for giving effect to the said agreement, convention or other instrument, apply mutatis mutandis to the international organization specified in the notification and its representatives and officers, and thereupon the said provisions shall apply accordingly and, notwithstanding anything to the contrary contained in any other law, shall in such application have the force of law in India.

4. Power to make rules - The Central Government may make rules for carrying out the purposes of this Act.

THE SCHEDULE

(See sections 2 and 3)

(The Schedule reproduces the text of the Convention on Privileges and Immunities of the United Nations. For text see Part II, 1.)

ISRAEL

UNITED NATIONS IMMUNITIES AND PRIVILEGES ORDINANCE

No. 27 of 1947

(Palestine Gazette No. 1588 - Supplement 1 (14 June 1947)

An Ordinance to make Provision for the Grant of Certain Immunities and Privileges to the United Nations and for Purposes Connected therewith.*

BE IT ENACTED by the High Commissioner for Palestine, with the advice of the Advisory Council thereof:

1. This Ordinance may be cited as the United Nations Immunities and Privileges Ordinance, 1947.

2. The High Commissioner in Council may, by order:

(a) provide that the United Nations shall, to such extent as may be specified in the order, have the immunities and privileges set out in Part I of the Schedule to this Ordinance, and shall also have the legal capacities of a body corporate,

(b) confer upon such number of officers of the United Nations as may be specified in the order, being the holders of such high offices in the United Nations as may be specified in the order, and upon such persons employed on missions on behalf of the United Nations as may be so specified and upon any person who is the representative of a member government on the General Assembly or any council or other organ of the United Nations, to such extent as may be so specified, the immunities and privileges set out in Part II of the Schedule to this Ordinance;

(c) confer upon such other classes of officers and servants of the United Nations as may be specified in the order, to such extent as may be so specified, the immunities and privileges set out in Part III of the Schedule to this Ordinance,

and Part IV of the Schedule to this Ordinance shall have effect for the purpose of extending to the staffs of representatives of member governments and to the families of officers of the United Nations, any immunities and

* This Ordinance, by virtue of the Transitional Provisions Law, 5709-1949, remains in force in Israel.

privileges conferred on the representatives or officers under paragraph (b) of this section except in so far as the operation of the said Part IV is excluded by the order conferring the immunities and privileges.

3. The High Commissioner in Council may, by order, confer on the judges and registrars of the International Court of Justice set up under the Charter of the United Nations, and on suitors to that Court and their agents, counsel and advocates, such immunities, privileges and facilities as may be required to give effect to any resolution of or convention approved by the General Assembly of the United Nations.

4. (1) Where immunities and privileges are conferred on any person by order in Council made under section 2 or section 3 of this Ordinance, the Chief Secretary:

(a) shall compile a list of the persons entitled to immunities and privileges conferred under paragraph (b) of section 2, and may compile a list of the persons entitled to immunities and privileges conferred under paragraph (c) of section 2, or under section 3;

(b) shall cause any list compiled under this sub-section to be published in the Gazette;

(c) whenever any person causes or begins to be entitled to the immunities and privileges to which any such list relates, shall amend the list and cause a notice of the amendments, or if he thinks fit, an amended list, to be published as aforesaid.

(2) Every list or notice published under sub-section (1) of this section shall state the date from which the list or amendment takes or took effect; and the fact that any person is or was included or not included at any time among the persons entitled to the immunities and privileges in question may, if a list of those persons has been so published, be conclusively proved by producing the Gazette containing the list or, as the case may be, the last list taking effect before that time, together with the Gazette (if any) containing notices of the amendments taking effect before that time, and by showing that the name of that person is or was at that time included or not included in the list.

/5. Nothing

5. Nothing in the foregoing provisions of this Ordinance shall be construed as precluding the High Commissioner from declining to accord immunities or privileges to, or from withdrawing immunities or privileges from, nationals or representatives of any Power on the ground that that Power is failing to accord corresponding immunities or privileges to Palestinian citizens or representatives.

THE SCHEDULE

Part I

Immunities and Privileges of the United Nations

1. Immunity from suit and legal process.

2. The like inviolability of official archives and premises occupied as offices as is in the United Kingdom accorded in respect of the official archives and premises of an envoy of a foreign sovereign Power accredited to His Majesty.

3. Exemption of relief from such taxes and rates, other than taxes on the importation of goods, as may be set out in the order made under section 2(a) of the Ordinance, being such taxes and rates as in the opinion of the High Commissioner in Council correspond as nearly as circumstances permit to taxes and rates from which exemption or relief is in the United Kingdom accorded to a foreign sovereign Power.

4. Exemption from taxes on the importation of goods directly imported by the United Nations for its official use in Palestine or for exportation, or on the importation of any publications of the United Nations directly imported by it, such exemption to be subject to compliance with such conditions as the Director of Customs and Excise may prescribe for the protection of the Revenue.

5. Exemption from prohibition and restrictions on importation or exportation in the case of goods directly imported or exported by the United Nations for its official use and in the case of any publications of the United Nations directly imported or exported by it.

6. The right to avail itself, for telegraphic communications sent by it and containing matter intended for publication by the press or for broadcasting (including communications addressed to or despatched from places outside Palestine), of any reduced rates applicable for the corresponding service in the case of press telegrams.

/Part II

Part II

Immunities and Privileges of High Officers of the United Nations Persons on Missions and Government Representatives

1. The like immunity from suit and legal process as in the United Kingdom accorded to an envoy of a foreign sovereign Power accredited to His Majesty.

2. The like inviolability of residence as is ir the United Kingdom accorded to such an envoy.

3. Exemption or relief from such taxes as may be set out in the order made under section 2(b) of the Ordinance, being such taxes as in the opinion of the High Commissioner in Council correspond as nearly as circumstances permit to taxes from which exemption or relief is in the United Kingdom accorded to such an envoy.

Part III

Immunities and Privileges of other Officers and Servants

1. Immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties.

2. Exemption from income tax in respect of emoluments received as an officer or servant of the United Nations.

Part IV

Immunities and Privileges of Representative's Staff and of High Officer's Family

1. Where any person is entitled to any such immunities and privileges as are mentioned in Part II of this Schedule as the representative of a member government, his official staff accompanying him as such a representative shall also be entitled to those immunities and privileges to the same extent as in the United Kingdom the retinue of an envoy of a foreign sovereign Power accredited to His Majesty is entitled to the immunities and privileges accorded to the envoy:

Provided that where any such person is entitled to any exemption or relief from taxes as is mentioned in paragraph 3 of the said Part II, his official staff accompanying him as the representative of a member government shall be entitled to that exemption or relief only to such extent as may be specified in

the order conferring exemption or relief on the representative, being the extent to which in the opinion of the High Commissioner in Council the retinue of an envoy of a foreign sovereign Power accredited to His Majesty is in the United Kingdom entitled to the exemption or relief from taxes accorded to the envoy.

2. Where any person is entitled to any such immunities and privileges as are mentioned in Part II of this Schedule as an officer of the United Nations, that person's wife or husband and children under the age of 21 shall also be entitled to those immunities and privileges to the same extent as in the United Kingdom the wife or husband and children of an envoy of a foreign sovereign Power accredited to His Majesty are entitled to the immunities and privileges accorded to the envoy.

Provided that where any such person is entitled to any exemption or relief from taxes as is mentioned in paragraph 3 of the said Part II, that person's wife or husband and children under the age of 21 shall be entitled to that exemption or relief only to such an extent as may be specified in the order conferring exemption or relief on that person, being the extent to which the opinion of the High Commissioner in Council the wife or husband and children of an envoy of a foreign sovereign Power accredited to His Majesty are in the United Kingdom entitled to the exemption or relief from taxes accorded to the envoy.

A.C. Cunningham
HIGH COMMISSIONER

13 June 1947

NEW ZEALAND

(Diplomatic Privileges Extension Act. 1947, No. 39)

AN ACT to make Better Provision as to the Immunities, Privileges, and Capacities of International Organizations and of their Officers and other Persons. (25th November, 1947

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Diplomatic Privileges Extension Act, 1947.

2. In the application of this Act to the United Nations, any reference to the governing body or any committee or the organization shall be construed as referring to the General Assembly or any council or other organ of the United Nations.

3. (1) This section shall apply to any organization declared by the Governor-General by Order in Council to be an organization of which His Majesty's Government in New Zealand and the Government or Governments of one or more foreign sovereign Powers are members.

(2) The Governor-General may from time to time, by Order in Council,

(a) Provide that any organization to which this section applies (hereinafter referred to as the organization) shall, to such extent as may be specific the Order, have the immunities and privileges set out i First Schedule to this Act, and shall also have the legal capacities of a body corporate:

(b) Confer upon such persons or classes of persons as the Minister of External Affairs may from time to time determine who hold high offices in the organization, or who are employed on missions on behalf of the organization, or who are the representatives of their respective member Governments on the governing body or any committee of the organization -

/(i) The immunities

(i) The immunities and privileges set out in Part I of the Second Schedule to this Act, to such extent as may be determined by the Minister of External Affairs; and

(ii) The immunities and privileges set out in Part II of the Second Schedule to this Act, to such extent as may be determined by the Minister of Finance:

(c) Confer upon such other officers and servants or classes of officers and servants of the organization as the Minister of External Affairs may from time to time determine -

(i) The immunities and privileges set out in Part I of the Third Schedule to this Act, to such extent as may be determined by the Minister of External Affairs; and

(ii) The immunities and privileges set out in Part II of the Third Schedule to this Act, to such extent as may be determined by the Minister of Finance:

(d) Confer upon the Judges and Registrars of the International Court, and on suitors to that Court and their agents, counsel, and advocates, such immunities, privileges, and facilities as may be required to give effect to any resolution of or convention approved by the General Assembly of the United Nations, -

and the Fourth Schedule to this Act shall have effect for the purpose of extending to the staffs of representatives of member Governments and to the families of officers of the organization any immunities and privileges conferred on the representatives or officers under paragraph (b) of this subsection, except in so far as the operation of the said Fourth Schedule is excluded by the Order conferring the immunities and privileges:

Provided that no Order in Council under this subsection shall permit any exemption from taxes or rates to be conferred upon any person who is a British subject and who is domiciled and employed in New Zealand.

(3) The powers conferred by paragraphs (a) and (b) of the last preceding subsection in respect of any organization or person shall include power to exempt any instrument or class of instruments to which

/that organization

that organization or person is a party from stamp duty under the Stamp Duties Act, 1923, and from any fee or duty under any other Act.

(4) Where immunities and privileges are conferred on any person under the authority of an Order in Council made under subsection two of this section, the Minister of External Affairs -

(a) Shall compile a list of the persons or classes of persons entitled to immunities and privileges conferred under paragraph (b) of that subsection, and may compile a list of the persons or classes of persons entitled to immunities and and privileges conferred under paragraph (c) of that subsection:

(b) Shall cause any list compiled under this subsection to be published in the Gazette:

(c) Whenever any person or class of persons ceases or begins to be entitled to the immunities and privileges to which any such list relates, shall amend the list and cause a notice of the amendment or, if he thinks fit, an amended list, to be published as aforesaid.

(5) Every list or notice published under the last preceding subsection shall state the date from which the list or amendment takes or took effect; and the fact that any person or class of persons is or was included or not included at any time among the persons entitled to the immunities and privileges in question may, if a list of those persons has been so published, be conclusively proved by producing the Gazette containing the list, or, as the case may be, the last list taking effect before that time, together with the Gazettes (if any) containing notices of the amendments taking effect before that time, and by showing that that person or class of persons is or was at that time included or not included in the said list.

4. Every Order in Council made under subsection one or subsection two of the last preceding section shall be laid before Parliament within twenty-eight days after the making thereof if Parliament is then in session, and, if

/ not, within

not, within twenty-eight days after the commencement of the next ensuing session.

5. Where a conference is held in New Zealand and is attended by the representatives of His Majesty's Government in New Zealand and the Government or Governments of one or more other members of the British Commonwealth of Nations or of one or more foreign sovereign Powers, and it appears to the Minister of External Affairs that doubts may arise as to the extent to which the representatives of those Governments (other than His Majesty's Government in New Zealand) and members of their official staffs are entitled to diplomatic immunities, he may direct that every representative of any such Government (other than His Majesty's Government in New Zealand) shall, for the purpose of any enactment or rule of law or custom relating to the immunities of an envoy of a foreign Power accredited to His Majesty, and of the retinue of such an envoy, be treated as if he were such an envoy, and that such of the members of his official staff as the Minister of External Affairs may from time to time direct shall be treated for the purpose aforesaid as if they were his retinue.

6. Nothing in the foregoing provisions of this Act shall be construed as precluding the Governor-General from declining to accord immunities or privileges to, or from withdrawing immunities or privileges from, national or representatives of any Government on the ground that that Government is failing to accord corresponding immunities or privileges to New Zealand nationals or representatives.

7. (1) The Diplomatic Privileges Extension Act, 1945, is hereby repealed.

(2) All Orders in Council, lists, notices, immunities and privileges, and generally all acts of authority that originated under the said Act, and are subsisting or in force at the commencement of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under this Act, and accordingly shall, where necessary, be deemed to have so originated.

(3) All matters and proceedings commenced under the said Act, and pending or in progress at the commencement of this Act, may be continued and completed under this Act.

SCHEDULES

FIRST SCHEDULE

IMMUNITIES AND PRIVILEGES OF THE ORGANIZATION

1. Immunity from suit and legal process.

2. The like inviolability of official archives and promises occupied as offices as is accorded in New Zealand in respect of the official archives and promises of an envoy of a foreign sovereign Power accredited to His Majesty.

3. The like exemption or relief from taxes and rates, other than taxes on the importation of goods, as is accorded to a foreign sovereign Power.

4. Exemption from taxes on the importation of goods directly imported by the organization for its official use in New Zealand or for exportation, or on the importation of any publications of the organization directly imported by it, such exemption to be subject to compliance with such conditions as the Minister of Customs may prescribe for the protection of the revenue.

5. Exemption from prohibitions and restrictions on importation or exportation in the case of goods directly imported or exported by the organization for its official use and in the case of any publications of the organization directly imported or exported by it.

6. The right to avail itself, for telegraphic communications sent by it and containing only matter intended for publication by the press or for broadcasting (including communications addressed to or despatched from places outside New Zealand), of any reduced rates applicable for the corresponding service in the case of press telegrams.

SECOND SCHEDULE

IMMUNITIES AND PRIVILEGES OF HIGH OFFICERS AND PERSONS ON MISSIONS AND GOVERNMENT REPRESENTATIVES

Part I

1. The like immunity from suit and legal process as is accorded in New Zealand to an envoy of a foreign sovereign Power accredited to His Majesty.

/2. The like

2. The like inviolability of residence as is accorded to such an envoy.

Part II

3. The like exemption or relief from taxes and rates as is accorded to such an envoy.

THIRD SCHEDULE

IMMUNITIES AND PRIVILEGES OF OTHER OFFICERS AND SERVANTS

Part I

1. Immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties.

Part II

2. Exemption from taxes in respect of emoluments received as an officer or servant of the organization.

FOURTH SCHEDULE

IMMUNITIES AND PRIVILEGES OF REPRESENTATIVE'S STAFF AND OF HIGH OFFICER'S FAMILY

1. Where any person is entitled to any such immunities and privileges as are mentioned in the Second Schedule to this Act as the representative of a member Government, his official staff accompanying him as such a representative shall also be entitled to those immunities and privileges to the same extent as the retinue of an envoy of a foreign sovereign Power accredited to His Majesty is entitled in New Zealand to the immunities and privileges accorded to the envoy.

2. Where any person is entitled to any such immunities and privileges as are mentioned in the Second Schedule to this Act as an officer of the organization, that person's wife or husband and children under the age of twenty-one shall also be entitled to those immunities and privileges to the same extent as the wife or husband or children of an envoy of a foreign sovereign Power accredited to His Majesty are entitled in New Zealand to the immunities and privileges accorded to the envoy.

THE DIPLOMATIC PRIVILEGES (UNITED NATIONS) ORDER 1947 (Serial Number 1947/204)

B. C. FREYBERG, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington, this 17th day of December, 1947

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Diplomatic Privileges Extension Act, 1947, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following Order.

O R D E R

1. This Order may be cited as the Diplomatic Privileges (United Nations) Order 1947.

2. In this Order the expression "the said Act" means the Diplomatic Privileges Extension Act, 1947.

3. It is hereby declared that the United Nations (hereinafter referred to as the said Organization) is an organization of which His Majesty's Government in New Zealand and the Governments of certain foreign sovereign Powers are members.

4. It is hereby provided that the said Organization shall, to the full extent and tenor of the First Schedule to the said Act, have the immunities and privileges set out in the said First Schedule, and shall also have the legal capacities of a body corporate.

5. There are hereby conferred upon such persons or classes of persons as the Minister of External Affairs may from time to time determine who hold high offices in the said Organization or who are employed on missions on behalf of the said Organization or who are the representatives of their respective member Governments on the governing body or any committee of the said Organization -

/(a) The

(a) The immunities and privileges set out in Part I of the Second Schedule to the said Act, to such extent as may be determined by the Minister of External Affairs; and

(b) The immunities and privileges set out in Part II of the Second Schedule to the said Act, to such extent as may be determined by the Minister of Finance.

6. There are hereby conferred upon such other officers and servants or classes of officers and servants of the said Organization as the Minister of External Affairs may from time to time determine--

(a) The immunities and privileges set out in Part I of the Third Schedule to the said Act, to such extent as may be determined by the Minister of External Affairs; and

(b) The immunities and privileges set out in Part II of the Third Schedule to the said Act, to such extent as may be determined by the Minister of Finance.

7. Nothing in this Order shall be deemed to confer any exemption from taxes or rates upon any person who is a British subject and who is domiciled and employed in New Zealand.

8. The Diplomatic Privileges (United Nations) Order 1946* is hereby revoked. It is hereby declared that the provisions of section 20 of the Acts Interpretation Act, 1924,** shall apply with respect to the revocation of the said Order as if it were an Act.

W. O. HARVEY,
Clerk of the Executive Council.

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* Statutory Regulations 1946, Serial number 1946/186, page 532.

** See Reprint of Statutes, Vol. VIII, page 578.

Issued under the authority of the Regulations Act, 1936.
Date of notification in Gazette: 18th day of December, 1947.
These regulations are administered in the Department of External Affairs.

THE ALIENS REGULATIONS 1948 (Serial number 1948/214)

Order in Council

Pursuant to the Aliens Act, 1948, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, does hereby make the following regulations:

REGULATIONS

1. These regulations may be cited as the Aliens Regulations 1948.

2. These regulations shall come into force on the 1st day of January 1949.

3. In these regulations, unless inconsistent with the context,

". . . . . .

". . . . . .

"Diplomatic representative" includes Ambassador, Envoy, Minister and Chargé d'Affaires, and includes also any person holding office under the United Nations or under a specialized agency brought into relationship with the United Nations to whom the Minister accords diplomatic status for the purpose of these regulations.

4. The following aliens and classes of aliens shall be exempt from the provisions of Part II of the said Act:*

. . . . . .

. . . . . .

(e) Any members of the staff of a person exempted under the preceding paragraphs of this regulation who has been sent to New Zealand by the Government of the country concerned, or by the Secretariat of the United Nations or a specialized agency, for the purpose of serving on that staff:

(f) Any personal servant of a person exempted under the preceding paragraphs of this regulation so long as the servant is employed exclusively in that capacity.

Provided that every exemption hereby conferred shall hold good only so long as the person in question continues to hold a status or condition by virtue of which he is entitled to exemption.

. . . . . .

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* Part II provides for the registration of aliens.

/NORWAY

NORWAY

Ministry of Finance and Customs

Circular to Customs Offices
(F.D. jnr. 1045/1950.B.4)

Respecting Customs inspection of personal baggage belonging to representatives of Members of the United Nations and related specialized agencies or to officials and experts travelling on missions for the United Nations and the said agencies.*

In pursuance of the Convention of 13 February 1946 on the Privileges and Immunities of the United Nations and of the Convention of 21 November 1947 on the Privileges and Immunities of the Specialized Agencies, both acceded to by Norway, the following rules are made in respect of Customs inspection of personal baggage belonging to the following categories of travellers:

1. Representatives of Member States etc.

Representatives of Members to conferences convened by the United Nations or by the specialized agencies and members of any governing body of the latter agencies shall, during the journey to and from the place of meeting, be exempt from Customs inspection of their personal baggage.

2. Officials

The Secretary-General, assistant secretaries-general and directors of the United Nations and the executive head (director-general, secretary-general, director, president etc.) and the assistant or acting head of each specialized agency shall be exempt from Customs inspection of his personal baggage. The exemption shall apply also to the spouse and minor children of any such official.

Other officials of the United Nations or the specialized agencies travelling on the business of these organs and provided with a United Nations laissez-passer are in principle subject to Customs supervision, but the

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* Original in Norwegian. Translation by the Secretariat.

/Ministry

Ministry does not for the time being object to their being passed through Customs without inspection if each such official declares in writing or orally to a Customs inspector that his baggage consists only of personal effects and travel necessities. This privilege shall not be granted if a Customs inspector finds cause to doubt the statement made.

3. Experts

Experts on missions for the United Nations or the specialized agencies shall be exempt from Customs inspection of their personal baggage provided that they hold a certificate stating that they are travelling on the business of the United Nations or the specialized agencies.

It is requested that all the aforementioned persons be permitted to pass through Customs before other travellers but not before foreign diplomats accredited to this country.

It must be noted that a United Nations laissez-passer is a valid travel document on the same footing as a national passport and that it is not to be taken from the person bearing it and sent to the Ministry of Foreign Affairs as though it were a Norwegian laissez-passer.

The aforementioned Customs facilities applicable to persons entering and leaving Norway shall not apply to Norwegian nationals, but they shall be granted to the officials referred to in the first paragraph of item 2 irrespective of nationality.

Norway's accession to the Convention on the Privileges and Immunities of the Specialized Agencies comprises the following organizations:

1. The International Labour Organization (ILO)
2. The Food and Agriculture Organization of the United Nations (FAO)
3. The United Nations Educational, Scientific and Cultural Organization (UNESCO)
4. The International Civil Aviation Organization (ICAO)
5. The World Health Organization (WHO)
6. The International Refugee Organization (IRO)
7. The International Monetary Fund
8. The Universal Postal Union, and
9. The International Bank for Reconstruction and Development.

Oslo, 6 June 1950

By Order
Fr. Jaren

(signed)
O. Wentzel

/CIRCULAR

CIRCULAR

(Jnr. 2295/50 P.4)

From: Ministry of Justice and Police

To: Chief Officers of Police

Passport and alien control as affected by the privileges and immunities of the United Nations and related special agencies*

The General Assembly of the United Nations has adopted a Convention on the privileges and immunities of representatives and officials of the United Nations. The Convention was acceded to by Norway by Royal Resolution of 11 July 1947. The General Assembly of the United Nations has in addition approved a Convention on the privileges and immunities of the specialized agencies of the United Nations. This Convention was acceded to by Norway by Royal Resolution of 23 December 1949. Norway's accession to the Convention thus far applies to the following nine specialized agencies:

1. the International Labour Organisation (ILO);
2. the Food and Agriculture Organization of the United Nations (FAO);
3. the United Nations Educational, Scientific and Cultural Organization (UNESCO);
4. the International Civil Aviation Organization (ICAO):
5. the World Health Organization (WHO);
6. the International Refugee Organization (IRO);
7. the International Monetary Fund;
8. the Universal Postal Union (UPU); and
9. the International Bank for Reconstruction and Development.

Both Conventions are included in "Agreements with Foreign States". You will please note that the Secretary-General of the United Nations is authorized by the Conventions to issue a special travel document known as a laissez-passer to certain categories of representatives and officials of the United Nations and the aforementioned specialized agencies of the United Nations, and that in specified cases these representatives and officials and their spouses shall be exempt from immigration restrictions and the obligation to register as aliens.

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* Original in Norwegian. Translation by the Secretariat.

/If any

If any doubt arises in the application of these provisions, please consult the Central Passport Office.

Please bring this matter to the attention of all police and Customs officers charged with passport and alien control within your district. Travelling passport-inspectors will be informed through the Central Passport Office.

Copies of this circular are enclosed.

Oslo, 15 June 1950

By Order

(Signed) Rognlien

(Signed) Eilert Arff

CIRCULAR

(Jnr. 2961/50 P.4)

From: Ministry of Justice and Police

To: Chief Officers of Police

Travel Document (Laissez-Passer) for Members and Officials of the International Court of Justice of the Hague.*

The United Nations General Assembly has recommended to the Member States that they should accept as a valid travel document a so-called "laissez-passer" issued by the International Court of Justice at the Hague to members of the Court, the registrar and officials of the Registry of the Court. The laissez-passer issued to members of the Court, the Registrar and the Deputy Registrar will be red and that issued to other officials blue. The travel document will be issued and signed by the President of the Court but will be similar in all other respects to the travel documents (laissez-passer) issued by the United Nations (cf. Ministry of Justice Circular dated 15 June 1950).

This Ministry considers that, in conjunction with the approval of special travel documents for officials of the United Nations and a number of its subsidiary agencies (cf. circular on this subject dated 15 June 1950), it can approve the aforesaid laissez-passer as a valid travel document for travel to Norway.

Please bring this matter to the attention of all police and Customs officers charged with passport and alien control within your district.

Travelling passport-inspectors will be informed through the Central Passport Office.

Copies of this circular are enclosed.

Oslo, 16 August 1950
Ministry of Justice and Police
By Order

(Signed) Rognlien

(Signed) Eilert Arff

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* Original in Norwegian. Translation by the Secretariat.

/Ministry

Ministry of Finance and Customs F.D. Jnr. 2446/1952, B.4

Circular letter to Customs Offices

Re: Exemption from Customs Duties for United Nations information media*

In accordance with the Convention on the Privileges and Immunities of the United Nations on 13 February 1946 and the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947, to both of which Conventions Norway has acceded, notice is hereby given that until further notice the Ministry agrees to exempt from customs duties and ordinary purchase tax information media such as pamphlets, reports, charts, photographs, mimeographed papers, matrices, blocks, posters, books, lantern slides, and films, etc. which Norsk Samband for de forente Nasjoner (The Norwegian United Nations Association) or the Norwegian National Commission of UNESCO receives from United Nations Information Offices abroad or from UNESCO to be used in their information work on the United Nations and other international organizations.

It is a presupposition that the material is received free of charge and that it is not to be sold in this country.

In a note of 28 April 1952 the Ministry of Commerce has agreed that such material as mentioned above may be imported without licence to the same extent as exemption from customs duties has been granted, and has besides agreed that such material as has been received from United Nations Information Centres abroad or from UNESCO may be re-exported after having been used without presentation of export licence.

Oslo, 6 June 1952

By authorization
Wilh. Ohlandt
/Fr. Jahren

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* Original in Norwegian. Translation by the Secretariat.

PAKISTAN

United Nations (Privileges and Immunities) Act, 1948*

Government of Pakistan

MINISTRY OF LAW AND LABOUR

(Law Division)

Karachi, the 25th June 1948

The following Act of the Constituent Assembly (Legislature) received the assent of the Governor-General on the 16th June, 1948, and is hereby published for general information:

Act No. XX of 1948

An Act to give effect to the Convention on the Privileges and Immunities of the United Nations

WHEREAS it is expedient to give effect to the Convention on the Privileges and Immunities of the United Nations, and to enable similar privileges and immunities to be enjoyed by other international organizations and their representatives and officials;

It is hereby enacted as follows:

1. This Act may be called the United Nations (Privileges and Immunities) Act, 1948. — Short title.

2. (1) Notwithstanding anything to the contrary contained in any other law, the provisions set out in the Schedule to this Act of the Convention on the Privileges and Immunities, adopted by the General Assembly of the United Nations on the 13th day of February 1, 1946, shall have the force of law in Pakistan. — Conferment on United Nations and its representatives and officers of certain privileges and immunities.

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* Published in the Gazette of Pakistan, June 25, 1948, Part IV - Acts of the Dominion Legislature assented to by the Governor-General and Acts of the Constituent Assembly.

/(2) The Central

(2) The Central Government may, from time to time, by notification in the official Gazette, amend the Schedule in conformity with any amendments, duly made and adopted, of the provisions of the said Convention set out therein.

Power to confer certain privileges and immunities on other international organizations and their representatives and officers.

3. Where in pursuance of any international agreement, convention or other instrument it is necessary to accord to any international organization and its representatives and officers privileges and immunities in Pakistan similar to those contained in the provision set out in the Schedule, the Central Government may, by notification in the official Gazette, declare that the provisions set out in the Schedule shall, subject to such modifications, if any, as it may consider necessary or expedient for giving effect to the said agreement, convention or other instrument apply mutatis mutandis to the international organization specified in the notification and its representatives and officers, and thereupon the said provisions shall apply accordingly and, notwithstanding anything to the contrary contained in any other law, shall in such application have the force of law in Pakistan.

Power to make rules.

4. The Central Government may make rules for carrying out the purposes of this Act.

THE SCHEDULE

(See sections 2 and 3)

(The Schedule reproduces the text of the Convention on the Privileges and Immunities of the United Nations. For text see Part II, 1, p 26 supra).

SWEDEN

Act concerning special privileges for certain international organizations, 10 July 1947 (Swedish Statute Series, No. 511)*

We, GUSTAF, by the Grace of God King of Sweden and of the Goths and Wends, hereby proclaim that we, together with the Riksdag**, have been pleased to decree as follows:

Article 1

Notwithstanding any provision to the contrary contained in any law or special statute, the United Nations, the International Court of Justice and the specialized agencies attached to the United Nations, and persons employed or commissioned by those organizations, and representatives of the Member States, shall enjoy immunity and privileges in accordance with the provisions of any regulations or agreements to which Sweden is a party.

Article 2

His Majesty may make regulations for giving effect to this Act.

This Act shall come into force on the day following that expressed on its face to be the date of its publication in the Swedish Statutes Series.

Let all persons concerned conform obediently hereto. In confirmation whereof We have signed this Act with our own hand and have had it sealed with Our Royal Seal.

Särö, 10 July 1947.

(signed) GUSTAF

(The Department of Justice) Herman Zetterberg

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* Original in Swedish. Translation by the Secretariat.
** Riksdag bulletin 1947: 342.

Act concerning the protection of the emblem and name of the United Nations, 10 July 1947 (Swedish Statute Series, No. 512)*

We, GUSTAF, by the Grace of God King of Sweden and of the Goths and Wends, hereby proclaim that We, together with the Riksdag**, have been pleased to decree as follows:

Article 1

The emblem, name or abbreviation of the name of the United Nations or any other device so similar as to be easily mistaken therefor may not be used publicly as a mark or designation without the approval of the Secretary-General of the United Naticns.

The appearance of the emblem is shown in the annex hereto.

Article 2

Any person who without due permission offers for sale goods bearing a mark or designation referred to in Article 1, or unlawfully includes such a designation in the name of a firm, or otherwise contravenes the prohibition laid down in that article, shall be punished by daily fine or imprisonment. Fines shall accrue to the Crown.

This Act shall come into force on 1 January 1948 but shall not apply to trade marks or names of firms lawfully registered before its promulgation; provided that a trade mark containing a mark or designation referred to in Article 1, or the name of a firm containing such a designation in use before the promulgation of this Act may continue to be employed, notwithstanding the provisions of the Act, until 1 January 1951.

Let all persons conce ned conform obediently hereto. In confirmation whereof We have signed this with Our own hand and have had it sealed with Our Royal Seal.

Saro, 10 July 1947.

(Signed) GUSTAF

(The Department of Justice) Herman Zetterberg

Annex
(omitted)

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* Original in Swedish. Translation by the Secretariat.
** Riksdag bulletin 1947: 342

/Act to amend

Act to amend Article 1 of the Act of 10 July 1947 (No. 511) respecting special treatment of certain international organizations

Given at Stockholm Castle on 12 May 1950 (Swedish Statute Series 1950, No. 154)*

We, GUSTAF, etc., make known that We, with the approval of the Riksdag**, have been pleased to order that Article 1 of the Act of 10 July 1947 respecting special treatment of certain international organizations shall be amended as follows:

Article 1

Notwithstanding the provisions of other laws or special statutes, the United Nations, the Organization for European Economic Co-operation, the Council of Europe, the specialized agencies in relationship with the United Nations and the representatives of Member States of the above-named organizations, together with persons in the service of or on a mission from the organizations, and also the International Court of Justice, its members and staff and any persons otherwise engaged in the proceedings of the Court shall enjoy immunities and privileges in accordance with the stipulations of regulations or agreements to which Sweden has acceded.

This Act shall come into force on the day following its publication in the Swedish Code of Statutes in accordance with information indicated in the Act itself.

Let all those concerned conform obediently hereto. In confirmation whereof We have signed this Act in Our own hand and have caused Our Royal Seal to be affixed.

Stockholm Castle, 12 May 1950.

In the absence of His Majesty
My Most Gracious Sovereign and Master:

GUSTAF ADOLF

(L.S.)

(Department of Justice) Herman Zetterberg

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* Original in Swedish. Translation by the Secretariat.
** Communication of the Riksdag, 1950: 147

SWITZERLAND

Decision of the Swiss Federal Council regarding the granting of diplomatic privileges and immunities to certain high-ranking officials of the European Office of the United Nations at Geneva (Extract from the record of the meeting of the Swiss Federal Council on 30 December 1947)*

Political Department. Proposal of 29 December 1947.

On 11 March 1946 the Swiss Federal Council concluded an agreement with the International Labour Organisation governing that agency's legal status in Switzerland.

Article 16 of the agreement provides that "The Director of the International Labour Office and officials of the categories designated by him and agreed to by the Swiss Federal Council shall enjoy the privileges, immunities, exemptions and facilities granted to diplomatic agents in accordance with international law and custom". The expression "officials of the categories designated by him and agreed to by the Swiss Federal Council" covers all "first category" officials. These officials therefore enjoy diplomatic privileges and immunities, whereas "second category" officials enjoy only the immunities and facilities granted to them by articles 17 and 18 of the agreement.

On the other hand, the Interim Arrangement on Privileges and Immunities of the United Nations, concluded on 19 April 1946 between the Federal Council and the Secretary-General of the United Nations, provides in its section 15 for a single category of officials apart from the category of top-ranking directors whose status, as in the International Labour Office, is that of chiefs of diplomatic missions accredited to Berne. United Nations officials, irrespective of their grade, all enjoy the same privileges and immunities, which are practically identical with those granted to "second category" officials of the International Labour Office. No United Nations officials, except top-ranking directors, enjoy the diplomatic privileges and immunities which have been enjoyed by "first category" officials of the International Labour Office for over 25 years.

Original in French. Translation by the Secretariat.

No. 5298/52
1952

/This position

This position is irregular and embarrassing for various reasons.

In the first place, it is contrary to a resolution adopted on 13 February 1946 by the General Assembly of the United Nations, the most important passages of which read as follows:

"The General Assembly considers that there are 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 not all specialized agencies require all the privileges and immunities which may be needed by others, and that certain of these may, by reason of their particular functions, require privileges of a special nature which are not required by the United Nations itself, the General Assembly considers that the privileges and immunities of the United Nations should be regarded, as a general rule, as a maximum within which various specialized agencies should enjoy such privileges and immunities as the appropriate fulfilment of their respective functions may require ..."

The Political Department considers that this resolution should be taken into account, since it concerns the European Office of the United Nations as well as the International Labour Office, which is one of the specialized agencies of the United Nations. Thus the present situation at Geneva is absolutely contrary to the principle laid down in the resolution, since it is not the United Nations, but the International Labour Organisation and its "first category" officials, who enjoy the maximum privileges and immunities granted to officials.

The Political Department considers that this situation should be remedied without delay, especially since the European Office of the United Nations has benefited by a "most favoured organization" clause, which corresponds absolutely with the principle laid down in the United Nations General Assembly resolution of 13 February 1946. In fact, after the meeting of the Federal Council of 3 August 1946, which discussed the conversations between Mr. Petitpierre and Mr. Trygve Lie, Secretary-General of the United Nations, a press communique was published by the Political Department stating that Mr. Petitpierre "was already in a position to give Mr. Lie the following assurances:

1. The Swiss authorities are prepared to grant to the United Nations and its officials treatment at least as favourable in all respects as that granted to any other international organization on Swiss territory."

Switzerland is therefore bound to grant the European Office of the United Nations "treatment at least as favourable in all respects" as that granted to the International Labour Organisation.

Nevertheless, the Political Department considers that it would be impossible indiscriminately to grant privileges and immunities as extensive as those granted to diplomatic officials. Whereas there are now 110 "first category" officials in the International Labour Office, the Political Department considers that the facilities now enjoyed by these officials of the International Labour Office should be extended only to approximately forty officials of the European Office of the United Nations. It would obviously be easier to limit the number of persons enjoying these facilities if the decision were taken spontaneously by the Swiss Government before receiving a formal request from the United Nations under the most favoured organization clause, since it would be extremely difficult to refuse such a request or to grant it conditionally.

The final argument in favour of remedying the situation is a practical one. In applying the various agreements concluded by Switzerland with international organizations, difficulties are always being caused by differences between those organizations' systems. For example, only recently the Council of State of the Republic and Canton of Geneva informed the Political Department of the difficulties with which its departments were constantly confronted by the variety of the systems governing officials of international organizations, and the resulting differences in the wording of the identification documents issued by the Political Department. There is an undeniable need for some unification, the chief advantage of which would be a highly desirable simplification of the problem of applying agreements concluded by Switzerland with international organizations. The following proposal would enable a considerable step forward to be taken.

As has been stated above, the Political Department considers that the number of officials of the European Office of the United Nations who enjoy diplomatic privileges and immunities should be limited. On the other hand, it considers

/that the choice

that the choice of these officials should be left to the discretion of the Director of the European Office of the United Nations, on the understanding that they shall be chosen from among the highest ranking officials.

Accordingly, the Political Department proposes and the Federal Council hereby resolves that:

With effect from 1 January 1948 the privileges and immunities granted to diplomatic assistants of chiefs of missions accredited to the Swiss Confederation shall also be granted to certain high-ranking officials of the European Office of the United Nations.

In proportion to the present numbers of United Nations officials at Geneva, the number of officials benefiting by this resolution shall not exceed thirty-five.

The Director of the European Office of the United Nations shall draw up and submit to the Political Department a list of eligible high-ranking officials. The same procedure shall be followed in subsequent nominations.

High-ranking officials covered by section 6 of the Interim Arrangement of 19 April 1946 shall not be included in this list, since they already enjoy the same privileges and immunities as chiefs of diplomatic missions accredited to the Swiss Confederation.

Extract from the record (ten copies) to the Political Department for action.

Certified true copy:

(Signed) C. OSER
Secretary

Decision of the Swiss Federal Council on the legal status of permanent delegations of Member States to the European Office of the United Nations and to other international organizations with headquarters in Switzerland
(Extract from the record of the meeting of the Swiss Federal Council on 31 March 1948)*

Political Department. Proposal of 12 March 1948.

Finance and Customs Department. Joint report of 22 March 1948.

On 19 April 1946 the Federal Council concluded with the Secretary-General of the United Nations an "Interim arrangement on the privileges and immunities

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* Original in French. Translation by the Secretariat.

/of the

of the United Nations", to govern the legal status in Switzerland of the European Office of the United Nations, its staff, representatives of Member States and experts on temporary missions.

At that time the establishment of permanent delegations of Member States at Geneva, as in the time of the League of Nations, was hardly contemplated. It seemed obvious that such delegations should be set up only in the United States, at United Nations Headquarters. The interim arrangement therefore contained no provisions concerning such permanent delegations.

Some months ago, however, certain States decided to set up permanent delegations at Geneva to observe the work of the European Offices of the United Nations, the International Labour Organisation, the World Health Organization and the International Refugee Organization.

At present there are six such permanent delegations, with small staffs: those of the United States of America, the United Kingdom, France, Luxembourg, the Netherlands and Denmark.

The status of permanent delegations to the League of Nations in Switzerland was not governed by the modus vivendi of 1921 and 1926 but by a number of resolutions of the Federal Council, passed from time to time as required. The resulting system was somewhat vague.

Now that the question of the status of permanent delegations to international organizations in Switzerland is arising again, the Political Department considers that it would be advisable to establish once for all a clear and simple system whereby any controversy with such delegations and the States they represent may be avoided. Having considered the question, and taken into account the experience of the League of Nations and the resolutions passed at the time by the Federal Council, the Political Department thinks that the best solution would be to assimilate the permanent delegations to the legations at Berne, whose status is clearly defined. Any ambiguity would thus be avoided. Moreover, the capacity of each permanent delegation as representative of a national State would be respected and a distinction would thus be made between the members of these

delegations and international officials, who come under the arrangements and agreements concluded by the Federal Council with the organizations for which they work.

This solution should satisfy the permanent delegations which have already been set up in Switzerland. At any rate, that seems to be the gist of the recent oral statements made by Mr. Moderow, director of the European Office of the United Nations, to Mr. Secretan.

The solution, nevertheless, involves one difficulty: that of the reciprocity which is made a condition of the grant of customs facilities to foreign legations at Berne. The Political Department thinks that it would be difficult to impose that condition on permanent delegations, which are not accredited to the Swiss government but are delegations of States Members of the United Nations, who have equal rights and are not subject to discrimination among them by the Swiss Government. In any case, the question does not arise now, since all diplomatic agents at Berne from the countries which already have permanent delegations at Geneva are completely exempt from customs formalities.

In order to avoid the establishment of a second diplomatic corps at Geneva, and to emphasize that the Swiss Government recognizes as officially representing a State only the diplomatic mission of that State at Berne, the Political Department considers it advisable to request that all communications concerning permanent delegations, their establishment or the arrival or departure of their members, should be addressed to the Political Department by the diplomatic missions at Berne of the States concerned.

Accordingly the Political Department, in agreement with the Finance and Customs Department, proposes and the Council hereby resolves as follows:

(1) The permanent delegations of Members States, as such, shall enjoy facilities similar to those granted to diplomatic missions at Berne.

They shall be entitled to use ciphers in their official communications and to receive and send documents by their own diplomatic couriers.

(2) The heads of permanent delegations shall enjoy privileges similar to those granted to heads of diplomatic missions at Berne, provided that they hold equivalent rank.

/(3) All other

(3) All other members of permanent delegations shall enjoy, subject to equality of rank, privileges and immunities similar to those granted to staffs of diplomatic missions at Berne.

(4) The establishment of a permanent delegation and arrivals and departures of its members shall be communicated to the Political Department by the diplomatic mission at Berne of the State concerned. The Political Department shall issue to members of the delegations identity cards certifying the privileges and immunities which they will enjoy in Switzerland.

Extract from the record (20 copies), for the Political Department for action and for the Finance and Customs Department for information.

Certified true copy:

(Signed) C. OSER
Secretary

Decision of the Swiss Federal Council on the privileges and immunities of the International Court of Justice in Switzerland (Extract from the record of the meeting of the Swiss Federal Council on 30 April 1948)*.

Political Department. Proposal of 23 April 1948.

Finance and Customs Department. Joint report of 27 April 1948.

By an order made on 12 March 1948 the Federal Assembly authorized the Federal Council to deposit, after the expiry of the referendary time limit, an instrument of recognition of the Statute of the International Court of Justice.

When Switzerland becomes a party to the Statute of the Court it will have to comply with articles 19 and 42 of the Statute, whereby members of the Court when engaged on the business of the Court enjoy diplomatic privileges and immunities, and agents, counsel, and advocates of parties before the Court enjoy the privileges and immunities necessary to the independent exercise of their duty.

These principles required amplification, and the General Assembly of the United Nations made some recommendations to States Members of the United Nations in its resolution of 11 December 1946.

Switzerland will apparently be right to conform with these recommendations when it becomes a party to the Statute of the Court. In fact, it can do so at once, since the matters of accession and of privileges may be dealt with separately. The Political Department considers that there is no need to postpone a decision concerning the privileges and immunities of the Court, since the Court has already requested information concerning the system applicable to its members if they were called upon to visit our country.

The recommendations adopted on 11 December 1946 by the General Assembly of the United Nations adapted to the special situation of the Court the main provisions of the Convention of 13 February 1946 on the privileges and immunities of the United Nations, on which was based our Interim Arrangement of 19 April 1946 with the United Nations. We are therefore on familiar ground. The judges and the registrar of the Court are assimilated to chiefs of diplomatic missions. Officials of the registry enjoy the privileges and immunities necessary to the exercise of their duty. Agents, counsel and advocates of parties before the

* Original in French. Translation by the Secretariat.

Court are assimilated to representatives of Member States to organs of the United Nations. Assessors, witnesses, experts and other persons carrying out missions are assimilated to experts on missions for the United Nations. The recommendations concerning laissez-passer and visas have the effect of establishing a system like that already covering the United Nations.

Accordingly, and in agreement with the Finance and Customs Department, it is resolved as follows:

(a) the recommendations made on 11 December 1946 by the General Assembly of the United Nations concerning the privileges and immunities of the International Court of Justice shall henceforward apply in Switzerland;

(b) the Political Department shall so inform the International Court of Justice.

Extract from the record, five copies to the Political Department for action.

Certified true copy:
(Signed) C. Oser
Secretary

CUSTOMS REGULATIONS

concerning

the United Nations and the specialized agencies brought into relationship with the United Nations;
the staff of the said organizations;
the members of the Governing Bodies, Executive Boards, etc., of the said organizations;
the delegations of Member States and their representatives temporarily accredited to the said organizations;
the delegations of Member States and their representatives permanently accredited to the said organizations;
the Interim Commission for the International Trade Organization;
the Judges and officers of the International Court of Justice.

(23 April 1952)

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/THE SWISS

THE SWISS FEDERAL COUNCIL

HAVING CONSIDERED:

1. The Interim Arrangement on the privileges and immunities of the United Nations, dated 19 April 1946;

2. The Agreement with the International Labour Organisation regulating the legal status of that organisation in Switzerland, dated 11 March 1946, and the arrangement for the execution of the agreement, dated 11 March 1946;

3. The Agreement with the World Health Organization regulating the legal status of that organization in Switzerland, dated 17 July 1948, and the arrangement for the execution of the said Agreement, dated 17 July 1948;

4. The Agreement with the International Refugee Organization regulating the legal status of that organization in Switzerland, dated 15 September 1948, and the arrangement for the execution of the said Agreement, dated 15 September 1948;

5. The decision of the Federal Council of 3 February 1948 concerning the facilities to be extended to the International Telecommunication Union and the Universal Postal Union, as specialized agencies of the United Nations;

6. The decision of the Federal Council of 11 July 1947 concerning the privileges and immunities to be granted to the specialized agencies of the United Nations not having their headquarters in Switzerland, and to their staffs, on the occasion of conferences or temporary missions in Switzerland;

7. The decisions of the Federal Council concerning the privileges and immunities to be granted to the Interim Commission for the International Trade Organization, to the Judges and officers of the International Court of Justice and to the permanent delegations of Member States accredited to the European Office of the United Nations and to other international organizations with headquarters in Switzerland;

8. The Agreement on the legal status in Switzerland of the International Bank for Reconstruction and Development, dated 29 June 1951.

In pursuance of the clauses contained in these agreements and decisions relating to customs exemption and customs facilities and with a view to standardizing the system of customs privileges resulting from these agreements and decisions,

ENACTS THE FOLLOWING PROVISIONS:

A. UNITED NATIONS BODIES AND SPECIALIZED AGENCIES WITH HEADQUARTERS IN SWITZERLAND

CHAPTER I

GOODS CONSIGNED TO THE ORGANIZATIONS

Article 1

Extent of the exemption

1. All articles intended for the exclusive use of the international organizations shall be admitted free of duty.

The importation of motor vehicles shall be governed by the provisions of Chapter X.

2. Articles admitted free of duty may not be transferred within five years after being admitted free of duty, unless the customs duties and other import charges are first paid.

Article 2

Procedure

General provisions

Consignments shall be addressed to one of the international organizations or to those of their special services (Secretariat, Library, Purchase and Supply Division etc.) for which the goods are intended.

Article 3

Consignments arriving by rail, road or air

1. Except as provided in paragraph 3 below, consignments shall be routed to the customs office closest to the headquarters of the consignee organization. This office shall inform the consignee organization of the arrival of the consignment, by means of a special clearance declaration form.

2. On this form, the organization concerned shall describe the nature of the consignment and certify that it is intended for official use. The form, signed by the head of the organization or his authorized representative, shall be returned to the customs office which shall thereupon admit the consignment free of duty.

/3. In the case

3. In the case of consignments arriving at the frontier but addressed otherwise than to the headquarters of the organization concerned, the said organization may send the declaration form in advance to the competent Customs Directorate (see Annex I) and refer to the customs office of entry, and the Directorate shall transmit the form to the customs office in question. In this case, the duty-free clearance shall be effected by the office of entry. If no such declaration is made, duty shall be charged provisionally on the consignment, and the consignee organization shall be at liberty thereafter to apply for duty-free admission to the competent Customs Directorate within the time limit prescribed in the regulations to give effect to the Customs Act and in conformity with paragraph 2 above.

4. In the case of traffic by road and air, consignments addressed to international organizations at Geneva shall be released directly by the offices of the VIth customs district, against receipt of the said form.

Article 4

Postal packages

Postal packages shall bear the address of the international organization or the address of its services to which they are consigned. The consignments shall be routed to the postal customs office closest to the headquarters of the consignee organization. The customs office shall hand over the package, together with the declaration form mentioned in article 3, paragraph 1 to the post for delivery. The postal service shall see to it that the declaration is completed and signed by the head of the international organization or his authorized representative, deliver the package and return the declaration form to the postal customs office.

Article 5

Printed matter

Printed matter, books and publications, sent by parcel post or air freight, addressed to international organizations and intended for their exclusive use, shall be delivered to the consignees without customs formalities through the competent customs office.

/Article 6

Article 6

Consignments leaving federal bonded warehouses or free ports

1. Goods imported from federal bonded warehouses or from free ports in Switzerland shall be subject to the provisions specified in article 3.

2. Consignments addressed to international organizations at Geneva from a free port in that town shall be admitted duty-free by the customs office on the production of the special declaration form, duly signed.

CHAPTER II

GOODS CONSIGNED TO PRINCIPAL DIRECTORS AND TO CERTAIN SENIOR OFFICIALS

Article 7

Extent of the exemption

1. Principal directors shall be entitled to the admission, free of duty, of all goods imported from abroad which are intended for their exclusive use or for the exclusive use of the spouse or children under age living with the principal director concerned.

2. Senior officials designated by the organization to which they belong in conformity with the conditions laid down in agreement with the Federal Council shall be entitled to the admission, free of duty, of:

(a) effects, new or used, intended for their personal use, it being understood that this privilege may not be exercised more than once;

(b) all other articles not mentioned in (a) above which are intended for their exclusive use or for the exclusive use of the spouse or children under age living with the senior official concerned.

The importation of motor vehicles shall be governed by the provision of Chapter X.

3. The duty-free importation of personal effects shall be subject to the condition that the person entitled is domiciled in Switzerland.

Article 8

Procedure

Articles 3, 4 and 6 shall be applicable to consignments addressed to the aforesaid persons, save in so far as the procedure therein described is varied by virtue of the provisions hereinafter contained:

(a) the consignments shall be addressed, in clearly legible writing, to the entitled persons themselves, who shall personally sign the special clearance declaration;

(b) the declaration forms prepared for consignments addressed to senior officials under the benefit of the exemption shall be signed by the consignee and countersigned by his superior or the superior's authorized representative;

(c) senior officials claiming the right to import household effects duty free on their initial installation shall submit to the customs office:

1. an accurate list of the articles to be imported, signed by the importer and countersigned by the head of the organization or his authorized representative;

2. a declaration, on a special form, signed by the entitled person and countersigned by the head of the organization or his authorized representative, whereby the importer of the personal effects undertakes to use the articles himself or in his own dwelling in Switzerland, and not to transfer them, whether by way of gift or for valuable consideration, before the expiry of five years from the date of their admission duty free without first paying the customs duties.

Duty-free admission shall be granted as soon as it has been shown by the customs inspection that the consignment corresponds with the documents submitted.

Notice of subsequent arrivals shall be given at the time of the importation of the first consignment, with particulars of the contents and the consignor. Subsequent consignments shall be imported within one year of the arrival of the first consignment in Switzerland.

2. On consignments arriving at the address of entitled persons, but with a destination other than their habitual domicile, duty shall be charged provisionally by the customs office of entry, and the consignee shall be at liberty thereafter to apply for duty-free admission to the competent Customs Directorate within the time limit prescribed in the regulations to give effect to the Customs Act.

Article 9

Passenger traffic

1. So far as passenger traffic is concerned, the privileges referred to in article 7 shall be granted, without formalities, to principal directors only.

2. Goods liable to duty which are imported by senior officials travelling as passengers shall be cleared provisionally or in transit. A guarantee shall be given for the customs duties and other charges, according to the general provisions of the Customs Act. Exemption shall be granted as soon as the entitled person submits the special clearance form to the competent customs office.

3. Members of the families of the persons mentioned in article 7 shall only be entitled to the benefit of the same treatment as the latter if they are travelling with them. If they are travelling alone, the inspection of their personal luggage shall be reduced to a strict minimum.

4. The granting of the above-mentioned facilities shall be conditional on the production of the identity card issued by the Federal Political Department.

CHAPTER III

PERSONAL AND HOUSEHOLD EFFECTS FOR INITIAL INSTALLATION CONSIGNED TO OTHER OFFICIALS

Article 10

Extent of the exemption

1. Save as provided in article 13, the officials of foreign nationality not mentioned in article 7 shall be entitled, if domiciled in Switzerland, to

exemption from customs duty in respect of any new or used articles as well as food and drink imported by them in connexion with their initial installation, or on their return to Switzerland after an absence of not less than three years. However, the duty-free admission shall be limited to quantities not exceeding the normal needs of the official and the members of his family (spouse and children under age) for whom he is responsible.

The importation of passenger automobiles and motorcycles shall be governed by the provisions of Chapter X.

2. In the case of the transfer of an official, the aforesaid period of three years may be reduced, upon an application by the organization concerned to the competent Customs Directorate.

Article 11

Procedure

1. The exemption from customs duties in respect of household effects for initial installation shall be applied for by the entitled person through the organization to which he belongs, within the time limit laid down by the latter for the reimbursement of removal expenses. The importation shall take place within the same time limit.

2. Notice of subsequent arrivals shall be given at the time of the importation of the first consignment, with particulars of the contents and of the consignor. Subsequent consignments shall be imported within one year of the arrival of the first consignment in Switzerland.

3. The application for duty-free admission shall be addressed to the competent Customs Directorate and accompanied by the following supporting documents:

(a) an accurate list of the articles to be imported, signed by the importer and countersigned by the head of the organization or his authorized representative;

(b) a declaration, on a special form, signed by the entitled person and countersigned by the head of the organization or his authorized representative, whereby the importer of the personal effects undertakes to use the articles personally or in his own dwelling in Switzerland, and

not to transfer them whether by way of gift or for valuable consideration, before the expiry of five years from their admission duty-free without first paying the customs duties.

4. Duty-free admission shall be granted as soon as it has been shown by the customs inspection that the consignment corresponds with the documents submitted.

5. Any request for the inspection of the consignment at the domicile of the consignee shall give rise to a liability for the special charges payable in respect of inspections elsewhere than on official premises (article 45 of the regulations to give effect to the Customs Act).

CHAPTER IV

SPECIAL PROVISIONS

Article 12

Transfer of household effects imported upon initial installation

1. Articles admitted duty-free as household effects upon initial installation pursuant to articles 7 and 10 may be transferred before the expiry of the time limit of five years, subject to the permission of the competent Customs Directorate without payment of customs duties:

(a) the principal directors referred to in article 7, subject to the conditions stipulated in article 8;

(b) to the senior officials referred to in article 7, the officials mentioned in article 10, and to any other persons entitled to the benefit of customs privileges, provided that they are entitled to claim the duty-free admission of household effects upon initial installation and that they assume the obligations of the transferor.

2. In the case of a transfer to other persons before the expiry of the time limit of five years, the competent Customs Directorate may, in view of special circumstances, grant rebates.

Article 13

Persons holding temporary appointments

Persons holding temporary appointments shall, if retained in service after the expiry of six months, be placed on the same footing as the permanent staff, for the purposes of these regulations. During the first six months following their entry into service they may only import duty-free their used personal effects in conformity with the general provisions of the Customs Act. However, if they wish to import new articles at the same time, duty shall be charged on the latter provisionally only; upon the expiry of the aforesaid time limit of six months, these duties shall be reimbursed to the persons concerned, upon application to the competent Customs Directorate.

CHAPTER V

PERSONS DOMICILED ABROAD ON TEMPORARY MISSION IN SWITZERLAND

Article 14

Personal luggage

Experts and other persons on temporary mission in Switzerland on behalf of international organizations shall be entitled, if they are holders of a United Nations certificate or other similar certificate, to a strictly minimum inspection of their personal luggage.

If they hold a rank equivalent to that of head of a diplomatic mission (ambassador, minister or chargé d'affaires), they shall be entitled to customs exemption in respect of articles imported as part of their personal luggage.

CHAPTER VI

PERMANENT DELEGATIONS OF MEMBER STATES

Article 15

Permanent delegations

1. The permanent delegations of Member States shall be entitled to the

duty-free admission of all articles which are intended for their official use and which belong to the governments that they represent.

The importation of motor vehicles shall be governed by the provisions of Chapter X.

2. Articles admitted free of duty may not be transferred unless the customs duties and other import charges are first paid.

Article 16

Heads of delegations and delegates

1. Heads of delegations whose rank is equivalent to that of head of a diplomatic mission and who are holders of an identity card issued by the Federal Political Department shall be entitled to the benefit of the facilities granted to the principal directors of the organizations (articles 7 and 27).

2. Heads of delegations and delegates whose rank is equivalent to that of member of a diplomatic mission and who are holders of an identity card issued by the Federal Political Department shall enjoy the facilities granted to the senior officials of the organizations (articles 7 and 27).

3. The granting of the facilities mentioned in paragraphs 1 and 2 above shall be conditional on the observance of the conditions laid down in these regulations.

4. Members of permanent delegations who carry on gainful activities in Switzerland shall not be entitled to the benefit of the provisions of these regulations.

Article 17

Technical and auxiliary personnel

Other members of delegations shall, if holders of an identity card issued by the Federal Political Department, be entitled to the benefit of the facilities referred to in articles 10 and 28.

Article 18

List of members of delegations

In agreement with the diplomatic missions concerned at Berne, the Federal

Political Department shall draw up a list of the personnel of delegations and immediately inform the Directorate-General of Customs.

CHAPTER VII

NON-PERMANENT DELEGATIONS OF MEMBER STATES, MEMBERS OF GOVERNING BODIES, EXECUTIVE BOARDS, ETC., WHO ARE DOMICILED ABROAD

Article 19

Personal consignments

1. Members of non-permanent delegations (delegates, alternate delegates, advisers, technical experts and secretaries) who are accredited by their governments to an international organization or who are sent by their governments to attend conferences or meetings convened by such an organization in Switzerland, and the members of the boards of these organizations (Governing Body, Executive Board, etc.) shall be entitled to a strictly minimum inspection of their personal luggage.

If they hold a rank equivalent to that of head of a diplomatic mission (ambassador, minister or chargé d'affaires), the above persons shall be entitled to customs exemption in respect of articles imported as part of their personal luggage.

2. Upon application by the international organizations to the competent Customs Directorate, the presiding officers of the principal conferences shall be entitled, for the duration of the conference, to the benefit of the privileges granted to principal directors under article 7, though this provision shall not apply to the duty-free importation of furnishings and vehicles of any kind.

Article 20

Office supplies

1. Subject to the re-exportation of or payment of import duty on unused supplies, exemption from entry charges shall be granted in respect of office supplies (stationery, pencils, ink, etc.), forms and publications intended for

the official use of these delegations, on condition that a declaration relating to their use is signed by the head of the delegation and submitted to the customs office of entry.

2. Subject to re-exportation at the end of the conference, temporary admission duty-free under a transire shall be granted in respect of furnishings, office machinery and other articles, such as films, projection slides, radio apparatus, etc., intended for the official use of such delegations, on condition that a declaration relating to their use is signed by the head of the delegation and submitted to the customs office of entry.

B. UNITED NATIONS BODIES AND SPECIALIZED AGENCIES WITH HEADQUARTERS ABROAD

CHAPTER VIII

PROVISIONS RELATING TO THE ORGANIZATIONS, ADMINISTRATORS, EXPERTS AND OFFICIALS AND TO DELEGATIONS OF MEMBER STATES

Article 21

Personal consignments

1. The Secretary-General and the Assistant Secretaries-General of the United Nations shall be entitled, whenever they come to Switzerland in the course of their duties, to the benefit of customs exemption in respect of all articles, subject to the conditions applicable under these regulations to principal directors. In the course of passenger traffic, these facilities shall only be granted on production of the red United Nations laissez-passer.

2. Senior officials of the United Nations and the specialized agencies who are holders of the red United Nations laissez-passer shall be entitled, whenever they come to Switzerland on official mission, to customs exemption in respect of articles imported as part of their personal luggage.

3. Members of the delegations of Member States whose rank is equivalent to that of head of a diplomatic mission (ambassador, minister, chargé d'affaires) shall be entitled, when taking part in a conference or meeting convened in Switzerland, to customs exemption in respect of articles imported as part of their personal luggage.

4. Officials who are holders of the blue laissez-passer and members of the delegations of Member States whose diplomatic rank is below that of head of mission shall be entitled, when coming to Switzerland on official mission, to a strictly minimum inspection of their personal luggage.

5. Upon application by the international organizations to the competent Customs Directorate, the presiding officers of the principal conferences shall be entitled, for the duration of the conference, to the benefit of the privileges granted to principal directors under article 7, though this provision shall not

/apply to

apply to the duty-free importation of furnishings and vehicles of any kind.

Article 22

Office supplies

1. Office supplies (stationery, pencils, ink, etc.), forms and publications which are imported in connexion with conferences or meetings convened in Switzerland and which are intended for the official use of the specialized agencies or delegations concerned, shall be admitted duty-free subject to the conditions stipulated in article 20, paragraph 1.

2. Furnishings, office machines and other articles such as films, projection slides, radio apparatus, etc., intended for official use, may be cleared through customs under a transire, subject to the conditions stipulated in article 20, paragraph 2.

3. The declarations referred to in article 20 shall be signed either by the highest official of the agency participating in the conference or by his deputy, or by the head of the delegation making the application.

Article 23

Officials on temporary mission in Switzerland

1. Officials on temporary mission with the European Office of the United Nations or with a specialized agency having its headquarters in Switzerland shall be entitled to import under a transire personal effects intended for their own use or for the use of their spouse or children under age living with them.

The importation of motor vehicles shall be governed by the provisions of article 31.

2. This facility shall be granted subject to re-exportation at the conclusion of the mission in Switzerland.

3. The persons concerned shall submit to the customs office a list in duplicate of the effects to be imported. This list shall be countersigned by the head of the organization to which they have been seconded or his authorized representative.

CHAPTER IX

INTERIM COMMISSION FOR THE INTERNATIONAL TRADE ORGANIZATION AND INTERNATIONAL COURT OF JUSTICE

Article 24

Interim Commission for the International Trade Organization

For the purposes of these regulations, the Interim Commission for the International Trade Organization shall be placed on the same footing as the specialized agencies with headquarters in Switzerland.

Article 25

International Court of Justice

1. The Judges of the International Court of Justice, the Registrar and the Assistant Registrar acting as Registrar, shall be entitled, when coming to Switzerland in the course of their duties, to the benefit of customs exemption in respect of all articles, other than household goods for initial installation and motor vehicles, subject to the conditions which under these regulations are applicable to principal directors.

2. The officers of the Court, while on official mission in Switzerland, shall be entitled on entering and leaving to a strictly minimum inspection of their personal luggage.

3. Judges of the Court domiciled in Switzerland shall be entitled to the benefit of the privileges granted to principal directors by articles 7 and 27.

C. SPECIAL REGULATIONS

CHAPTER X

MOTOR VEHICLES

Article 26

Motor vehicles for organizations with headquarters in Switzerland

1. Organizations with headquarters in Switzerland shall be entitled to import duty-free motor vehicles inte ed for their exclusive use.

2. Passenger automobiles and motorcycles may not be transferred to third parties in Switzerland, whether by way of gift or for valuable consideration, for three years after being admitted duty-free, unless notice of the transfer is first given to the competent Customs Directorate and the import duties are paid. For other vehicles, the time limit shall be five years (for transfer to a person or organization entitled to exemption, see article 29).

Article 27

Motor vehicles for principal directors and certain senior officials

1. The persons referred to in article 7 who are domiciled in Switzerland shall be entitled, every three years, to customs exemption in respect of a passenger automobile or motorcycle intended for their personal use.

These vehicles may not be transferred to third parties in Switzerland, whether by way of gift or for valuable consideration, for three years after being admitted duty-free, unless notice of the transfer is first given to the competent Customs Directorate and the import duties are paid (for transfer to a person or organization entitled to exemption, see article 29).

2. The persons referred to in article 7 shall be entitled, every five years, to customs exemption in respect of an aircraft or pleasure boat intended for their personal use.

These vehicles may not be transferred to third parties in Switzerland, whether by way of gift or for valuable consideration, for five years after being admitted duty-free, unless notice of the transfer is first given to the competent Customs Directorate and the import duties are paid (for transfer

to a person or organization entitled to exemption, see article 29).

3. If the duties are paid, or if the vehicle is transferred in conformity with article 29 or if it is finally re-exported before the expiry of the period of three or five years from the date of duty-free admission, the person concerned shall thereupon be immediately entitled to customs exemption in respect of another vehicle, subject to the conditions laid down in these regulations.

Article 28

Passenger automobiles and motorcycles for other officials

1. The officials mentioned in article 10 who are domiciled in Switzerland shall be entitled, in connexion with their initial installation in Switzerland, or upon their return to Switzerland after an absence of not less than three years, to the importation duty-free of a single passenger automobile or motorcycle intended for their personal use.

2. An application for exemption shall be made by the entitled person through the organization to which he belongs, within the time limit laid down by the latter for the reimbursement of removal expenses. The importation shall take place within the same time limit.

3. These vehicles may not be transferred to third parties in Switzerland, whether by way of gift or for valuable consideration, for five years after being admitted duty-free, unless notice of the transfer is first given to the competent Customs Directorate and the import duties are paid (for transfer to a person or organization entitled to exemption, see article 29).

If the transfer takes place more than three years after the vehicle was admitted duty-free, only half the duties will be charged.

Article 29

Special provisions concerning the importation of automobiles

1. Entitled bodies or persons wishing to import a motor vehicle duty-free under articles 26, 27, or 28, shall apply to the competent Customs Directorate and give an undertaking, on a special form, not to transfer the vehicle in Switzerland, whether by way of gift or for valuable consideration, before the expiry of three or five years from the date of their admission duty-free unless the permission of the competent Customs Directorate has been obtained and customs duties have been paid.

/2. Written

2. Written undertakings concerning motor vehicles imported under article 26 shall be signed by the head of the organization concerned or by his authorized representative. Undertakings signed by senior officials entitled to the benefit of the provisions of article 27 and by officials entitled to the benefit of the provisions of article 28 shall be countersigned by the head of the organization concerned or by his authorized representative.

3. Motor vehicles admitted duty-free by virtue of articles 26, 27 or 28 may, in agreement with the competent Customs Directorate be transferred without payment of duty, before the expiry of the time limit of three or five years, to an organization or official entitled to claim customs exemption in respect of these vehicles under these regulations, in which case the transferee shall assume, in writing, the obligations of the transferor. That portion of the period of three or five years which has elapsed at the time of the transaction shall be credited to the transferee.

4. In the case of the transfer of an official, motor vehicles imported duty-free less than three or five years previously may be sold in Switzerland on payment of the following reduced customs duties:

	Passenger automobiles and motorcycles	Other vehicles
Before the expiry of		
1 year	= 75%	= ---
2 years	= . . %	= 70%
3 years	= 25%	= 50%
4 years	--	= 35%
5 years	--	= 25%

Article 30

Motor vehicles for the delegations of Member States permanently accredited to organizations with headquarters in Switzerland

1. The permanent delegations mentioned in article 15 shall be entitled to a temporary customs exemption in respect of motor vehicles which are intended for their official use and which belong to the governments that they represent.

2. The head of the delegation concerned shall apply to the competent Customs Directorate and give an undertaking, on a special form, not to transfer the

vehicle to a third party in Switzerland, whether by way of gift or for valuable consideration, unless notice of the transfer is first given to the Directorate and the customs duties are paid.

Article 31

Automobiles intended for:

(a) non-permanent delegations of States Members of organizations with headquarters in Switzerland;

(b) non-permanent representatives of Member States, members of governing Bodies, Executive Boards, etc., as referred to in Article 19, and experts and other persons on temporary mission in Switzerland, as referred to in article 14;

(c) United Nations bodies and specialized agencies with headquarters abroad;

(d) officials of the said organizations on temporary mission in Switzerland, as referred to in article 23.

1. Passenger automobiles intended for agencies or imported by persons covered by (a), (b), (c) and (d) above shall be admitted temporarily duty-free on the basis of tourist customs documents (carnet de passages en douane, triptyque or temporary entry card) or under a transire.

2. The time limit for re-exportation shall be determined by the period of validity of the tourist customs document; if the vehicle is imported under transire, the time limit shall be one year and may be prolonged, on application made before the expiry of the year to the competent Customs Directorate.

Article 32

Transfer of damaged motor vehicles

If a motor vehicle imported duty-free under articles 26 to 28 is accidentally destroyed or damaged before the expiry of the time limit of three or five years, the vehicle or parts of the same may be transferred on payment of customs duties determined in each case by the Directorate-General of Customs.

CHAPTER XI

OFFICIAL CORRESPONDENCE SENT BY SEALED POUCH

Article 33

1. The organizations to which these regulations apply, and the delegations of Member States shall be entitled, in Switzerland, to send and receive, by sealed pouch, official correspondence, dossiers or other official documents exchanged by them or with their own offices in other countries, or with the members of their Governing Bodies etc., or with governments or diplomatic missions.

The members of the Governing Bodies, Executive Boards, etc., of the said organizations shall be entitled to the same privilege during their presence in Switzerland in the course of their duties.

Persons on missions on behalf of the said orgainizations may also receive sealed pouches sent by one of these organizations.

2. The pouches shall be sealed by the competent service of the organization, government, diplomatic mission or delegation. They shall be accompanied either by a courier bearing a safe-conduct, or by a certificate. The safe-conduct and the certificate shall be prepared by the service which sealed the pouch and shall certify that the pouch contains official documents only.

D. GENERAL AND FINAL PROVISIONS

CHAPTER XII

GENERAL PROVISIONS

Article 34

Import and export prohibitions and restrictions

Import and export prohibitions or restrictions of an economic or financial nature shall not apply to goods imported duty-free pursuant to these regulations or to publications. Nevertheless, the foregoing shall be without prejudice to the provisions of general international conventions or to measures relating to public health.

Article 35

Subsequent customs clearance

All regulations relating to the importation of goods shall be applicable if customs duty is paid subsequently on articles admitted duty-free under these regulations.

Article 36

Reimbursement of duties

Customs duties shall not be reimbursed in respect of articles and goods of any kind which have been finally cleared through customs, even if provision was made for their admission duty-free under these regulations.

Article 37

Reciprocity

The proviso concerning reciprocity contained in article 19 of the Customs Act shall not apply to these regulations.

Article 38

Guarantee

In cases where these regulations provide for clearance under a transire, the

Swiss Customs Administration may, if the organizations concerned give an undertaking to this effect, regard the amount of customs duty due as guaranteed by a general bond of surety.

Article 39

Persons of Swiss nationality

These regulations shall not apply to persons of Swiss nationality, these being subject to the general customs regulations.

Article 40

Delegation of competence

1. It shall be the responsibility of the Directorate-General of Customs to determine the competence of its subordinate bodies in giving effect to these regulations.

2. The said bodies shall correspond directly with the organizations and applicants concerned in all cases within their competence.

Article 41

In cases, where, under these regulations, the head of an organization may delegate his powers to an authorized representative, the name of this representative shall be duly communicated to the competent Customs Directorate.

Article 42

Identity documents

Identity cards indicating the office of the holder shall be issued to the following persons by the Federal Political Department:

(a) White cards bearing a pink diagonal with dark-red border:
Principal directors entitled to the benefit of customs exemption under articles 7 and 27 of these regulations; heads of permanent delegations as referred to in article 16, paragraph 1.

(b) White cards with pink diagonal, over-stamped with Z + D:
Senior officials who are designated by the organizations to which they belong in conformity with the conditions laid down in agreement with the Federal Council who are entitled to the benefit of customs exemption

/under articles

under articles 7 and 27 of these regulations; heads of permanent delegations and representatives as referred to in article 16, paragraph 2.

(c) White cards with pink diagonal without over-stamp Z t D:
Officials entitled to the benefit of the customs facilities described in articles 10 and 28 of these regulations.

(d) White cards with blue diagonal:
Officials of international organizations and technical and auxiliary personnel of permanent delegations entitled to the benefit of the customs facilities described in articles 10 and 28 of these regulations.

(e) White cards with green diagonal:
All officials of Swiss nationality employed by international organizations and by permanent delegations.
This card constitutes evidence that the holder is employed by an international agency or by a delegation, but does not entitle him to special customs facilities.

(f) White card with yellow diagonal:
Spouse and children under age living with a person coming under one of the above categories.

Article 43

General provisions of the customs legislation

The general provisions of the customs legislation shall be applicable in all cases where these regulations do not expressly provide otherwise.

Article 44

Collaboration

The international organizations mentioned in the preamble and the Customs Administration shall co-operate with a view to facilitating the application of these regulations and the investigation of cases of abuse.

Article 45

List of persons entitled to the facilities

1. The international organizations shall send periodically to the Federal Political Department a list of the officials to whom the present regulations apply,

/and shall communicate

and shall communicate to the said Department any changes therein as and when they arise. They shall inform the Department in due course of any meetings and conferences to be held in Switzerland, and communicate the names and rank of persons not belonging to a permanent delegation of some Member State who are on temporary mission in Switzerland and who are entitled to the benefit of customs privileges under these regulations.

2. The Federal Political Department shall immediately inform the Directorate-General of Customs.

CHAPTER XIII

FINAL PROVISIONS

Article 46

Entry into force

These regulations shall enter in force on 23 April 1952.

Article 47

Repealing clause

With the entry into force of these regulations, all customs regulations incompatible therewith shall be repealed, in particular the regulations of 8 May 1926 concerning the customs treatment of consignments to permanent missions accredited to the bodies of the League of Nations at Geneva by the States Members of the League, and the regulations of 8 July 1926, concerning the customs treatment of consignments to official organizations of the League of Nations and their staffs.

Berne, 23 April 1952

On behalf of the Swiss Federal Council

KOBELT
President of the Confederation

OSER
Chancellor of the Confederation

ANNEX I

LIST OF INTERNATIONAL ORGANIZATIONS ENTITLED TO THE BENEFIT OF THE PROVISIONS OF THE CUSTOMS REGULATIONS

A. United Nations bodies and specialized agencies with Headquarters in Switzerland

European Office of the United Nations

International Labour Organisation

World Health Organization

International Refugee Organization

International Telecommunication Union

Universal Postal Union

World Meteorological Organization

B. United Nations bodies and specialized agencies with Headquarters abroad

United Nations Secretariat

General Assembly of the United Nations

Security Council

Economic and Social Council

Trusteeship Council

International Court of Justice (Judges and Registrar, see special provisions in article 25)

United Nations Educational, Scientific and Cultural Organization

Food and Agriculture Organization

International Civil Aviation Organization

International Monetary Fund

International Bank for Reconstruction and Development

International Trade Organization (Interim Commission at Geneva, see special provisions in article 25)

/ANNEX II

ANNEX II

IMPORTATION AND DISTRIBUTION OF DUTY-FREE GASOLINE

The provisions of articles 2 to 6 and article 8 of the regulations shall not apply to the importation, free of duty, of gasoline for motor vehicles belonging to organizations and permanent delegations and to their staffs.

The Directorate-General of Customs shall make regulations to govern the importation and distribution of such gasoline at Geneva and elsewhere.

As regards the use of duty-free petrol, the non-permanent delegates referred to in article 19 holding diplomatic rank equivalent to that of head of mission or diplomatic assistant to a head of mission shall be treated on a footing of equality with the principal directors and senior officials of the organizations.

COMPETENCE

By virtue of the provisions of article 40, paragraph 2, the Directorate-General of Customs hereby determines competence for the purpose of giving effect to the customs regulations applicable to international organizations as follows:

Subject to the provisions of the aforesaid regulations

1. The Customs Directorate at Geneva
shall be competent to deal with matters relating to the said regulations in connexion with the organizations and international assemblies which meet at Geneva permanently or temporarily;

2. The Cornavin Station Office at Geneva
shall be exclusively competent to deal with consignments arriving by rail for the agencies mentioned in paragraph 1 above;

3. The Station Office at Berne
shall be competent to deal with matters relating to the said regulations in connexion with international organizations and assemblies which meet at Berne permanently or temporarily;

4. The Directorates
in whose district the headquarters of an international organization is situated or an assembly of an organization covered by the said regulations is held, and, generally, as regards the treatment of passengers, shall supervise the proper application of the aforesaid regulations.

In all other cases, and in the case of questions exceeding the scope of the customs regulations, the subordinate offices shall apply through the proper channels to the Directorate-General of Customs for instructions.

Berne, 23 April 1952

Directorate-General of Customs

/Directorate-

/SYRIA

SYRIA

Decision No. 593

The Higher Council of Common Interests,

In view of the approval by the Councils of Ministers of Lebanon and Syria in their two identical decisions dated November 12th and 28th,

Decides as follows:

Article 1.

The United Nations Organization shall be exempt from import and export customs duties on articles which it imports or exports for its own official use, on condition that such articles shall not be sold in Syria or Lebanon except after due payment of custom duties in accordance with the regulations in force and upon the approval of the authority concerned.

Article 2.

Representatives of Members of the United Nations on the main or subsidiary organs of the Organization, or in conferences called by the United Nations, shall enjoy, during the discharge of their duties and in their travel to the place of their meeting or therefrom, and in respect to their own personal baggage only, the same immunities and privileges granted to diplomatic officers.

The term "representatives" in this article includes: delegates, alternate delegates, advisors, technical experts, and secretaries of delegations.

Article 3.

Officials of the United Nations shall be allowed to import their furniture free from duty, on condition that this importation shall take place immediately upon their assumption of their duties, and that they be subject to the regulations in force in case they dispose of all or part of this furniture.

Article 4.

This decision shall be published in the two official journals and shall be communicated to whom it may concern.

Damascus, December 9, 1946

President: Hassan Jabarah
Members: Musa Mubarak
Adib Roumani
Ibrahim Ahdab
Basil Trad
Seal: Syrian Republic
Ministry of Foreign Affairs

UNION OF SOUTH AFRICA

The Diplomatic Privileges Act, 1951

ACT

To consolidate and amend the laws relating to the immunities and privileges of representatives of other heads of states or governments, to provide for the immunities and privileges of delegates to international conferences and of members and officials of certain international organizations and institutions, and to provide for matters incidental thereto. /No. 71, 1951/

(Afrikaans text signed by the Governor-General)
(Assented to 2nd July, 1951)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:-

Definitions.

1. In this Act, unless inconsistent with the context -

(i) "diplomatic agent" means the public representative of any other head of state or government duly accredited to the Union as an ambassador, high commissioner, envoy extraordinary and minister plenipotentiary, a minister resident or a chargé d'affaires; (i)

(ii) "family" means the wife or husband, as the case may be, the minor children, and any other relative approved by the Minister for the purposes of this Act, of any person mentioned in sub-section (1) of section two, or of a member of the staff of any such person; (ii)

(iii) "local authority" means any such institution or body as is contemplated by paragraph (vi) of section eighty-five of the South Africa Act, 1909; (vi)

/(iv) "Minister"

(iv) "Minister" means the Minister of External Affairs; (iv)

(v) "person" includes any public international organization or public international institution of which the Union is a member, and such an organization or institution shall, to the extent consistent with the instrument creating it, be vested in the Union with the legal capacities of a body corporate; (v)

(vi) "staff" means counsellors, secretaries, attachés advisers, chancellors, archivists, stenographers, typists and other persons approved by the Minister, who take part in the diplomatic work of a diplomatic mission, provided the aforementioned persons are employed exclusively for the purposes of the mission; (vii)

(vii) "suite" in relation to any Head of State, diplomatic agent or other representative of or visitor from another sovereign or state means his family, the members of his staff and their families. (iii)

Immunity of heads of state, diplomatic agents and certain other persons from jurisdiction of courts.

2. (1) Save as provided in section three, the following persons shall be immune from the civil and criminal jurisdiction of the courts of the Union -

(a) heads of state;

(b) diplomatic agents;

(c) any special envoy from another state, subject to the terms of any agreement governing the mission of such envoy;

(d) any public international organization or public international institution of which the Union is a member, the members, agents or officers of and the delegates to such organizations or institutions, and the

/permanent

permanent representatives of other Governments to such organizations or institutions, together with their wives and minor children, to the extent prescribed in any Convention or Agreement to which the Union Government is a party;

(e) representatives of any government attending any international conference, to the extent prescribed in any Convention or Agreement to which the Union Government is a party;

(f) any other person who is recognized by the Minister as being entitled to diplomatic immunity, in accordance with the recognized principles of international law and practice, including in particular persons falling under the category of diplomatic agents who are the representatives of a sovereign or state with whom or which the Union is at peace and who are accredited to another Government, and persons falling under the categories set out in paragraphs (d) and (e), while such diplomatic agents or persons are travelling to or from the country where their official duties are to be carried out or have been carried out.

and all legal process sued out against the persons or property of such persons shall be void.

(2) The immunity attaching to any person mentioned in sub-section (1) shall extend also to his suite.

Immunity not to apply in certain cases.

3. (1) The provisions of section two shall not apply to any person mentioned therein in connexion with any liability incurred by him for any tax on the incomes of persons levied by the state or any provincial administration or in connexion with any transaction entered into by him in his private and personal capacity, for purposes of trade or in the exercise of any profession or calling.

(2) The provisions of section two shall not be construed so as to prohibit the waiver by -

(a) any person mentioned in paragraph (a), (b), (c), (e) or (f) of sub-section (1) of the said section of the immunity secured to himself or to any member of his suite; or

(b) any organization or institution mentioned in paragraph (d) of sub-section (1) of the said section of the immunity secured to such organization or institution or to any member, agent or officer of such organization or institution or to any member of the suite of any such member, agent or officer; or

(c) any other Government of the immunity secured to a permanent representative mentioned in the said paragraph (d) or to any member of the suite of any such representative.

(3) The Governor-General may withdraw the immunities granted by section two to any person, where the Government of such person fails to accord corresponding immunities to Union representatives or South African Citizens.

Register of persons entitled to diplomatic immunity

4. (1) The Minister shall cause a register to be kept in which there shall be registered the names of all persons entitled to immunity under section two and every such registration shall be cancelled upon the person concerned ceasing to be so entitled.

(2) The Minister shall cause every registration or cancellation made under sub-section (1) to be published in the Gazette.

(3) At least once in each calendar year, the Minister shall cause to be published in the Gazette, a complete list of all persons on the register.

(4) A notice published in terms of this section or a

certificate under the hand of the Secretary for External Affairs stating that any person mentioned in such certificate is covered by the provisions of any particular paragraph of sub-section (1) of section two specified in such certificate, and accordingly recognized by the Government of the Union to be entitled to diplomatic immunity, or stating that the immunity previously attaching to any such person as aforesaid no longer subsists, or has been cancelled or withdrawn from any particular date, shall be conclusive proof of the facts or conclusions stated therein in any court of law.

Exemption from taxation of persons entitled to diplomatic immunity.

5. (1) Subject to the provisions of sub-section (3), the Governor-General may exempt persons entitled to immunity under section two from taxes, duties, fees, rates or other charges levied by the State, a provincial administration, a local authority, or a statutory public utility corporation upon -

(i) the person concerned; or

(ii) any movable property of such person; or

(iii) so much of the income of the person concerned as derived directly from the holding of his office: Provided that any exemption granted to any person in terms of this sub-section shall not be construed as exempting such person from the necessity of complying with any formalities in respect of the importation of goods which are prescribed in any law relating to customs.

(2) If a motor vehicle which has been imported or taken out of bond without payment of customs duty under sub-section (1) is sold or disposed of within two years of importation to a person not entitled to customs franchise privileges, the person who sells or disposes of the vehicle may be called upon to pay duty thereon at the rate required

according to the law relating to the payment of customs duty.

(3) The Governor-General shall only grant exemption in terms of sub-section (1) to -

(a) any person mentioned in paragraph (a), (b) or (c) of sub-section (1) of section two, or to the members of the suite of any such person, if he is satisfied that reciprocal treatment is or would be accorded to Union representatives or South African citizens corresponding in rank or position to the person concerned by the Government of that person;

(b) any organization or institution mentioned in paragraph (d) of sub-section (1) of section two or any member, agent or officer of such organization or institution, or any representative of any other Government to such organization or institution, or to the wives or minor children of the foregoing persons, to an extent not greater than that prescribed in any Convention or Agreement to which the Union Government is a party.

(4) A certificate under the hand of the Secretary for External Affairs stating that the Governor-General has granted any exemption in terms of sub-section (1) or (2) or of sub-section (1) of section six shall be conclusive proof thereof in any court of law.

Exemptions which may be granted by Governor-General to Governments

6. (1) The Governor-General may, subject to the provisions of sub-section (2), exempt any Government or international organization or institution from the payment of transfer duty or any other duties, fees, charges or other taxes payable to the Government of the Union or any provincial administration or local authority in connexion with the transfer of any immovable property acquired by

that Government or Organization or institution for official purposes in the Union, as well as from the payment of rates, taxes, fees or other charges levied on or in connection with such property.

(2) The Governor-General shall only grant exemption in terms of sub-section (1) to a Government if he is satisfied that reciprocal treatment is or would be accorded to the Government of the Union by such Government.

Adjustment of loss of revenue to local authorities and statutory public utility corporations.

7. The loss of revenue caused to any local authority or statutory public utility corporation by reason of the provisions of sections five and six shall be made good to the local authority or statutory public utility corporation concerned, as the case may be, out of moneys provided by Parliament for that purpose.

Recognition of building occupied by diplomatic agent.

8. The Governor-General may by notice in the Gazette recognize any building or premises occupied by a diplomatic agent for the purpose of a chancery or an official residence as an Embassy or Legation or a High Commissioner's Office or residence.

Exemption from special restrictions on acquisition or occupation of immovable property.

9. No law or condition in a title deed which prohibits the acquisition or occupation of immovable property by persons belonging to any particular racial group shall be construed to prohibit -

(a) the acquisition, in the name of his Government of any immovable property by any diplomatic agent or political, career consular or trade representative; or

(b) the occupation of immovable property by any person referred to in section two, or by the political, career consular or trade representative of another Government, and the family, staff and alien servants of such representative:

/Provided such

Provided such immovable property is acquired or occupied exclusively for the purposes of the chancery or residence of the person concerned.

Application of immunity to Union citizens.

10. (1) The immunities, privileges and exemptions provided for in this Act shall not apply to or be extended to South African citizens: Provided that, if the Government of the Union has by agreement with an organization or institution referred to in paragraph (d) of sub-section (1) of section two undertaken to extend any immunities, privileges or exemptions to South African citizens who are representatives of another Government on such organization or institution, or who are members, agents or officers of such organization or institution, the said immunities, privileges and exemptions shall apply also to such South African citizens.

(2) Notwithstanding anything to the contrary contained in the South Africa Defence Act, 1912 (Act No. 13 of 1912), any officer, agent or representative of a public international organization or institution referred to in paragraph (d) of sub-section (1) of section two shall be exempt from service under the said Act as a citizen of the Union.

Offences and penalties.

11. (1) Any person who wilfully or without the exercise of reasonable care sues out, obtains or executes any legal process against a person who is entitled to immunity under section two, and whose name has been published in terms of sub-section (2) of section four, whether as party, as attorney or as an officer concerned in issuing or executing such process, shall be guilty of an offence.

(2) Any person who contravenes sub-section (1) or any person who wilfully or without the exercise of reasonable care, commits any other offence which has the effect of

infringing the inviolability of a person entitled to immunity under section two or of his property or the premises occupied by him, shall be liable on conviction to a fine not exceeding five hundred pounds or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

Repeal of laws.

12. The Diplomatic Immunities Act, 1932 (Act No. 9 of 1932), the Diplomatic Immunities Act Amendment Act, 1934 (Act No. 19 of 1934), section sixteen of the Finance Act, 1941 (Act No. 43 of 1941), and sections one to five inclusive of the Diplomatic Immunities and Asiatic Land Tenure Amendment Act, 1944 (Act No. 9 of 1944), are hereby repealed.

Amendment of long title and short title of Act 9 of 1944.

13. The Diplomatic Immunities and Asiatic Land Tenure Amendment Act, 1944, is hereby amended -

(a) by the deletion in the long title of the words "the Diplomatic Immunities Act, 1932 and"; and

(b) by the deletion in section seven of the words "Diplomatic Immunities and".

Short title.

14. This Act shall be called the Diplomatic Privileges Act, 1951.

UNITED KINGDOM

International Organizations
(Immunities and Privileges) Act, 1950
(14 GEO.6, Ch.14)

AN ACT TO CONSOLIDATE THE DIPLOMATIC PRIVILEGES (EXTENSION) ACTS, 1944 to 1950 (12th July 1950)

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Immunities privileges and capacities of certain international organizations and persons connected therewith.

1. (1) This section shall apply to any organization declared by Order in Council to be an organization of which the United Kingdom or His Majesty's Government therein and one or more foreign sovereign Powers or the government or governments thereof are members.

(2) His Majesty may by Order in Council-

(a) provide that any organization to which this section applies (hereinafter referred to as "the organization") shall, to such extent as may be specified in the Order, have the immunities and privileges set out in Part I of the Schedule to this Act, and shall also have the legal capacities of a body corporate;

(b) confer upon-

(i) any persons who are representatives (whether of governments or not) on any organ of the organization or are members of any committee of the organization or of an organ thereof;

(ii) such number of officers of the organization as may be specified in the Order, being the holders of

/such high offices

such high offices in the organization as may be so specified; and

(iii) such persons employed on missions on behalf of the organization as may be so specified;

to such extent as may be specified in the Order, the immunities and privileges set out in Part II of the Schedule to this Act;

(c) confer upon such other classes of officers and servants of the organization as may be specified in the Order, to such extent as may be so specified, the immunities and privileges set out in Part III of the Schedule to this Act;

and part IV of the Schedule to this Act shall have effect for the purpose of extending to the staffs of such representatives and members as are mentioned in sub-paragraph (i) of paragraph (b) of this subsection and to the families of officers of the organization any immunities and privileges conferred on the representatives, members or officers under that paragraph, except in so far as the operation of the said Part IV is excluded by the Order conferring the immunities and privileges:

Provided that the Order in Council shall be so framed as to secure that there are not conferred on any person any immunities or privileges greater in extent than those which, at the time of the making of the Order, are required to be conferred on that person in order to give effect to any international agreement in that behalf and that no immunity or privilege is conferred upon any person as the representative of His Majesty's Government in the

United Kingdom or as a member of the staff of such a representative.

Publication of lists of persons entitled to immunities and privileges under preceding section.

2. (1) Where immunities and privileges are conferred on any persons by an Order in Council made under subsection (2) of the foregoing section, the Secretary of State

(a) shall compile a list of the persons entitled to immunities and privileges conferred under paragraph (b) of that subsection, and may compile a list of the persons entitled to immunities and privileges conferred under paragraph (c) of that subsection;

(b) shall cause any list compiled under this subsection to be published in the London, Edinburgh and Belfast Gazettes; and

(c) whenever any person ceases or begins to be entitled to the immunities and privileges to which any such list relates, shall amend the list and cause a notice of the amendment or, if he thinks fit, an amended list, to be published as aforesaid.

(2) Every list or notice published under the foregoing subsection shall state the date from which the list or amendment takes or took effect; and the fact that any person is or was included or not included at any time among the persons entitled to the immunities and privileges in question may, if a list of those persons has been so published, be conclusively proved by producing the Gazette containing the list or, as the case may be, the last list taking effect before that time, together with the Gazettes (if any) containing notices of the amendments taking

effect before that time, and by showing that the name of that person is or was at that time included or not included in the said list.

Immunities and privileges of judges of, and suitors to, the International Court of Justice.

3. (1) His Majesty may, by Order in Council, confer on the judges and registrars of the International Court, and on suitors to that Court and their agents, counsel and advocates, such immunities, privileges and facilities as may be required to give effect to any resolution of, or convention approved by, the General Assembly of the United Nations.

(2) In this section the expression "the International Court" means the International Court of Justice set up under the Charter of the United Nations.

Diplomatic immunities of representatives attending international conferences.

4. (1) Where a conference is held in the United Kingdom and is attended by the representatives of His Majesty's Government in the United Kingdom and the government or governments of one or more foreign sovereign Powers, and it appears to the Secretary of State that doubts may arise as to the extent to which the representatives of such foreign Powers and members of their official staffs are entitled to diplomatic immunities, he may

(a) compile a list of the persons aforesaid who are entitled to such immunities, and cause that list to be published in the London, Edinburgh, and Belfast Gazettes; and

(b) whenever it appears to the Secretary of State that any person ceases or begins to be entitled to such immunities, amend the list and cause a notice of the amendment or, if he thinks fit, an amended list, to be published as aforesaid;

and every representative of a foreign Power who is for the time being included in the list shall, for the purpose of any enactment and rule of law or custom relating to the immunities of an envoy of a foreign Power credited to His Majesty, and of the retinue of such an envoy, be treated as if he were such an envoy, and such of the members of his official staff as are for the time being included in the list shall be treated for the purpose aforesaid as if they were his retinue.

(2) Every list or notice published under the foregoing subsection in relation to any conference shall include a statement of the date from which the list or amendment takes or took effect; and the fact that any person is or was included or not included at any time among the persons entitled to diplomatic immunities as representatives attending the conference or as members of the official staff of any such representative may, if a list of those persons has been so published, be conclusively proved by producing the Gazette containing the list or, as the case may be, the last list taking effect before that time, together with the Gazettes (if any) containing notices of the amendments taking effect before that time, and by showing that the name of that person is or was at that time included or not included in the said list.

5. Nothing in the foregoing provisions of this Act shall be construed as precluding His Majesty from declining to accord immunities or privileges to, or from withdrawing immunities or privileges from, nationals or representatives of any Power on the ground that such Power is failing to accord corresponding immunities or privileges to British nationals or representatives. Reciprocal treatment.

/6. (1) A draft

6. (1) A draft of any Order in Council proposed to be made under this Act shall be laid before Parliament and the draft shall not be submitted to His Majesty except in pursuance of an address presented by each House of Parliament praying that the Order be made. Orders in Council.

(2) Any power conferred by this Act to make an Order in Council shall be construed as including a power to revoke or vary the Order in Council by a subsequent Order in Council made in accordance with the foregoing subsection.

7. (1) The Diplomatic Privileges (Extension) Acts, 1944 to 1950, are hereby repealed. Repeal and savings.

(2) Nothing in this Act shall affect any Order in Council made, list or notice published or condition prescribed under an enactment repealed by this Act, but any such Order in Council, list, notice or condition shall, if in force at the commencement of this Act, continue in force and, so far as it could have been made, published or prescribed under this Act, have effect as if so made, published or prescribed.

(3) Any document referring to an enactment repealed by this Act shall be construed as referring to the corresponding provision of this Act.

(4) The mention of particular matters in this section shall not be taken as prejudicing the operation of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals. 52 and 53 Cit. C. 63.

(8) This Act may be cited as the International Organizations (Immunities and Privileges) Act, 1950. Short title.

S C H E D U L E

Section 1

Immunities and Privileges

PART I

Immunities and privileges of the organization

1. Immunity from suit and legal process.

2. The like inviolability of official archives and premises occupied as offices as is accorded in respect of the official archives and premises of an envoy of a foreign sovereign Power accredited to His Majesty.

3. The like exemption or relief from taxes and rates, other than taxes on the importation of goods, as is accorded to a foreign sovereign Power.

4. Exemption from taxes on the importation of goods directly imported by the organization for its official use in the United Kingdom or for exportation, or on the importation of any publications of the organization directly imported by it, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the Revenue.

5. Exemption from prohibitions and restrictions on importation or exportation in the case of goods directly imported or exported by the organization for its official use and in the case of any publications of the organization directly imported or exported by it.

6. The right to avail itself, for telegraphic communications sent by it and containing only matter intended for publication by the press or for broadcasting (including communications addressed to or despatched from places outside the United Kingdom), of any reduced rates applicable for the corresponding service in the case of press telegrams.

/PART II

PART II

Immunities and privileges of representatives, members of committees, high officers and persons on missions

7. The like immunity from suit and legal process as is accorded to an envoy of a foreign sovereign Power accredited to His Majesty.

8. The like inviolability of residence as is accorded to such an envoy.

9. The like exemption or relief from taxes as is accorded to such an envoy.

PART III

Immunities and privileges of other officers and servants

10. Immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties.

11. Exemption from income tax in respect of emoluments received as an officer or servant of the organization.

PART IV

Immunities and privileges of official staffs and of high officers' families

12. Where any person is entitled to any such immunities and privileges as are mentioned in Part II of this Schedule as a representative on any organ of the organization or a member of any committee of the organization or of an organ thereof, his official staff accompanying him as such a representative or member shall also be entitled to those immunities and privileges to the same extent as the retinue of an envoy of a foreign sovereign Power accredited to His Majesty is entitled to the immunities and privileges accorded to the envoy.

13. Where any person is entitled to any such immunities and privileges as are mentioned in Part II of this Schedule as an officer of the organization, that person's wife or husband and children under the age of twenty-one shall also be entitled to those immunities and privileges to the same extent as the wife or husband and children of an envoy of a foreign sovereign Power accredited to His Majesty are entitled to the immunities and privileges accorded to the envoy.

The Diplomatic Privileges (United Nations and International Court of Justice) (Amendment) Order in Council, 1949 (1949 No. 1428)*

Made	28th July, 1949
Laid before Parliament	29th July, 1949
Coming into Operation	11th August, 1949

At the Court at Buckingham Palace, the 28th day of July, 1949

Present

The King's Most Excellent Majesty in Council

Whereas by Section 1 of the Diplomatic Privileges (Extension) Act, 1944(a), as amended by the Diplomatic Privileges (Extension) Act, 1946(b), (hereinafter referred to together as "the Act"), His Majesty The King is authorized by Order in Council to declare that any organization to which that Section applies may have such diplomatic privileges and immunities to the extent specified and provided for in the Order, and to confer upon such number of officers, of the organization as may be specified in the Order, being the holders of such high offices in the organization as may be specified in the Order, to such extent as may be so specified;

And Whereas by Article 10 of the Diplomatic Privileges (United Nations and International Court of Justice) Order in Council, 1947(c), the immunities and privileges set out in Part II of the Schedule to the Act were conferred upon the Secretary-General and Assistant-Secretaries General of the United Nations, not exceeding at one time six in number;

And Whereas it is expedient that the number of the holders of such high offices in the United Nations who are entitled to such privileges and immunities shall be increased from six to nine:

Now, therefore, His Majesty, by virtue and in exercise of the powers in this behalf by the aforesaid Act or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order and it is hereby ordered as follows:

/5. In

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* See Addendum, pp. 563-569, infra.

1. In Article 10, the number of Assistant Secretaries General, to whom, at any one time, the privilege granted by this Article may be accorded, shall be increased from six to nine and the figure "6" shall be deleted from Article 10, and there shall be substituted the figure "9".

2. This Order may be cited as the Diplomatic Privileges (United Nations and International Court of Justice) (Amendment) Order in Council, 1949.

3. This Order shall be laid before Parliament. It shall come into operation on 11th August, 1949.

The Right Honourable Ernest Bevin, His Majesty's Principal Secretary of State for Foreign Affairs, is to give the necessary directions herein.

E. C. E. Leadbitter

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This amendment to the Diplomatic Privileges (United Nations and International Court of Justice) Order in Council, 1947, increases from six to nine the number of high officials to whom privileges and immunities are granted under Article 10 of the Order.

The amendment is made as the result of the appointment by the United Nations Organization of additional officials holding the rank of Assistant Secretary-General.

British Administration - Eritrea

ORDER

In accordance with the powers vested in me as Chief Administrator I hereby order that exemption from customs duties and statistical fees on all dutiable articles imported into Eritrea for their own personal use or consumption shall be granted to the United Nations Commission in Eritrea and to the following members of his staff, while holding the appointments shown against their names:

United Nations Commissioner
Principal Secretary
Political Affairs Officers
Legal Officer — Names omitted
Economic Affairs Officer
Special Assignments Officer
Personal Assistant to the Commissioner
Finance Officer

provided always that no article imported free of duty under this order shall be sold, given away or otherwise disposed of in Eritrea unless a report has first been made to the Controller of Customs and Excise and the duty as assessed by him has been paid.

2. This privilege extends only to goods imported for the personal use and consumption of the persons listed above when such goods are addressed to the officer personally and are cleared from Customs charge by the individual or his representative. The privilege does not entitle the officers to claim any refund where duty has been paid on articles imported by any other person.

3. This order shall have effect from the date of the first entry into Eritrea of the persons named in this order and in any case where customs duties and statistical fees have already been paid by such persons these shall be refunded to them.

Sgd. D.C. Cumming
Chief Administrator,
Eritrea.

Asmara.
The 30 day of June, 1951.

UNITED STATES OF AMERICA

A. Federal laws, regulations, etc.

1. Laws

International Organizations Immunities Act
(Public Law 291, 79th Congress; 59 Stat.669)

An Act to extend certain privileges, exemptions, and immunities to international organizations and to the officers and employees thereof, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SECTION 1. [U.S.C. Title 22. sec. 288]

For the purposes of this title, the term "international organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided*. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his

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* The United Nations was designated by Executive Order 9698 as an international organization entitled to enjoy the privileges, exemptions and immunities conferred by this Act. See, infra, this Part, p. 294. The United Nations International Children's Emergency Fund, a subsidiary organ of the United Nations, is entitled to the privileges and immunities accorded to the United Nations. Balfour, Guthrie & Co. v. United States, 90 F. Supp. 831 (D.C. Calif. 1950). For tax exemptions accorded to UNICEF as a charitable organization see, Opinion of the United States Treasury Department, infra, this Part, p. 302.

judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time to revoke the designation of any international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title.

SECTION 2. /U.S.C. Title 22. sec. 288 (a)/

International organizations shall enjoy the status, immunities, exemptions, and privileges set forth in this section, as follows:

(a) International organizations shall, to the extent consistent with the instrument creating them, possess the capacity

(i) to contract;

(ii) to acquire and dispose of real and personal property;

(iii) to institute legal proceedings.*

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* "This means, by necessary implication, that Congress has opened the doors of the federal courts to suits by such international organizations; for the right to institute legal proceedings means the right to go into court, and the federal courts are the only courts whose doors Congress can open." International Refugee Organization v. Republic S. S. Corp., 189 F. (2d) 858, at p. 860 (C.C.A. 4, 1951).

In that case the court further stated that a suit by an international organization to which the United States was a party was a civil action arising under a treaty of the United States of which a federal court has jurisdiction independently of the International Organizations Immunities Act. See also, Balfour Guthrie & Company v. United States, 90 F. Supp. 831 (D.C. Cal., 1950), where the court stated at p. 832: "Article 104 of the Charter of the United Nations, 59 Stat. 1053, provides that 'the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.' As a treaty ratified by the United States, the Charter is part of the supreme law of the land. No implemental legislation would appear to be necessary to endow the United Nations with legal capacity in the United States. But the President has removed any possible doubt by designating the United Nations as one of the organizations entitled to enjoy the privileges conferred by the International Organizations Immunities Act..."

In United Nations v. Adler, 90 F. Supp. 440 (S.D.N.Y., 18 May 1950), the United Nations capacity to sue as assignee of UNRRA was not questioned.

(b) International organizations, their property and their assets, wherever located, and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by foreign governments, except to the extent that such organizations may expressly waive their immunity for the purpose of any proceedings or by the terms of any contract.*

(c) Property and assets of international organizations, wherever located and by whomsoever held, shall be immune from search, unless such immunity be expressly waived, and from confiscation. The archives of international organizations shall be inviolable.

(d) Insofar as concerns customs duties and internal-revenue taxes imposed upon or by reason of importation, and the procedures in connexion therewith; the registration of foreign agents; and the treatment of official communications, the privileges, exemptions, and immunities to which international organizations shall be entitled shall be those accorded under similar circumstances to foreign governments.

SECTION 3.

Pursuant to regulations prescribed by the Commissioner of Customs with the approval of the Secretary of the Treasury, the baggage and effects of alien officers and employees of international organizations, or of aliens designated

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* In Curran v. City of New York, 77 N.Y.S. (2d) 208 (1947), the U.S. Department of State certified that the United Nations and its Secretary-General were immune from jurisdiction and process of the court. See footnote to Section 7 (b) of this Act, infra, p. 284.

Sequestration of a staff member's salary and Pension Fund entitlement was denied by the New York Supreme Court in Gregoire v. Gregoire, N.Y.L.J. 28 February 1952. The court, holding that no sequestration order could be served on the United Nations, stated:

> "As an 'International Organization', itself, its property and its assets enjoy the same immunity from suit and every form of judicial process as is enjoyed by foreign governments, except to the extent that such an organization may expressly waive its immunity for the purpose of any proceeding (22 U.S.C.A. 288a, subdiv. b). Clearly, therefore, it is immune from the process of this court without its express waiver of immunity."

See also footnote to Sec. 2 of the Convention on the Privileges and Immunities of the United Nations, supra, p. 26.

/by foreign

by foreign governments to serve as their representatives in or to such organizations, or of the families, suites, and servants of such officers, employees, or representatives shall be admitted (when imported in connexion with the arrival of the owner) free of customs duties and free of internal-revenue taxes imposed upon or by reason of importation.

SECTION 4. /U.S.C. Title 26/

The Internal Revenue Code is hereby amended as follows:

(a) Effective with respect to taxable years beginning after 31 December 1943, section 116 (c), relating to the exclusion from gross income of income of foreign governments, is amended to read as follows:

"(c) INCOME OF FOREIGN GOVERNMENTS AND OF INTERNATIONAL ORGANIZATIONS. - The income of foreign governments or international organizations received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments or by international organizations, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments or international organizations, or from any other source within the United States."

(b) Effective with respect to taxable years beginning after 31 December 1943, section 116 (h) (1), relating to the exclusion from gross income of amounts paid employees of foreign governments, is amended to read as follows:

"(1) RULE FOR EXCLUSION. - Wages, fees, or salary of any employee of a foreign government or of an international organization or of the Commonwealth of the Philippines (including a consular or other officer or a nondiplomatic representative), received as compensation for official services to such government, international organization, or such Commonwealth -

"(A) If such employee is not a citizen of the United States, or is a citizen of the Commonwealth of the Philippines (whether or not a citizen of the United States); and

/"(B) If,

"(B) If, in the case of an employee of a foreign government or of the Commonwealth of the Philippines, the services are of a character similar to those performed by employees of the Government of the United States in foreign countries or in the Commonwealth of the Philippines, as the case may be; and

"(C) If, in the case of an employee of a foreign government or the Commonwealth of the Philippines, the foreign government or the Commonwealth grants an equivalent exemption to employees of the Government of the United States performing similar services in such foreign country or such Commonwealth, as the case may be."

(c) Effective 1 January 1946, section 1426 (b), defining the term "employment" for the purposes of the Federal Insurance Contributions Act, is amended (1) by striking out the word "or" at the end of paragraph (14), (2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semi-colon and the word "or", and (3) by inserting at the end of the subsection the following new paragraph:

"(16) Service performed in the employ of an international organization."*

(d) Effective 1 January 1946, section 1607 (c), defining the term "employment" for the purposes of the Federal Unemployment Tax Act, is amended (1) by striking out the word "or" at the end of paragraph (14), (2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semi-colon and the word "or", and (3) by inserting at the end of the subsection the following new paragraph:

"(16) Service performed in the employ of an international organization."

(e) Section 1621 (a) (5), relating to the definition of "wages" for the purpose of collection of income tax at the source, is amended by inserting after the words "foreign government" the words "or an international organization".

* In a letter dated 4 October 1946 to the Secretary-General, the Department of Labour of the State of New York stated: "....It is our determination that the United Nations is not an employer liable for contributions under the New York Unemployment Insurance Law....."

/(f) Section 3466 (a),

(f) Section 3466 (a), relating to exemption from communications taxes is amended by inserting immediately after the words "the District of Columbia" a comma and the words "or an international organization".

(g) Section 3469 (f) (1), relating to exemption from the tax on transportation of persons, is amended by inserting immediately after the words "the District of Columbia" a comma and the words "or an international organization".

(h) Section 3475 (b) (1), relating to exemption from the tax on transportation of property, is amended by inserting immediately after the words "the District of Columbia" a comma and the words "or an international organization".

(i) Section 3797 (a), relating to definitions, is amended by adding at the end thereof a new paragraph as follows:

"(18) INTERNATIONAL ORGANIZATION. - The term 'international organization' means a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act."

SECTION 5.

(a) Effective 1 January 1946, section 209 (b) of the Social Security Act, defining the term "employment" for the purposes of title II of the Act, is amended (1) by striking out the word "or" at the end paragraph (14), (2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semi-colon and the word "or", and (3) by inserting at the end of the subsection the following new paragraph [U.S.C. Title 42. sec. 410 (a)]:

"(16) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act."

(b) No tax shall be collected under title VIII or IX of the Social Security Act or under the Federal Insurance Contributions Act or the Federal Unemployment Tax Act, with respect to services rendered prior to 1 January 1946, which are described in paragraph (16) of sections 1426 (b) and 1607 (c)

of the Internal Revenue Code, as amended, and any such tax heretofore collected (including penalty and interest with respect thereto, if any) shall be refunded in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax. No interest shall be allowed or paid on the amount of any such refund. No payment shall be made under title II of the Social Security Act with respect to services rendered prior to 1 January 1946, which are described in paragraph (16) of section 209 (b) of such Act, as amended.

SECTION 6. /U.S.C. Title 22. sec. 288 (c)/

International organizations shall be exempt from all property taxes imposed by, or under the authority of, any Act of Congress, including such Acts as are applicable solely to the District of Columbia or the Territories.

SECTION 7. /U.S.C. Title 22. sec. 288 (d)/

(a) Persons designated by foreign governments to serve as their representatives in or to international organizations and the officers and employees of such organizations, and members of the immediate families of such organizations, and members of the immediate families of such representatives, officers, and employees residing with them, other than nationals of the United States, shall, insofar as concerns laws regulating entry into and departure from the United States, alien registration and fingerprinting, and the registration of foreign agents, be entitled to the same privileges, exemptions, and immunities as are accorded under similar circumstances to officers and employees, respectively, of foreign governments, and members of their families.

(b) Representatives of foreign governments in or to international organizations and officers and employees of such organizations shall be immune from suit and legal process relating to acts performed by them in their official capacity and falling within their functions as such representatives, officers, or employees except insofar as such immunity may

be waived by the foreign government or international organization concerned.*

(c) Section 3 of the Immigration Act approved 26 May 1924, as amended /U.S.C. Title 8. sec. 203/, is hereby amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (7) a representative of a foreign government in or to an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act, or an alien officer or employee of such an international organization, and the family, attendants, servants, and employees of such a representative, officer, or employee".**

(d) Section 15 of the Immigration Act approved 26 May 1924, as amended /U.S.C. Title 8. sec. 215/, is hereby amended to read as follows:

"Section 15. The admission to the United States of an alien excepted from the class of immigrants by clause (1), (2), (3), (4), (5), (6) or (7) of section 3, or declared to be a non-quota immigrant by subdivision (e) of section 4, shall be for such time and under such conditions as may be by regulations prescribed (including, when deemed

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* Under the Headquarters Agreement, representatives of governments to the United Nations are entitled to diplomatic privileges and are not subject to legal process in their official capacity or otherwise. See Section 15 of the Headquarters Agreement and cases cited in footnote thereto, supra, p. 66. Officials of the United Nations, however, have only such immunity from legal process as is provided for in this Act. This immunity was recognized in Curran v. City of New York, 77 N.Y.S. (2d) 208 (1947) in which the court held that the Secretary-General could not be sued in his official capacity.

In Westchester County on Complaint of Donnelly v. Ranollo, 67 N.Y.S. (2d) 31 (1946), a United Nations chauffeur charged with traffic violation was held not entitled to immunity as a matter of law without a trial of the issue of fact. Subsequently, the Secretary-General, while reserving the principle of immunity, waived immunity in this particular case (See UN Press Release M/178, 29 Nov. 1946) as a matter of policy.

** In accordance with an agreement between the United States Department of State and the United Nations, members of families of staff members of the United Nations who have been admitted to the United States on 3 (7) visas may be permitted to accept employment in the United States provided they waive any immunities and privileges relating to the employment and the permission of the Secretary-General is obtained.

Under Sections 214(b) and 247(b) of the US Immigration and Nationality Act, effective 24 December 1952, waiver of privileges and immunities is also required of an alien entitled to enjoy privileges, exemptions and immunities under the International Organizations Immunities Act and wishing to retain immigrant status or to change from non-immigrant to immigrant status.

/necessary

necessary for the classes mentioned in clause (2), (3), (4), or (6) of section 3 and subdivision (e) of section 4, the giving of bond with sufficient surety, in such sum and containing such conditions as may be by regulations prescribed) to insure that, at the expiration of such time or upon failure to maintain the status under which admitted, he will depart from the United States: Provided that no alien who has been, or who may hereafter be, admitted into the United States under clause (1) or (7) of section 3, as an official of a foreign government, or as a member of the family of such official, or as a representative of a foreign government in or to an international organization or an officer or employee of an international organization, or as a member of the family of such representative, officer, or employee, shall be required to depart from the United States without the approval of the Secretary of State."

SECTION 8. [U.S.C. Title 22. sec. 288 (e)]

(a) No person shall be entitled to the benefits of this title unless he (1) shall have been duly notified to and accepted by the Secretary of State as a representative, officer, or employee; or (2) shall have been designated by the Secretary of State, prior to formal notification and acceptance, as a prospective representative, officer, or employee, or (3) is a member of the family or suite, or servant, of one of the foregoing accepted or designated representatives, officers, or employees.

(b) Should the Secretary of State determine that the continued presence in the United States of any person entitled to the benefits of this title is not desirable, he shall so inform the foreign government or international organization concerned, as the case may be, and after such person shall have had a reasonable length of time, to be determined by the Secretary of State, to depart from the United States, he shall cease to be entitled to such benefits.

(c) No person shall, by reason of the provisions of this title, be considered as receiving diplomatic status or as receiving any of the privileges incident thereto other than such as are specifically set forth herein.

/SECTION 9.

SECTION 9. [22 U.S.C. 488 (f)]

The privileges, exemptions, and immunities of international organizations and of their officers and employees, and members of their families, suites, and servants, provided for in this title, shall be granted notwithstanding the fact that the similar privileges, exemptions, and immunities granted to a foreign government, its officers, or employees, may be conditioned upon the existence of reciprocity by that foreign government: Provided that nothing contained in this title shall be construed as precluding the Secretary of State from withdrawing the privileges, exemptions, and immunities herein provided from persons who are nationals of any foreign country on the ground that such country is failing to accord corresponding privileges, exemptions, and immunities to citizens of the United States.

SECTION 10.

This title may be cited as the "International Organizations Immunities Act".

29 December 1945

Joint resolution granting, in the case of income, estate, and gift taxes, deductions for contributions to the United Nations. (Public Law 7. 80th Congress; 61 stat 6)

RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That Section 23 (c) of the Internal Revenue Code [U.S.C. Title 26] (relating to the so-called "charitable contribution" deduction) is amended by striking out the word "or" at the end of paragraph (4) by adding after paragraph (5) a new paragraph to read as follows:

"(6) the United Nations, but only if such contributions or gifts (A) are to be used exclusively for the acquisition of a site in the City of New York for its headquarters, and (B) are made after December 1, 1946, and before December 2, 1947;"

SECTION 2.

Section 23 (q) of such code (relating to the so-called "charitable contribution" deduction) is amended by inserting at the end of paragraph (3) the word "or", and by adding after paragraph (3) a new paragraph to read as follows:

"(4) the United Nations, but only if such contributions or gifts (A) are to be used exclusively for the acquisition of a site in the City of New York for its headquarters, and (B) are made after December 1, 1946, and before December 2, 1947;"

SECTION 3.

Section 1004 (a) (2) of such code (relating to deductions for purposes of gift tax) is amended by striking out the period at the end of sub-paragraph (E), and inserting in lieu thereof a semicolon, and by adding after sub-paragraph (E) a new sub-paragraph to read as follows:

"(F) the United Nations, but only if such gifts (i) are to be used exclusively for the acquisition of a site in the City of New York, for its headquarters, and (ii) are made after December 1, 1946, and before December 2, 1947."

SECTION 4.

Section 1004 (b) of such code (relating to deductions for purposes of

/gift tax)

gift tax) is amended by striking out the period at the end of paragraph (6), and inserting in lieu thereof a semicolon, and by adding after paragraph (6) a new paragraph to read as follows:

"(7) the United Nations, but only if such gifts (A) are to be used exclusively for the acquisition of a site in the City of New York for its headquarters, and (B) are made after December 1, 1946, and before December 2, 1947."

SECTION 5.

The first sentence of Section 812 (d) and the first sentence of Section 861 (a) (3) of such code (relating to transfers for public etc., uses) are hereby amended by inserting after the words "to influence legislation" a comma and the words: "or to or for the use of the United Nations, but only if such bequests, legacies, devises, or transfers to or for the use of the United Nations are to be used exclusively for the acquisition of a site in the City of New York for its headquarters, and the death of the decedent occurred after December 1, 1946, and before December 2, 1947".

26 February 1947.

Joint resolution authorizing the President to bring into effect an agreement between the United States and the United Nations for the purpose of establishing the permanent headquarters of the United Nations in the United States and authorizing the taking of measures necessary to facilitate compliance with the provisions of such agreement, and for other purposes. (Public Law 357. 80th Congress; 61 stat 756)

Whereas the Charter of the United Nations was signed on behalf of the United States on June 26, 1945, and was ratified on August 8, 1945, by the President of the United States, by and with the advice and consent of the Senate, and the instrument of ratification of the said Charter was deposited on August 8, 1945, and

Whereas the said Charter of the United Nations came into force with respect to the United States on October 24, 1945; and

Whereas article 104 of the Charter provides that "The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes"; and

Whereas article 105 of the Charter provides that:

/"1. The

"1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

"2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Organization.

"3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this article or may propose conventions to the Members of the United Nations for this purpose."; and

Whereas article 28 and other articles of the Charter of the United Nations contemplate the establishment of a seat for the permanent headquarters of the Organization; and

Whereas the interim arrangements concluded on June 26, 1945, by the national Organization instructed the Preparatory Commission established in pursuance of the arrangements to "make studies and prepare recommendations concerning the location of the permanent headquarters of the Organization"; and

Whereas during the labours of the said Preparatory Commission, the Congress of the United States in H. Con. Res. 75, passed unanimously by the House of Representatives December 10, 1945, and agreed to unanimously by the Senate December 11, 1945, invited the United Nations "to locate the seat of the United Nations Organization within the United States"; and

Whereas the General Assembly on December 14, 1946, resolved "that the permanent headquarters of the United Nations shall be established in New York City in the area bounded by First Avenue, East Forty-Eighth Street, the East River, and East Forty-second Street"; and

Whereas the General Assembly resolved on December 14, 1946, "That the Secretary-General be authorized to negotiate and conclude with the appropriate authorities of the United States of America an agreement concerning the arrangements required as a result of the establishment of the permanent headquarters of the United Nations in the city of New York" and to be guided in these negotiations by the provisions of a preliminary draft agreement which had been negotiated by the Secretary-General and the Secretary of State of the United States; and

Whereas the General Assembly resolved on December 14, 1946, that pending the coming into force of the agreement referred to above "the Secretary-General be authorized to negotiate and conclude arrangements with the appropriate authorities of the United States of America to determine on a provisional basis the privileges, immunities, and facilities needed in connexion with the temporary headquarters of the United Nations."; and

Whereas the Secretary of State of the United States, after consultation with the appropriate authorities of the State and City of New York, signed at Lake Success, New York, on June 26, 1947, on behalf of the Unites States an agreement with the United Nations regarding the headquarters of the United Nations, which agreement is incorporated herein; and

Whereas the aforesaid agreement provides that it shall be brought into effect by an exchange of notes between the United States and the Secretary-General of the United Nations; Therefore be it Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized to bring into effect on the part of the United States the agreement between the United States of America and the United Nations regarding the headquarters of the United Nations, signed at Lake Success, New York, on June 26, 1947 (hereinafter referred to as the "agreement"), with such changes therein not contrary to the general tenor thereof and not imposing any additional obligations on the United States as the President may deem necessary and appropriate, and at his discretion, after consultation with the appropriate State and local authorities, to enter into such supplemental agreements with the United Nations as may be necessary to fulfill the purposes of the said agreement: Provided, That any supplemental agreement entered into pursuant to section 5 of the agreement incorporated herein shall be submitted to the Congress for approval. The agreement follows:

(For text of the Agreement see supra Part II, 2, B (2). pp.57-76).

SECTION 2.

For the purpose of carrying out the obligations of the United States under said agreement and supplemental agreements with respect to United States assurances that the United Nations shall not be dispossessed of its property in the headquarters district, and with respect to the establishment of radio facilities and the possible establishment of an airport:

/(a) The ...

(a) The President of the United States, or any official or governmental agency authorized by the President, may acquire in the name of the United States any property or interest therein by purchase, donation, or other means of transfer, or may cause proceedings to be instituted for the acquisition of the same by condemnation.

(b) Upon the request of the President, or such officer as the President may designate, the Attorney General of the United States shall cause such condemnation or other proceedings to be instituted in the name of the United States in the district court of the United States for the district in which the property is situated and such court shall have full jurisdiction of such proceedings, and any condemnation proceedings shall be conducted in accordance with the Act of August 1, 1888 (25 Stat. 357), as amended, and the Act of February 26, 1931 (46 Stat. 1421), as amended.

(c) After the institution of any such condemnation proceedings, possession of the property may be taken at any time the President, or such officer as he may designate, determines is necessary, and the court shall enter such orders as may be necessary to effect entry and occupancy of the property.

(d) The President of the United States, or any officer or governmental agency duly authorized by the President, may, in the name of the United States, transfer or convey possession of and title to any interest in any property acquired or held by the United States, pursuant to paragraph (a) above, to the United Nations on the terms provided in the agreement or in any supplemental agreement, and shall execute and deliver such conveyances and other instruments and perform such other acts in connection therewith as may be necessary to carry out the provisions of the agreement.

(e) There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be required to enable the United States to carry out the undertakings hereby authorized: Provided that any money appropriated under this authorization shall be spent only on a basis of reimbursement by the United Nations in accordance with section 3 of the agreement, and that the money thus reimbursed shall be deposited and covered into the Treasury of the United States as miscellaneous receipts.

SECTION 3.

The President, or the Secretary of State under his direction, is authorized to enter into agreements with the State of New York or any other State of the United States and to the extent not inconsistent with State law, with any one or more of the political subdivisions thereof in aid of effectuating the provisions of the agreement.

SECTION 4.

Any States, or, to the extent not inconsistent with State law any political subdivisions thereof, affected by the establishment of the headquarters of the United Nations in the United States are authorized to enter into agreements with the United Nations or with each other consistent with the agreement and for the purpose of facilitating compliance with the same: Provided that, except in cases of emergency and agreements of a routine contractual character, a representative of the United States, to be appointed by the Secretary of State, may, at the discretion of the Secretary of State, participate in the negotiations, and that any such agreement entered into by such State or States or political subdivisions thereof shall be subject to approval by the Secretary of State.

SECTION 5.

The President is authorized to make effective with respect to the temporary headquarters of the United Nations in the State of New York, on a provisional basis, such of the provisions of the agreement as he may deem appropriate, having due regard for the needs of the United Nations at its temporary headquarters.

SECTION 6.

Nothing in the agreement shall be construed as in any way diminishing abridging, or weakening the right of the United States to safeguard its own security and completely to control the entrance of aliens into any territory of the United States other than the headquarters district and its immediate vicinity, as to be defined and fixed in a supplementary agreement between the Government of the United States and the United Nations in pursuance of section 13 (3) (e) of the agreement, and such areas as it is reasonably necessary to traverse in transit between the same and foreign countries. Moreover, nothing in section 14 of the agreement with respect to facilitating entrance into the United States by persons who wish to visit the headquarters district and do not enjoy the right of

entry provided in section 11 of the agreement shall be construed to amend or suspend in any way the immigration laws of the United States or to commit the United States in any way to effect any amendment or suspension of such laws.

August 4, 1947

2. Executive Orders, Administrative Regulations, and Departmental Opinions

EXECUTIVE ORDER NO. 9698
(11 F. R. 1809)

DESIGNATING PUBLIC INTERNATIONAL ORGANIZATIONS ENTITLED TO ENJOY CERTAIN PRIVILEGES, EXEMPTIONS, AND IMMUNITIES

By virtue of the authority vested in me by section 1 of the International Organizations Immunities Act, approved December 29, 1945 (Public Law 291, 79th Congress), and having found that the United States participates in the following-named international organizations pursuant to a treaty or under the authority of an act of Congress authorizing such participation or making an appropriation therefor, I hereby designate such organizations as public international organizations entitled to enjoy the privileges, exemptions, and immunities conferred by the said International Organizations Immunities Act:

The Food and Agriculture Organization.

The International Labour Organization.

The Pan American Union.

The United Nations.

The United Nations Relief and Rehabilitation Administration.

With respect to the designation of such other international organizations as may be entitled to the privileges, exemptions, and immunities conferred by the said Act, the Department of State is hereby designated as the agency to receive applications for the granting of such privileges, exemptions, and immunities. The Secretary of State shall require such information as he may deem necessary from the international organizations making such applications, and shall submit recommendations to the President as to whether the applicant organizations should be designated as public international organizations entitled to enjoy the privileges, exemptions, and immunities conferred by the said Act.

HARRY S. TRUMAN

THE WHITE HOUSE
February 19, 1946

EXECUTIVE ORDER NO. 9992
(32 Code of Federal Regulations 1611.11)

"Chapter XVI - Selective Service System"

"§ 1611.11 Aliens who are not required to register. (a) A male alien who is now in or who hereafter enters the United States and who has not declared his intention to become a citizen of the United States shall not be required to be registered under section 3 of title I of the Selective Service Act of 1948 and shall be relieved from liability for training and service under section 4 (b) of said act provided:

. . . . . .

. . . . . .

(3) He is a full time official or employee of a public international organization which has been designated by the President under the provisions of the International Organizations Immunities Act, approved December 29, 1945 (59 Stat. 669), or a member of the family of any such person;

(4) He is a person who has entered the United States and remains therein pursuant to the provisions of section 11 of the Agreement between the United Nations and the United States of America Regarding the Headquarters of the United Nations as approved in Public Law 357, 80th Congress, approved August 4, 1947;"

26 CODE OF FEDERAL REGULATIONS

CHAPTER I - BUREAU OF INTERNAL REVENUE

§ 29.116-2 Income of foreign governments, international organizations, and their employees.

. . . . . .

(b) International organizations and their employees.

(1) Subject to the provisions of section 1 of the International Organizations Immunities Act (the provisions of which section are herinafter set forth), the income of an international organization (as defined in section 3797 (a) (18)) received from investments in the United States in stocks, bonds, or other domestic securities, owned by such international organization, or from interest on deposits in banks in the United States of moneys belonging to such international organization, or from any other source within the United States, is exempt from Federal income tax. An organization designated by the President through appropriate Executive order as entitled to enjoy the privileges, exemptions, and immunities provided in the International Organizations Immunities Act may enjoy the benefits of the exemption with respect to income of the prescribed character received by such organization prior to the date of the issuance of such Executive order, if (1) the Executive order does not provide otherwise and (2) the organization is a public international organization in which the United States participates, pursuant to a treaty or under the authority of an act of Congress authorizing such participation or making an appropriation for such participation, at the time such income is received. The exemption is effective only with respect to taxable years beginning after December 31, 1943.

(2) Subject to the provisions of sections 1, 8 and 9 of the International Organizations Immunities Act, wages, fees, or salary of any officer or employee of an international organization (as defined in section 3797 (a) (18)) received as compensation for official services to such international organizations is exempt from Federal income tax, if such officer or employee (1) is not a citizen of the United States (2) is a citizen of the Commonwealth of the Philippines

/(whether

(whether or not a citizen of the United States). An individual of the prescribed class who receives wages, fees, or salary as compensation for official services to an organization designated by the President through appropriate Executive order as entitled to enjoy the privileges, exemptions, and immunities provided in the International Organizations Immunities Act and who has been duly notified to and accepted by the Secretary of State as an officer or employee of such organization, or who has been designated by the Secretary of State, prior to formal notification and acceptance, as a prospective officer or employee of such organization, may enjoy the benefits of the exemption with respect to compensation of the prescribed character earned by such individual either prior to the date of the issuance of such Executive order, or prior to the date of such acceptance or designation by the Secretary of State, for official services to such organization, if (i) the Executive order does not provide otherwise, (ii) the organization is a public international organization in which the United States participated pursuant to a treaty or under the authority of an act of Congress authorizing such participation or making an appropriation for such participation, at the time such compensation is earned, and (3) the individual is an officer or employee of such organization at such time. The compensation of citizens of the United States (other than citizens of the Commonwealth of the Philippines who are officers or employees of an international organization is not exempt from income tax. (But see section 116 (a).) The exemption with respect to wages, fees, or salary, referred to above, is effective only with respect to taxable years beginning after December 31, 1943.

19 CODE OF FEDERAL REGULATIONS

CHAPTER I - BUREAU OF CUSTOMS

Public International Organizations

§ 10.30a Organizations included.

(a) The President, by virtue of the authority vested in him by section 1, 59 Stat. 669; 22 U.S.C. 228;[33a] has designated[33b] the following organizations as public international organizations entitled to the free entry privileges of that statute: The Food and Agriculture Organization, the International Labour Organisation, the Pan American Union, the United Nations, the United Nations Relief and Rehabilitation Administration, the Inter-American Coffee Board, the Inter-American Institute of Agricultural Sciences, the Inter-American Statistical Institute, the International Bank for Reconstruction and Development, the

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"33a For the purposes of this title, the term "international organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to conditions or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgement such action should be justified by reason of the abuse by an international organization or its exemptions, and immunities herein provided or for any other reason, at any time to revoke the designation of any in ternational organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title. (Sec.1, 59 Stat. 669;U.S.C.288)'

"33b Executive Orders Nos. 9698, 9751, 9823, 9863, 9887, 9911, and 9972, dated February 19, 1946, July 11, 1946, January 24, 1947, May 31, 1947, August 22, 1947, December 19, 1947, and June 25, 1948, respectively. Additions to this list or changes therein will be published in Treasury Decisions."

International Monetary Fund,[33c] the Pan American Sanitary Bureau, the Inter-governmental Committee on Refugees, the International Wheat Advisory Committee (International Wheat Council), the United Nations Educational, Scientific, and Cultural Organization, the International Civil Aviation Organization, the International Telecommunication Union, the Preparatory Commission for the International Refugee Organization, the International Refugee Organization, the International Cotton Advisory Committee, and the International Joint Commission.

(b) Pursuant to sections 2 (d) and 3[33d] of the act, property of the organizations named in paragraph (a) of this section and the baggage and effects of the alien officers and employees thereof, of aliens designated by foreign governments to serve as their representatives in or to such organizations, or of the families, suites, and servants of such officers, employees, or representatives, shall be admitted free of duties and internal-revenue taxes imposed upon or by reason of importation, but such exemption shall be granted only upon the receipt in each instance of the Department's instructions which will be issued only upon the request of the Department of State.

"33c Customs exemptions have also been prescribed for the International Bank for Reconstruction and Development in 59 Stat. 512; 22 U.S.C. 286 et seq."

"33d Insofar as concerns customs duties and internal-revenue taxes imposed upon or by reason of importation, and the procedures in connexion therewith; the registration of foreign agents; and the treatment of official communications, the privileges, exemptions, and immunities to which international organizations shall be entitled shall be those accorded under similar circumstances to foreign governments (Sec. 2 (d), 59 Stat. 669; 22 U.S.C. 288a (d))

Pursuant to regulations prescribed by the Commissioner of Customs with the approval of the Secretary of the Treasury, the baggage and effects of alien officers and employees of international organizations, or of aliens designated by foreign governments to serve as their representatives in or to such organizations, or of the families, suites, and servants of such officers, employees, or representatives shall be admitted (when imported in connexion with the arrival of the owner) free of customs duties and free of internal-revenue taxes imposed upon or by reason of importation (Sec. 3, 59 Stat. 669; 22 U.S.C. 288b)"

(c) The term "baggage and effects" as used in section 3 of the act includes all articles which were in the possession abroad, and are being imported in connexion with the arrival, of a person entitled to the benefits of the act and which are intended for his bona fide personal or household use, but does not include articles imported as an accomodation to others or for sale or other commercial use.

(d) All articles accorded free entry under the act shall be entered or withdrawn in accordance with the requirements prescribed by the Tariff Act of 1930, as amended, and the regulations thereunder.

(e) Certified or other customs invoices shall not be required for articles accorded free entry under the act.

(f) Any customs bond which may be required from one of the organizations named in paragraph (a) of this section in connexion with the importation or entry of merchandise into, or the exportation of merchandise from, the United States may be accepted without surety.

(g) The provisions of the act are applicable, insofar as duties and internal-revenue taxes imposed upon or by reason of importation are concerned, only with respect to articles entered, or withdrawn from warehouse, for consumption on and after December 29, 1945.

(Sec. 498, 46 Stat. 728, sec. 3, 59 Stat. 669; 19 U.S.C. 1493, 22 U.S.C. 228b. E.O. 9698, 9751, 9823, 9863, 9887, 9911, 9972, 11 F.R. 1809, 7713, 12 F.R. 551, 3559, 5723, 8719, 13 F.R. 3573; 3 CFR 1945, 1946, 1947 Supps.)

§ 10.30b Importations for resident representatives of the United Nations and specialized agencies thereof.

(a) The privilege of importimg free of duty and internal-revenue tax articles for their personal or family use may be granted to (1) every person designated by a member nation as the principal resident representative to the United Nations of such member or as a resident representative with the rank of ambassador or minister plenipotentiary, (2) such resident members of their staffs as may be agreed upon between the Secretary-General, the Government of the United States and the government of the member concerned, (3) every person designated by a member of a specialized agency as its principal resident

representative, with the rank of ambassador or minister plenipotentiary, at the headquarters of such agency in the United States, and (4) such other principal resident representatives of members to a specialized agency and such resident members of the staffs of representatives to a specialized agency as may be agreed upon between the principal executive officer of the specialized agency, the Government of the United States and the government of the member concerned.

(b) This privilege shall be granted only upon the Department's instruction in each instance which will be issued only upon the request of the Department of State.

(c) No entry is required for shipments admitted free of duty and internal-revenue tax under this section.

(Sec. 498, 46 Stat. 728; Art. V, sec. 15, 61 Stat. 762; 19 U.S.C. 1498).

TREASURY DEPARTMENT OPINION ON THE TAX STATUS OF THE UNITED NATIONS CHILDREN'S EMERGENCY FUND

July 10, 1947

International Children's Emergency Fund,
1712 H Street, N.W.
Washington, D. C.

Gentlemen:

It is the opinion of this office, based upon the evidence presented, that you are entitled to exemption from Federal income tax under the provisions of section 101(6) of the Internal Revenue Code. Accordingly, you will not be required to file Federal income tax returns.

Furthermore, under substantially identical authority contained in sections 1426 and 1607 of the Code, the employment taxes imposed by such statute are not applicable to remuneration for services performed in your employ so long as you retain your exempt status for income tax purposes.

Contributions made to you are deductible by the donors in arriving at their taxable net income in the manner and to the extent provided by section 23(o) and (q) of the Internal Revenue Code, as amended.

Requests, legacies, devises or transfers, to or for your use are deductible in arriving at the value of the net estate of a decedent for estate tax purposes in the manner and to the extent provided by sections 812(d) and 861(a)(3) of the Code. Gifts of property to you are deductible in computing net gifts for gift tax purposes in the manner and to the extent provided in section 1004(a)(2)(B) and 1004(b)(2) and (3) of the Code.

The collectors of internal revenue at Baltimore, Maryland, and for the third district of New York are being advised of this action.

By direction of the Commissioner.

Very truly yours,

E. I. MCLARNEY
Deputy Commissioner

B. New York State Laws, Regulations, etc.

1. Laws

STATE OF NEW YORK

United Nations Headquarters

CHAPTER 23

An Act to amend the administrative code of the city of New York, so as to authorize the city of New York to convey certain real property in the city of New York to United Nations, acquire real property for such purposes, to re-locate dwellings and tenants and to control advertising signs in the vicinity of United Nations headquarters.

Effective February 27, 1947.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Title D of chapter forty-one of the administrative code of the city of New York is hereby amended by adding thereto a new section, to follow section D41-27.0, to be section D41-28.0, to read as follows:

§ D41-28.0 Transfer of real property to United Nations; acquisition of real property for such purpose.

(a) It is hereby declared as a matter of legislative determination that a public purpose is served and that the interests of the state and city of New York are promoted by (1) the cession, granting, conveyance or transfer to United Nations by the city of New York of real property, in the borough of Manhattan, city of New York, and bounded on the south by the south side of Forty-second street, on the west by the west side of First avenue, on the north by the north side of Forty-eighth street and on the east by the East river, or any interest therein, owned or possessed by such city, which is required for the purpose of establishing and maintaining headquarters, buildings or facilities necessary, useful or convenient in carrying on the functions of United Nations, and (2) the utilization of any such real property by United Nations in carrying on its functions.

/(b) Notwithstanding

(b) Notwithstanding the provisions of any law, the board of estimate of the city of New York is authorized to cede, grant, convey, transfer or release to the United Nations, with or without consideration, and upon such terms and conditions as may be agreed upon between such board and the United Nations, all or any part of the estate, right, title and interest of the city in and to any real property, or any leasehold, reverter or other interests therein, wharf property or lands in the bed of closed or discontinued streets, now owned or hereafter acquired or owned or possessed by the city, within the limits of the area described in subdivision (a) hereof, and whether or not such property, interests or lands are devoted to another public purpose, which are required for the purpose of establishing and maintaining headquarters, buildings or facilities necessary, useful or convenient in carrying on the functions of the United Nations, and the city of New York is authorized to acquire for such purposes, by purchase, condemnation or otherwise, title to any such property, interests or lands within the city.

(c) Where property has been acquired by the United Nations from which dwellings must be removed before the land may be improved for such United Nations, the board of estimate may authorize the acquisition of lands for the purpose of providing a site to which said dwellings may be relocated and rehabilitated in order that they may continue to be used for housing purposes. The board may also authorize for such relocation and rehabilitation purposes the use of city owned lands no longer required for other public purposes or temporarily not so required. The layout and development of the relocation site for the aforesaid purpose shall be approved by the city planning commission.

After acquisition of such lands or assignment of city owned lands the bureau of real estate of the board of estimate may provide for the relocation and rehabilitation of the aforementioned dwellings in accordance with the plan approved by the city planning commission.

The board of estimate may also authorize the acquisition by purchase, condemnation or otherwise of buildings not now used for dwelling purposes and may further authorize the rehabilitation of such buildings to make the same usable for such purpose and to relocate therein persons now residing

in the site acquired for the United Nations or such other persons as the board of estimate may direct.

After the relocation and rehabilitation of any dwellings relocated from the site so acquired by the United Nations, the bureau of real estate of the board of estimate shall provide for the sale by the city of the relocated dwellings and the respective lots upon which they are situated. The sales shall be to individuals in the following order of preference: to the original owner-occupant of the building being sold; to an original tenant of the building being sold; to an owner-occupant on the site whose building it was impracticable to remove; to a tenant within the acquired lands; to any veteran or veteran's widow in the city. All sales shall be subject to the approval of the board of estimate. If any building and saleable lots remain unsold after the foregoing parties have had a full opportunity to purchase, the same shall be disposed of by the city in accordance with existing provisions of law applicable to the sale of city property. Monies realized from sales under this paragraph shall be restored to the funds from which the acquisition of these additional lands was provided for, or if not needed for such funds, then such monies shall be paid into the real property fund.

(d) To insure the beauty of the area to be used for the United Nations' headquarters and the approaches thereto and to promote the general welfare of the people of the city and state of New York; to insure the safe and orderly conduct of such United Nations and to protect the useful and desirable purpose of the same and to provide for the safety, convenience and comfort of officials, delegates, personnel and visitors to the same, such board of estimate shall have power to regulate and limit signs, billboards and advertising devices, and shows, exhibits, amusements and displays in the area of Queens and New York counties contiguous to fronting upon or surrounding the lands occupied by the United Nations and any violation of such regulations shall be a misdemeanor.

The city of New York by the corporation counsel or United Nations may maintain an action for an injunction to restrain any violation of the said building zone resolution or the regulations concerning the erection and maintenance of signs, billboards or other advertising devices within said district.

§ 2. This act shall take effect immediately.

STATE OF NEW YORK

Tax Exemption - Property of International Organizations

CHAPTER 24

An Act to amend the tax law, in relation to exemption from taxation the real property used for headquarters of United Nations or of any world-wide international organization established to accomplish the same purposes by the same laws.

Effective February 27, 1947.

The people of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section four of chapter sixty-two of the laws of nineteen hundred nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," such section having been last amended by chapter six hundred forty-one of the laws of nineteen hundred forty-six, is hereby amended by adding thereto a new subdivision, to follow subdivision nineteen, to be subdivision twenty,* to read as follows:

20. Real property of United Nations, or of any world-wide international organization of which the United States shall be a member and which shall be established and shall provide international agencies in order to maintain international peace and security, develop friendly relations among nations and achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character, by taking action which includes effective collective measures for the prevention and removal of threats to peace, for the suppression of acts of aggression or other breaches of the peace and for the bringing about by peaceful means, and in conformity with the principles of justice and international law, of the adjustment or settlement of international disputes or situations which might lead to a breach of the peace shall be exempt from taxation and

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* New York Tax Law § 4.

assessment for local or assessable improvements provided that only such real property shall be exempt from taxation and assessment for local and assessable improvements as is exclusively used for the purpose of establishing and maintaining thereon headquarters for offices and for places of assembly for carrying on the functions of United Nations or other such world-wide international organization. The exemption from taxation granted by this subdivision shall continue with respect to such real property as long as the property shall remain the property of the United Nations or of any world-wide international organization as herein described, and be used exclusively for the purpose of maintaining thereon headquarters for offices and for places of assembly for carrying on the functions of the United Nations or of any world-wide international organization as herein described, and no longer.

§ 2. This act shall take effect immediately.

STATE OF NEW YORK

United Nations - Acquisition of Lands

CHAPTER 25

An Act to amend the state law, in relation to authorizing the United Nations to acquire land for its uses and purposes and providing for the cession of jurisdiction by the state as to such land when used for the headquarters of United Nations.

Effective February 27, 1947.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The state law is hereby amended by adding thereto a new article, to be article four(B), to read as follows:

ARTICLE IV (B)

Acquisition of Land by the United Nations

SECTION

59(i)Definitions.
59(j)Acquisition of land.
59(k)Proceedings.
59(l) Governor may cede jurisdiction.

§ 59 (i) DEFINTIONS. As used in this article, the following terms shall mean and include:

"United Nations." The international organization of governments known as the United Nations established June twenty-sixth, nineteen hundred forty-five.

"Land." The land itself above and under water, all buildings and other structures, substructures and superstructures, erected on or above, or affixed to the same; all wharves and piers; and all interests in land whether in fee or less than full title.

§ 59 (j) ACQUISITION OF LAND. The United Nations may take by gift, grant or devise, acquire by purchase, but not by condemnation, any land necessary, useful or convenient in carrying on the functions or such organization within the state and hold, transmit and dispose of the same.

§ 59 (k) PROCEEDINGS. Whenever the United Nations is desirous of acquiring land by purchase for any of its purposes, the Secretary-General of the United Nations, or other representative designated by him, may apply for any relief permitted by the laws of the state of New York that may be necessary for the purpose of acquiring such land, to any court of the state having jurisdiction within the county in which the land is located. All deeds, conveyances and other papers relating to the title of lands within the state acquired by the United Nations pursuant to the provisions of this article, or other general or special law, federal, state or local, shall be filed and recorded in the office of the register, if any, or if not in the office of the county clerk of the county where the land is located, and certified copies filed in the office of the secretary of state of the state of New York at Albany.

§ 59 (l) GOVERNOR MAY CEDE JURISDICTION. The governor of New York state, upon application by the United Nations, is authorized, to execute in duplicate, in the name of the state and under its great seal, a deed or release of the state ceding jurisdiction, to such extent and on such conditions as he may deem proper, of any land in the state acquired by the United Nations. Jurisdiction may be ceded directly to the United Nations or to the United States of America for the use and benefit of the United Nations. The application shall describe the land by metes and bounds and have endorsed thereon or annexed thereto the certificate of the attorney-general of this state that the United Nations is in possession of such land under full and complete title. The jurisdiction hereby authorized to be ceded shall continue with respect to such land as long as such land shall remain the property of the United Nations and be used exclusively for the purpose of establishing and maintaining thereon headquarters for offices and for places of assembly for carrying on the functions of the United Nations, and no longer.

§ 2. This act shall take effect immediately.

STATE OF NEW YORK

International Organizations - Tax Exemptions

CHAPTER 739

An Act to amend the tax law, in relation to the exemption of compensation of certain employees of international organizations from taxation and from withholding of tax.

Effective April 9, 1947.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Subdivision nine of section three hundred fifty of the tax law, such section having been added by chapter six hundred twenty-seven of the laws of nineteen hundred nineteen, is hereby amended to read as follows:

9. The words "foreign country" or "foreign government" mean any jurisdiction other than one embraced within the United States. The words "United States" include the states, the territories of Alaska and Hawaii and the District of Columbia. The words "international organization" mean a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act.

§ 2. Paragraph (j) of subdivision two of section three hundred fifty-nine of such law, such paragraph having been added by chapter three hundred sixty-four of the laws of nineteen hundred thirty-six, is hereby amended to read as follows:

(j) Wages, fees, or salary of any employee of a foreign government or of an international organization (including a consular or other officer, or a nondiplomatic representative) received as compensation for official services to such government or international organization

(1) If such employee is not a citizen of the United States; and

(2) If, in the case of an employee of a foreign government, the services are of a character similar to those performed by employees of the government of the United States in foreign countries; and

(3) If, in the case of an employee of a foreign government, the foreign government grants an equivalent exemption to employees of the government of the United States performing similar services in such foreign country.

/§3.

§3. Subdivision one of section three hundred sixty-six of such law, such subdivision having been last amended by chapter five hundred fifty-seven of the laws of nineteen hundred thirty-seven, is hereby amended to read as follows:

1. For each calendar year, every withholding agent shall deduct and withhold from all salaries, wages, commissions, gratuities, emoluments, perquisites and other fixed or determinable annual or periodical compensation of whatever kind and in whatever form paid or received, earned by any taxpayer for personal services (other than personal services as an employer of an international organization) and taxable under this article, of which he shall have control, receipt, custody, disposal or payment, the first one thousand dollars or less, three per centum of the next two thousand dollars or less, four per centum of the next two thousand dollars or less, five per centum of the next two thousand dollars or less, six per centum of the next two thousand dollars or less, seven per centum of the excess over nine thousand dollars, by which the amount of such compensation paid or to be paid in the calendar year, by such withholding agent to such taxpayer, exceeds the amount of the exemptions granted to such taxpayer under section three hundred sixty-two of this chapter as shown by a certificate filed with the withholding agent in form to be prescribed by the tax commission or one thousand dollars if no certificate showing his personal exemption status is filed with the withholding agent by a taxpayer other than a resident of this state. If it appears that another state has passed a law taxing incomes in such manner as will result in its residents being entitled to credit under section three hundred sixty-three hereof, sufficient to offset all taxes imposed by this article, the tax commission may, by regulation, relieve residents of such state from being required to make any return under this article, and may prescribe a form of certificate to be filed by residents of such state with withholding agents. A withholding agent with whom such a certificate shall be filed, or with whom a certificate, in such form as shall be prescribed by the tax commission, to the effect that the person entitled to such compensation is a resident of this state and setting forth his residence address, shall be filed after the beginning of the

/calendar year

calendar year and before the time when he is required to make return and payment, need not deduct or withhold anything from the compensation of the person filing such certificate. The tax commission may, by regulation, require withholding agents to forward to it at stated times any of the certificates mentioned in this subdivision.

§4. This act shall take effect immediately and shall apply to compensation and returns for any taxable year commencing on or after January first, nineteen hundred forty-six.

STATE OF NEW YORK

United Nations - Exemption from Excise and Sales Taxes

CHAPTER 745

An Act to amend the tax law, in relation to granting exemption to the United Nations from excise or sales taxes imposed by the state upon the sale of tangible personal property.

Effective April 3, 1948.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The tax law is hereby amended by adding a new section, to be section five (e) to read as follows:

5 (e) Exemption from certain excise and sales taxes granted to the United Nations. Excise and sales taxes imposed by the state upon the sale of tangible personal property shall not be exacted or required to be paid by the United Nations upon and with respect to any sale of tangible personal property hereafter made, provided the property is acquired for the official use of the United Nations; and the provisions of any law now in force or hereafter enacted imposing any such tax shall not apply to sales of tangible personal property to the United Nations. The state tax commission shall make such reasonable rules and regulations as may be necessary to give full force and effect to the provisions of this section.

§ 2. The provisions of section five (e) of the tax law, as added by this act, shall not become effective or operative unless and until the congress by joint resolution or other affirmative action, shall accede to the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations February thirteenth, nineteen hundred forty-six, and shall deposit with the Secretary-General of the United Nations an instrument of accession on behalf of the United States of America. A certificate of deposit of any such instrument of accession shall be filed in the Office of the Department of Taxation and Finance at Albany and the provisions of section five e of the tax law shall become operative at the expiration of thirty days from the date the instrument of accession is filed with such department.

§ 3. This act shall take effect immediately.

/STATE OF NEW YORK

STATE OF NEW YORK

United Nations or Other World Organization - Exemption from Sales Taxes

CHAPTER 746

An Act authorizing and empowering counties and cities which shall have imposed taxes upon sales of tangible personal property under and pursuant to any general or special law, to exclude from the provisions of the law imposing the tax, sales of tangible personal property thereafter made to the United Nations or other world-wide organization or in lieu thereof to provide for the refund of any such taxes thereafter paid.

Effective April 3, 1948.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The local legislative board or body of any county or city which shall have imposed a tax upon and with respect to the sales of tangible personal property under and pursuant to the provisions of any general or special law, is hereby authorized and empowered by local law, ordinance or resolution duly adopted, to exclude from the provisions of the local law, ordinance or resolution imposing the tax, sales of tangible personal property thereafter made to the United Nations or other world-wide international organization of which the United States of America is a member, or in lieu thereof to provide for the refund of any such taxes thereafter paid by the United Nations or other such world-wide international organization.

§ 2. This act shall take effect immediately.

2. Opinions of the Attorney-General of the State of New York

OPINION OF JANUARY 29, 1946 CONCERNING THE ACQUISITION BY THE UNITED NATIONS OF A SITE WITHIN THE STATE OF NEW YORK IN RELATION TO STATE LEGISLATION (1946 ATTY. GEN. 75)

January 29, 1946

Hon. Thomas E. Dewey
The Capitol
Albany, New York

Dear Governor Dewey:

In response to your letter of January 24th, I have investigated the legal questions which will be involved if the United Nations determines to locate its headquarters within the State of New York.

You have asked my opinion whether the State can give reasonable assurance to the representatives of the United Nations that it has the necessary constitutional power to provide an appropriate site and to extend the privileges and immunities to the United Nations, substantially as prescribed in the draft convention prepared by the juridical subcommittee of the Preparatory Commission of the United Nations, so that there would be no legal difficulties in its setting up a site in New York if a New York location be selected.

In my opinion there is no constitutional obstacle to acquisition by the United Nations of a site within the State, nor to extending, by appropriate legislation, the privileges and immunities which will be required if its headquarters are located in New York.

With respect to the acquisition of the proposed site, the draft convention between the United Nations and the Government of the United States of America contemplates that the Government of the United States of America (which is defined to include a State where the context so requires) shall be responsible for expropriating the necessary land and buildings and United Nations shall pay a fair price for any land and buildings conveyed to it. Whether the actual purchase or condemnation of land will be accomplished by the Federal Government or by New York appears not yet to have been determined. If the United States, acting through the Federal Government, takes title to the land to carry out the agreements of a convention or treaty, I believe that it would have power to

/acquire

acquire necessary property within the State of New York, even though it planned to convey it immediately to the United Nations; however, an amendment to Section 50 or 54 of our State Law would be necessary in order to permit vesting exclusive jurisdiction of the property in the United Nations. If the land and buildings are to be acquired by the State of New York, express legislative authority by New York would be necessary to authorize the acquisition and fix the procedure to be followed.

The facilities expressly mentioned in the draft convention, as required to be furnished by the United States (or the State of New York) include police protection, means of access and various public utilities. Appropriate legislation by New York State would have to be enacted to define and authorize the manner of providing such facilities if the State were asked to provide them. The Legislature has full power in the premises.

Whatever diplomatic privileges and immunities are granted to the United Nations, its officials and personnel under the proposed convention or treaty between the United Nations and the United States would become the supreme law of the land (U.S. Constitution Article 6, sec. 2) and, I am confident, would be given full recognition by New York courts and officials. Diplomatic immunity has been recognized by the New York courts wherever treaty obligations or general rules of international law require. (Hamilton v. Erie R.R. Co., 219 N.Y. 343; Carbone v. Carbone, 123 Misc. 656; Herman v. Apetz, 130 Misc. 618; cf. Urdaneta v. Urdaneta, 179 Misc. 95). The certificate of the Secretary of State of the United States that a person is entitled to immunity will be honored (Girardon v. Angelone, 234 App. Div. 351, 354).

As a matter of fact, I believe that the New York courts would recognize diplomatic immunity even before the proposed convention is executed, for Article 105 of the Charter of the United Nations, to which the United States became a party on August 8, 1945, provides that the organization shall enjoy "such privileges and immunities as are necessary for the fulfillment of its purposes", and that representatives of the members "and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization." The Charter contemplates a separate convention to determine the details of such

privileges and immunities, but I believe that the courts would be guided in the interim by the interpretation requested by the Secretary of State. In the absence of a specific inquiry, I do not deem it appropriate to ascertain every situation in which immunity would apply, or to discuss the extent or limits of such immunity.

It will not be necessary to enact state legislation to implement the Federal treaty unless you think it desirable for reasons of clarity or otherwise.

One other matter should be mentioned, which will also require legislative authority by New York. The United Nations contemplates a separate convention to be entered into between the United Nations and the State in which the United Nations fixes its headquarters, and that Congress will be asked to authorize the execution of such a convention. There is no authority in existing statutes for you to enter into a convention on behalf of the State of New York with any international organization. On the other hand, there is no constitutional reason why appropriate legislative authority may not be given by New York, to be exercised if Congress authorizes such a convention.

Respectfully yours,

NATHANIEL L. GOLDSTEIN
Attorney-General

OPINION OF MARCH 1, 1948, CONCERNING IMMUNITY FROM ARREST AND CONVICTION FOR CRIMES AND TRAFFIC INFRACTIONS
(1948 ATTY. GEN. 152)

March 1, 1948

Department of Commerce,
112 State Street,
Albany, N. Y.

Att: Hon. Alfred J. Worsdell, Jr.,
Deputy Commissioner.

Gentlemen:

Your letter of February 20, 1948 asks my opinion as to whether the State of New York accords, or should accord, privileges and immunities from arrest and conviction for crimes and traffic infractions within the State to any or all of the members of delegations to the United Nations, listed by the Department of State of the United States, as recognized, under the provisions of Public Law 357 of the 80th Congress, as being entitled to diplomatic privileges and immunities in the territory of the United States.

It is my opinion that privileges and immunities from arrest and conviction for crimes and traffic infractions within the State are to be accorded to persons so listed by the Department of State of the United States.

In an opinion rendered to the Executive Department on January 29, 1946 (1946 Atty. Gen. 75), I stated (p. 76):

"Whatever diplomatic privileges and immunities are granted to the United Nations, its officials and personnel under the proposed convention or treaty between the United Nations and the United States would become the supreme law of the land (U. S. Constitution Article 6, § 2) and, I am confident, would be given full recognition by New York courts and officials. Diplomatic immunity has been recognized by the New York courts, wherever treaty obligations or general rules of international law require. (Hamilton v. Erie R. R. Co., 219 N. Y. 343; Carbone v. Carbone, 123 Misc. [illegible] v. Apetz, 180 Misc. [illegible] cf. Urdaneta v. Urdaneta, 179 Misc. 95). [illegible] statute of the Secretary of State of the United States that a person is entitled to immunity will be honored (Girardon v. Angelone, [illegible] App. Div. 351, 354)."

/The diplomatic

The diplomatic privileges and immunities which have been granted to members of the United Nations delegations by the United States and which have thus become the supreme law of the land by which the judges in every state are bound (United States Constitution, Article VI, § 2) include immunity from arrest and conviction for crimes.

1. The Charter of the United Nations (signed on behalf of the United States on June 26, 1945; ratified August 8, 1945; in force with respect to the United States October 24, 1945). Article 105 thereof provides:

"1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

"2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

"3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this article or may propose conventions to the Members of the United Nations for this purpose."

2. International Organizations Immunities Act (December 29, 1945; 22 USCA §§ 288 et seq.) Section 288 (d) provides:

"Privileges, exemptions, and immunities of officers, employees, and their families; waiver

***

"(b) Representatives of foreign governments in or to international organizations and officers and employees of such organizations shall be immune from suit and legal process relating to acts performed by them in their official capacity and falling within their functions as such representatives, officers, or employees except insofar as such immunity may be waived by the foreign government or international organization concerned."

3. Executive Order No. 9698 (February 19, 1946). The President designated the United Nations as one of the public international organizations entitled to enjoy the privileges, exemptions and immunities

/conferred

conferred by the International Organizations Immunities Act.

4. Convention on the Privileges and Immunities of the United Nations (adopted by the General Assembly of the United Nations February 13, 1946. The United States delegation voted for the adoption of the Convention but the United States Senate has not yet ratified it). Pertinent provisions of this Convention are as follows:

Article IV, Section 11.

"Representatives of Members of the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

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

***

"(f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys, and also;

"(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."

Article IV, Section 14.

"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 United Nations. Consequently a Member not only has the right but is under a duty to waive the immunity of its representative 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."

Article IV, Section 16.

"In this article the expression 'representatives' shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations."

Article V, Section 17.

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

Article V, Section 18.

"Officials of the United Nations shall:

"(a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity; ***"

Article V, Section 19.

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

Article V, Section 20.

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

Article V, Section 21,

"The United Nations shall co-operate at all times with the appropriate authorities of Members to facilitate the proper

administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Article."

The same provisions are made in respect to Experts on Missions for the United Nations (Article VI).

Article VIII provides that the United Nations shall make provisions for "appropriate modes of settlement" of disputes involving any official of the United Nations who by reason of his official position enjoys immunity.

5. Public Law 357 - 80th Congress, authorizing the President to bring into effect on the part of the United States the Agreement, signed June 26, 1947, between the United States and the United Nations regarding the headquarters of the United Nations (adopted August 4, 1947).

Article III, Section 8.

"The United Nations shall have the power to make regulations, operative within the headquarters district, for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions. No federal, state or local law or regulation of the United States which is inconsistent with a regulation of the United Nations authorized by this section shall, to the extent of such inconsistency, be applicable within the headquarters district. Any dispute, between the United Nations and the United States, as to whether a regulation of the United Nations is authorized by this section or as to whether a federal, state or local law or regulation is inconsistent with any regulation of the United Nations authorized by this section, shall be promptly settled as provided in Section 21. Pending such settlement, the regulation of the United Nations shall apply, and the federal, state or local law or regulation shall be inapplicable in the headquarters district to the extent that the United Nations claims it to be inconsistent with the regulation of the United Nations. This section shall not prevent the reasonable application of fire protection regulations of the appropriate American authorities."

Article III, Section 9.

"(a) The headquarters district shall be inviolable. Federal, state or local officers or officials of the United States, whether administrative, judicial, military or police, shall not enter the headquarters district to perform any official duties therein except with the consent of and under conditions agreed to by the Secretary-General. The service of legal process, including the seizure of private property, may take place within the headquarters district only with the consent of and under conditions approved by the Secretary-General.

********"

Article V, Section 15.

Resident representatives to the United Nations described in sub-divisions 1, 2, 3 and 4 of this section are in sub-division 4 declared to "be entitled in the territory of the United States to the same privileges and immunities, subject to corresponding conditions and obligations, as it accords to diplomatic envoys accredited to it." Such privileges are accorded in the case of representatives of members whose governments are recognized by the United States, whether the persons reside inside or outside the headquarters district. In the case of representatives of members whose governments are not recognized by the United States, the privileges and immunities are stated to be extended only within the headquarters district, the representatives' residences and offices outside the district and in transit between the district and the residences and offices, and on official business to or from foreign countries.

I conclude that the State of New York is bound to accord immunity from arrest and conviction for crime and traffic infractions to members of delegations to the United Nations, recognized by the Department of State of the United States as entitled to diplomatic privileges and immunities in the territory of the United States. It is an immunity specifically recognized in the Convention of February 13, 1946 yet to be ratified by the United States. It is one that is included in the more general declarations of the instruments quoted herein, which already have become the supreme law of the land by which the courts of the States are bound.

Very truly yours,

NATHANIEL L. GOLDSTEIN
Attorney General

/OPINION

OPINION OF OCTOBER 26, 1951, CONCERNING APPLICABILITY OF STATE ALCOHOLIC BEVERAGE CONTROL LAW TO THE UNITED NATIONS AND ITS HEADQUARTERS DISTRICT

October 26, 1951

State Liquor Authority
270 Broadway
New York 7, New York

Gentlemen:

This is in reply to your letter of September 21, 1951, requesting my opinion as to whether the Conference Building and the General Assembly Building of the United Nations headquarters in the Borough of Manhattan, City of New York, are subject to the jurisdiction of the State of New York and to the provisions of the Alcoholic Beverage Control Law.

Although Article IV(B) of the State Law (added by Chapter 25 of the Laws of 1947) authorizes the Governor, upon fulfillment of certain prescribed conditions, to execute in the name of the State a deed or release ceding jurisdiction of any land in the State acquired by the United Nations, and although the United Nations has acquired or is in possession under contract to acquire the lands constituting its Headquarters District in the Borough of Manhattan in the City of New York (being the area generally bounded on the east by the westerly side of Franklin D. Roosevelt Drive, on the west by the easterly side of First Avenue, on the north by the southerly side of East Forty-eighth Street, and on the south by the northerly side of East Forty-second Street, all as proposed to be widened), no formal cession of jurisdiction pursuant to Article IV of the State Law has been made, nor has any application therefor been received; and since the jurisdiction of the State over lands within its territorial limits cannot be abrogated except by its consent, it must be stated as a general principle that the United Nations headquarters district in the Borough of Manhattan is subject to the political jurisdiction of this State. However, this conclusion does not dispose of your question.

The United Nations is an international organization created in 1945 by the international treaty known as the Charter of the United Nations to which the United States is a party (59 U.S. Stat., Pt. 2, pp. 1035 et seq.). The adherence

/of the

of the United States to that treaty was made pursuant to the power granted to the President by Subdivision 2 of Section 2 of Article II of the Constitution of the United States; and Subdivision 2 of Article VI of said Constitution declares that:

> This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and all Judges in every State shall be bound thereby anything in the Constitution or laws of any State to the contrary notwithstanding.

Articles 104 and 105 of the Charter of the United Nations provide:

ARTICLE 104

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

ARTICLE 105

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

The International Organizations Immunities Act (Public Law 291, 79th Congress, First Session, approved December 29, 1945, 59 U.S. Stat., Pt. 1, p. 669), the provisions of which were extended to the United Nations by Executive Order No. 9698, February 19, 1946, provides in Section 2 thereof, paragraphs (b) and (c) as follows:

> (b) International organizations, their property and their assets, wherever located, and by whomsoever held, shall enjoy the same immunity

from suit and every form of judicial process as is enjoyed by foreign governments, except to the extent that such organizations may expressly waive their immunity for the purpose of any proceedings or by the terms of any contract.

(c) Property and assets of international organizations, wherever located and by whomsoever held, shall be immune from search, unless such immunity be expressly waived, and from confiscation. The archives of international organizations shll be inviolable.

In pursuance of the authority granted to it by the United Nations Charter, Article 105, paragraph 3, the General Assembly on February 13, 1946, adopted a Convention on the Privileges and Immunities of the United Nations (United Nations Treaty Series, 1946-47, Vol. 1, p. 16) which was acceded to by the United States and which contains, among others, provisions reading as follows:

Section 2. The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process, except in so far as it has expressly waived its immunity.

Section 3. The premises of the United Nations shall be inviolable. The property and assets of the United Nations, 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 7. The United Nations, its assets, income and other property shall be:

(a) Exempt from all direct taxes.

Following the adoption by the General Assembly of the United Nations, on December 14, 1946, of the resolution to establish the seat of the Organization in the City of New York, an agreement for the purpose of carrying out such resolution and for the regulation of questions arising as a result thereof was concluded at Lake Success June 26, 1947, between the United Nations and the United States (61 U.S. Stat., Pt. 1, p. 756) which the President was authorized to bring into effect on the part of the United States by Joint Resolution of

Congress approved August 4, 1947 (Pub. Law 357, 80th Congress, First Session, 61 U.S. Stat., Pt. 1, p. 756).

By this agreement it is provided as follows in respect of the following mentioned subjects:

APPLICABILITY OF FEDERAL, STATE AND LOCAL LAW

(a) The headquarters district shall be under the control and authority of the United Nations as provided in this agreement.

(b) Except as provided in this agreement or in the General Convention, the federal, state and local law of the United States shall apply within the headquarters district.

(c) Except as provided in this agreement or in the General Convention, the federal, state and local courts of the United States shall have jurisdiction over acts done and transactions taking place in the headquarters district as provided in applicable federal, state and local laws.

(d) The federal, state and local courts of the United States, when dealing with cases arising out of or relating to acts done or transactions taking place in the headquarters district, shall take into account the regulations enacted by the United Nations under Section 8 (§ 7).

REGULATIONS

The United Nations shall have power to make regulations, operative within the headquarters district, for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions. No federal, state or local law or regulation of the United States which is inconsistent with a regulation of the United Nations authorized by this section shall, to the extent of such inconsistency, be applicable within the headquarters district (§ 8).

INVIOLABILITY OF HEADQUARTERS DISTRICT

(a) The headquarters district shall be inviolable. Federal, state or local officers or officials of the United States, whether administrative, judicial, military or police, shall not enter the

headquarters district to perform any official duties therein except with the consent of and under conditions agreed to by the Secretary-General. The service of legal process, including the seizure of private property, may take place within the headquarters district only with the consent of and under conditions approved by the Secretary-General.

(b) Without prejudice to the provisions of the General Convention * * * *, the United Nations shall prevent the headquarters district from becoming a refuge either for persons who are avoiding arrest under the federal, state or local law of the United States * * * *, or for persons who are endeavoring to avoid service of legal process (§ 9).

AGREEMENT COMPLEMENTARY TO GENERAL CONVENTION

The provisions of this agreement shall be complementary to the provisions of the General Convention. In so far as any provision of this agreement and any provisions on the General Convention relate to the same subject matter, the two provisions shall, wherever possible, be treated as complementary, so that both provisions shall be applicable and neither shall narrow the effect of the other; but in case of absolute conflict, the provisions of this agreement shall prevail (§ 26).

In the light of the foregoing statement of facts, I think the conviction is inescapable that while the headquarters district of the United Nations in the Borough of Manhattan continues to be under the general political jurisdiction of the State of New York, there has come into existence a concurrent jurisdiction of the United Nations to make regulations, operative within the district, for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions, and that in any case of conflict between a regulation so made and any law of this State, the regulation of the United Nations must prevail; and that the jurisdiction of the State may not be so exercised or its laws so enforced as to deny or interfere with the enjoyment by the United Nations within the headquarters district of any privilege or immunity necessary for the unhampered exercise of its functions or fulfillment of its purposes. This limitation upon the State in the exercise of its right of sovereignty is by the consent of the State,

/given by

given by its ratification on July 26, 1788, of the Constitution of the United States for the privileges and immunities and the powers of the United Nations in the premises flow from and have their fountainhead in the multilateral treaty known as the United Nations Charter which, by express provision of the Federal Constitution, is declared to be the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding.

I think it is self-evident that any attempt to assert the applicability of the State Alcoholic Beverage Control Law as against the United Nations within its headquarters district would tend to embarrass it in the exercise of its functions and would interfere with the enjoyment by it of privileges and immunities necessary for the fulfillment of its purposes; would be contrary to its Charter and to measures taken by the United States and the United Nations to give practical effect to the provisions thereof; and that, therefore, such State Law is not applicable as against the United Nations within its headquarters district in the Borough of Manhattan.

Very truly yours,

NATHANIEL L. GOLDSTEIN
Attorney General

3. Ruling of New York State Department of Taxation and Finance

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
Albany 1, N.Y.

March 10, 1948

Thomas F. Power, Jr., Esq.,
Deputy Secretary-General,
United States Mission to the
United Nations,
2 Park Avenue,
New York 16, N.Y.

In re: Exemption of members of delegations to the United Nations from taxation under Articles 12(A) and 18 of the Tax Law

Dear Mr. Power:

Your letter of January 15, 1948, directed to Mr. LaMotte, and your letters dated February 12, 1948 directed to Mr. Goodier, requested an opinion concerning the applicability of the motor fuel and alcoholic beverage taxes to members of delegations to the United Nations.

Under the provisions of Article VI of the United States Constitution " * * * the laws of the United States which shall be made in pursuance thereof; and all treaties made * * * shall be the supreme law of the land." Therefore, the Headquarters Agreement between the United States and the United Nations (Public Law 357, 80th Congress) granting such members the same immunities accorded diplomatic envoys is binding upon the state. Section 15 of the law provides, in part:

"(1) every person designated by a Member as the principal resident representative to the United Nations of such Member or has the rank of ambassador or minister plenipotentiary,

"(2) such resident members of their staffs as may be agreed upon between the Secretary-General, the Government of the United States, and the Government of the Member concerned .... shall, ... be entitled in the territory of the United States to the same privileges and immunities,

/subject to

subject to corresponding conditions and obligations, as it accords to diplomatic envoys accredited to it."

The term "diplomatic envoys" is applied to diplomatic representatives such as ambassadors, envoys extraordinary and ministers plenipotentiary as distinguished from "consuls" who generally are commercial representatives of a nation. (See In re Baiz, 135, U.S. 403, 419, 424). Pursuant to international law, arising out of usage and tradition, foreign ambassadors have been regularly held by the Tax Commission to be exempt from the tax imposed by Article 18 of the Tax Law. It would, therefore, appear that such exemption should be extended to similar diplomatic representatives to the United Nations, who under the provisions of the Headquarters Agreement, are granted the same immunities as diplomatic envoys. (See opinion of Attorney-General in connection with imports by United Nations dated November 11, 1946).

Accordingly, it is my opinion that the principal representatives to the United Nations and other members of their staffs agreed upon between the Secretary-General, the Government of the United States and the government of the member concerned are, pursuant to the Headquarters Agreement, accorded exemption from taxation under Article 12-A of the Tax Law, providing the motor fuel is not used in the conduct of any profession or business; and under Article 18 in so far as the importation of liquor for personal use is concerned.

Very truly yours,

(Signed) MORTIMER M. KASSELL
Deputy Commissioner
and Counsel

C. NEW YORK CITY LAWS, ETC.

1. Law

Local Law No. 90 of 1948 amending subdivision (b) of section N 41-2-0 of the Administrative Code of the City of New York concerning exemption of excise or sales tax.

"(b) Receipts from sales or services by or to the state or city for governmental or public purposes, receipts from sales or services by or to semi-public institutions and receipts from sales or services by or to the United Nations or other world-wide international organizations of which the United States of America is a member shall not be subject to tax hereunder."

2. Ruling of City Comptroller and Corporation Counsel

Letter from the Deputy Mayor concerning the exemption from the New York City hotel, compensating use and sales taxes of Delegation members entitled to diplomatic privileges and immunities.

CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK 7, N.Y.

March 22, 1948

Hon. Warren R. Austin
The United Nations
Lake Success, N.Y.

Dear Senator:

This is in further reference to your letter of February 19, 1948, addressed to Mayor O'Dwyer, concerning the exemption of representatives and employees of the United Nations from the hotel, compensating use and sales taxes.

This matter was referred to the Corporation Counsel and the Comptroller. Please be advised that at a conference held March 3, 1948, by the Special Deputy Comptroller with representatives of the United Nations, the Special Deputy Comptroller advised that he will issue letters of exemption to individuals whose names appear on the officially promulgated list of the principal resident representatives to the United Nations and properly designated members of their staffs.

I trust this will clear up the problems raised by your letter.

Very truly yours,

(Signed) JOHN J. BENNETT
Deputy Mayor

ANNEX I

PREPARATORY WORK

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ANNEX I

PREPARATORY WORK

A. THE PREPARATORY COMMISSION OF THE UNITED NATIONS

Report by the Executive Committee to the Preparatory Commission of the United Nations (PC/EX/113/Rev.1, 12 Nov. 1945)

Chapter V The International Court of Justice: the Registration and Publication of Treaties: Privileges and Immunities

Section 5: Recommendation Concerning Privileges and Immunities

The Executive Committee,
Recommends:
1. that the attached study on privileges and immunities, drawn up by a committee of the Executive Committee, if approved by the Preparatory Commission, be referred to the General Assembly for its consideration;

2. that the Preparatory Commission instruct the Executive Secretary to remind the Members of the United Nations that, under Article 105 of the Charter, the obligation to accord to the United Nations, its officials and the representatives of its Members all privileges and immunities necessary for the accomplishment of its purposes, operates from the coming into force of the Charter and is therefore applicable even before the General Assembly has made the recommendations referred to in paragraph (3) of the Article, or the conventions there mentioned have been concluded.

APPENDIX

Study on Privileges and Immunities

Privileges and Immunities at the seat of the Organization and elsewhere

.....

2. The question of privileges and immunities for the United Nations is of the greatest importance in connexion with the country in which the United Nations has its seat. In the case of the League of Nations, including the International Labour Organisation, the Covenant of the League contains only the following short provision in Article 7:

"Representatives of the members of the League and officials of the League when engaged on the business of the League shall enjoy diplomatic privileges and immunities."

/As a result,

As a result, all the detailed arrangements for the privileges and immunities of the League of Nations and the ILO were worked out in agreements concluded between the Secretary-General of the League and the Swiss Government. It would seem desirable that the working out of the detailed privileges and immunities of the United Nations should be deferred until the question of its seat has been decided.

3. However, although the question of privileges and immunities arises in the greatest degree as between the United Nations and the country in which it has its seat, the same question arises as between the Organization and all its Members. The difference is one of degree rather than one of kind. The United Nations may have offices elsewhere than at its seat. The officials of the Organization may be travelling on its business in any part of the world. The United Nations may wish to conclude contracts and hold funds or property elsewhere than at its seat. For these and similar reasons, therefore, the Organization will require, in the territories of all Members, the same kind of privileges and immunities as it has in the country of its seat.

Precedents afforded by the Constitutions of Specialized Agencies

4. A number of specialized agencies is already in existence. Their constitutions, or the agreements under which they are set up, have for the most part detailed provisions with regard to privileges and immunities based to a large extent on the arrangements made between the League of Nations and the Swiss Government. These specialized agencies include the following: The International Monetary Fund (see Article IX), the International Bank for Reconstruction and Development (see Article VII), United Nations Relief and Rehabilitation Administration (see Resolutions Nos. 32, 34 and 36 of the first session of the Council), Food and Agriculture Organization (see Articles VIII and XV), European Central Inland Transport Organization (see Article VIII, paragraphs 13, 14, 15, 16, 17). These provisions are on the same lines in each case, though in some instances they have been worked out in more detail than in others.

Co-ordination of the Privileges and Immunities of the United Nations with those of Specialized Agencies

5. There are many advantages in the unification, as far as possible, of the privileges and immunities enjoyed by the United Nations and the various specialized agencies. On the other hand, it must be recognized that not all specialized agencies require all the privileges and immunities which may be needed by others. No specialized agency would, however, require greater privileges than the United Nations itself. The privileges and immunities, therefore, of the United Nations might be regarded as a maximum within which the various specialized agencies should enjoy just such privileges and immunities as the proper fulfilment of their respective functions may require. It should be a principle that no immunities and privileges, which are not really necessary, should be asked for. An example of a case where a differentiation has been made between immunities, for practical reasons, may be seen by comparing Section 3 of Article IX of

the Articles of Agreement of the International Monetary Fund, and Section 3 of Article VII of the Articles of Agreement of the International Bank for Reconstruction and Development. There are certain privileges and immunities which probably every specialized agency would require as well as the United Nations itself, such as recognition that it possesses legal capacity to contract and to hold property, and to be a party to legal proceedings, the immunity of its premises and papers, and the granting of travelling facilities to its officials. When the privileges and immunities of the United Nations have been determined in detail, and the specialized agencies are being brought into relationship with the United Nations, reconsideration of the Privileges and immunities accorded to such specialized agencies may be desirable if it is found that they enjoy privileges and immunities in excess of those to be given to the United Nations or of what is really required.

Creation of an International Passport

6. In order to facilitate the travelling of officials it may be found desirable to institute an international passport issued by the Organization, describing the holder as its official. The United Nations might issue such passports also to the senior officials of specialized agencies. The creation of this passport would not, of course, impair the sovereign rights of Members of the United Nations in respect of the granting of visas. It might, however, be hoped that any necessary visas would be granted speedily. Member governments are already required to grant visas speedily under the constitutions of some specialized agencies. It may be desirable to confine the holding of these special passports to superior officials.

Privileges and Immunities

7. In this report the expression "diplomatic privileges and immunities" is used for convenience to describe the whole complex of privileges and immunities which are in fact accorded to diplomatic envoys. While it will clearly be necessary that all officials, whatever their rank, should be granted immunity from legal process in respect of acts done in the course of their official duties, whether in the country of which they are nationals or elsewhere, it is by no means necessary that all officials should have diplomatic immunity. On the contrary, there is every reason for confining full diplomatic immunity to the cases where it is really justified. Any excess or abuse of immunity and privilege is as detrimental to the interests of the international organization itself as it is to the countries who are asked to grant such immunities. In the case of existing specialized agencies, the practice has up to now been to confine diplomatic immunity to the senior official of the agency concerned and those of his assistants, whose rank is equivalent to that of Deputy Secretary-General. (In the case of the ILO the range of officials to whom diplomatic immunity has been accorded is somewhat wider). It is also a principle that no official can have, in the country of which he is a national, immunity from being sued in respect of his non-official acts and from criminal prosecution. It is further most desirable that both the United Nations and all specialized agencies should adopt the principle that privileges and immunities are only given to their

officials in the interests of the Organization in whose service they are, and in no way for the benefit of the individual concerned, and that, in consequence, the Secretary-General both can waive immunity and will in fact do so in every case where such a course is consistent with the interests of the United Nations. This rule has long been in force in the International Labour Organisation. It has been accepted by most of the new specialized agencies which have come into being. Similarly, it is desirable that where the United Nations or a specialized agency concludes contracts with private individuals or corporations, it should include in the contract an undertaking to submit to arbitration disputes arising out of the contract, if it is not prepared to go before the Courts. Most of the existing specialized agencies have already agreed to do this.

Taxation of Officials in the State of which they are nationals

8. The provisions in the agreements or constitutions of the new specialized agencies, while providing in general that no taxation should be levied on the salaries of officials, leave complete latitude to governments to tax the salaries of officials who are their own nationals or persons resident in their territory. As a result, the Act of Parliament of the United Kingdom which was passed to enable the United Kingdom to give effect to its obligations as regards privileges and immunities for international organizations (the Diplomatic Privileges Extension Act, 1944) excepts from the immunity from income tax the salaries of those international officials who are both British subjects and whose usual place of abode is in the United Kingdom. A similar practice has been followed in certain other countries. It is, however, a matter for consideration whether this latitude or this exception are really sound. One of its effects is that some of the members of the staff have salaries which are tax free, because being resident outside their own states they do not fall under the income tax provisions of their own state, while other officials doing the same work for the same nominal salary are subject to income tax. This has led to certain administrative difficulties and has indeed raised the question whether the United Nations should not pay some special allowance to those of its employees who are paying income tax, in order to produce equality.

The International Court of Justice

9. The above paragraphs do not apply to the International Court of Justice. The Statute of the Court provides:

Article 19

"The members of the Court, when engaged upon the business of the Court, shall enjoy diplomatic privileges and immunities".

Article 32 - Paragraph 8

"The above salaries, allowances and compensation shall be free of all taxation".

Article 42 - Paragraph 3

/"The agents,

"The agents, counsel, and advocates of parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties".

When the first and second of these paragraphs (which correspond to the provisions of the Statute of the Permanent Court, whereas the third is new) are compared with paragraph 2 of the above quoted Article 105 of the Charter of the United Nations, it seems clear that the members of the Court, when engaged in the business of the Court, are to enjoy diplomatic privileges and immunities in the fullest sense. This has been the case with the members of the Permanent Court. For that institution the details of the privileges and immunities to be accorded at the seat of the Court were settled by negotiations between the Court itself and the Netherlands Government. It would seem desirable to postpone consideration of the subject until the Court can be consulted. It is therefore suggested that, for the first session of the Court, the rules applicable to the members of the Permanent Court should be observed, and that the new Court should then be invited to state whether changes are in their opinion required and, if this be the case, whether they wish the General Assembly to act on their behalf.

It would also appear expedient to consult the Court upon the privileges and immunities necessary for its members when engaged on the Court's business outside the country of its seat.

Finally, the question of the privileges and immunities of agents, counsel and advocates of parties before the Court would seem to be a matter which should only be taken up after it has been possible to consult the Court. It is not likely to arise at the first session.

CHAPTER X: THE PERMANENT HEADQUARTERS OF THE UNITED NATIONS

Section 1: Recommendation Concerning the Location of the Headquarters, of the United Nations

The Executive Committee,

Having approved the recommendations and considered the studies as to the requirements concerning the location of the permanent headquarters of the United Nations set forth in the report of the Committee concerned (Part III, Chapter X, Section 2);

Having further considered the views set forth in the Appendix to Part III, Chapter X, concerning the location of the permanent headquarters of the United Nations; and

Having decided to recommend to the Preparatory Commission as a first step towards the preparation of the final recommendation on the subject that the permanent headquarters of the United Nations be located in the United States of America. 1/

Recommends

1. that the permanent headquarters of the United Nations be located in the United States of America, 1/

2. that the Preparatory Commission examine the foregoing recommendation and the report in Part III, Chapter X, Section 2 at an early date, and agree upon a recommendation to the first part of the First Session of the General Assembly as to the precise location of the permanent headquarters of the United Nations and the exact requirements to be embodied in an agreement to be concluded between the competent authorities of the host country and the United Nations in accordance with an eventual decision of the General Assembly;

3. that the Preparatory Commission, immediately upon adopting the recommendations 1 and 2 above, authorize a committee to make such studies and undertake such consultations with the aforesaid authorities of the host country as may be necessary for the purpose of ascertaining their readiness to meet such requirements. This Committee should present its report to the Preparatory Commission in time for its consideration.

1/ Vote taken at the Meeting of the Executive Committee on 3 October 1945:
In favour: Australia, Brazil, Chile, China, Czechoslovakia, Iran, Mexico, Union of Soviet Socialist Republics, Yugoslavia.
Against: France, Netherlands, United Kingdom
Abstained: Canada, United States of America.

Section 2: Report on the Considerations affecting the Selection of the Permanent Headquarters of the United Nations

Under its terms of reference, the Committee undertook to make studies and prepare recommendations concerning the location of the permanent headquarters of the United Nations, and now submits its findings to the Executive Committee.

Agreement with host State

1. Any agreement entered into by the United Nations with the host state should provide that the United Nations, its principal and subsidiary organs and the specialized agencies should enjoy all necessary guarantees and facilities provided by Articles 104 and 105 of the Charter for the free exercise, in all circumstances, of their functions, diplomatic immunities and privileges; including inviolability of buildings and property owned or occupied by the United Nations or its organs; satisfactory visa facilities; exemption from immigration regulations for the members of the staff, experts and permanent and temporary foreign Delegations connected with the United Nations. (Agreements made with states on whose territory the headquarters of any of the principal and subsidiary organs of the United Nations or of specialized agencies are located should include similar provisions).

2. In view of the great importance that timely and accurate news of the work of the United Nations has for the peoples of the world, proper facilities, in all circumstances, should be secured from the host State, in the matter of visas and exemption from immigration regulations, for press, broadcasting stations and newsreels representatives duly accredited to the United Nations. Privileges should also be secured for the establishment of couriers and the use of diplomatic pouches and codes by the United Nations and the foreign Delegations to it. Furthermore, the site should possess ample facilities for speedy, unrestricted and uncensored telegraph, telephone, radio and postal communications with the world at large, for use by the United Nations and the press.

Internationalization of the Seat

3. The seat of the United Nations could be internationalized in several ways which may perhaps be reduced basically to two systems; an autonomous international zone, or an international zone situated on national territory (e.g. Tangiers). Between these two extremes there are many possible variants. On the one hand the zone contemplated in the first system might not be internationalized in every respect; on the other hand, under the second system, certain services might not be sought from the state on whose territory the seat is situated.

4. Whichever variant is considered, the underlying characteristics of each of the two systems are as follows:

(a) In the first, the international zone would in principle possess means of self-government. It follows that, along with the political and juridical arrangements of the Organization, it would need to have some administrative arrangement, that is to say, it would require its own public services.

(b) In the second system, the international zone would in principle rely for its administrative machinery on the state in whose territory it functions. It follows that it would not necessarily require an administrative machine parallel to the political organization.

5. These different characteristics lead to differences in the problems to be solved. In the first system, the problem is to determine how the international public services are to be organized, and to plan a complete administrative regime accordingly. In the second system, the problem is to ensure that the United Nations would be independent, in view of the fact that its public services would not be autonomous.

6. The solution of these problems likewise calls for different methods:

(a) In the first system, what is required is to operate public services, however restricted, for a given population, in a given territory. This means that a general statute would have to be drawn up governing the administration of the international zone. Previous technical agreements with states would not, however, be necessary. Once the United Nations begins to function it can obviously conclude any agreements it thinks fit with neighbouring states.

(b) In the second system, the technical procedure would fall into two categories:

(i) The drafting of a Statute determining the conditions under which state services to be used by the Organization would operate.

(ii) The concluding of technical agreements (if possible preliminary agreements) between the United Nations and the State concerned, applying the provisions of the Statute and defining the juridical and financial conditions under which the national services are to be internationally used while at the same time determining how the free working of the Organization is to be safeguarded.

7. An intermediary system could be envisaged consisting partly of international administration and partly of national services borrowed from the host country, the arrangements would include the drafting of a preliminary Statute and possibly the conclusion of preliminary agreements with further agreements to be contemplated thereafter.

Report of the Preparatory Commission of the United Nations (PC/20, 23 December 1945)

CHAPTER VII

PRIVILEGES, IMMUNITIES AND FACILITIES OF THE UNITED NATIONS

Section 1: Recommendations Concerning Privileges and Immunities

1. THE PREPARATORY COMMISSION REPORTS to the General Assembly that it has instructed the Executive Secretary to invite the attention of the Members of the United Nations to the fact that, under Article 105 of the Charter, the obligation of all members to accord to the United Nations, its officials and the representatives of its members all privileges and immunities necessary for the accomplishment of its purposes, operates from the coming into force of the Charter and is therefore applicable even before the conventions referred to in paragraph 3 of Article 105.

2. THE PREPARATORY COMMISSION RECOMMENDS that the General Assembly, at its First Session, should make recommendations with a view to determining the details of the applications of paragraphs 1 and 2 of Article 105 of the Charter, or propose conventions to the Members of the United Nations for this purpose.

3. THE PREPARATORY COMMISSION TRANSMITS for the consideration of the General Assembly the attached study on privileges and immunities and the attached draft convention on privileges and immunities.

4. THE PREPARATORY COMMISSION CONSIDERS that the details of diplomatic privileges and immunities to be accorded to members of the International Court of Justice when engaged upon the business of the Court, and the privileges and immunities of agents, counsel, and advocates of parties before the Court, necessary to the independent exercise of their duties, at the seat of the Court and elsewhere, should be determined after the Court has been consulted, and that until further action has been taken the rules applicable to the members of the Permanent Court of International Justice should be followed.

5. THE PREPARATORY COMMISSION RECOMMENDS to the General Assembly that the privileges and immunities of specialized agencies contained in their respective constitutions should be reconsidered. If necessary, negotiations should be opened for their co-ordination in the light of any convention ultimately adopted by the United Nations with regard to the considerations set forth in the following extract from the appendix to Section 5 of Chapter V of the Report by the Executive Committee, to which a few words in italics have been added:

> "5. There are many advantages in the unification, as far as possible of the privileges and immunities enjoyed by the United Nations and the various specialized agencies. On the other hand, it must be recognized that not all specialized agencies require

all the privileges and immunities which may be needed by others. No specialized agency would, however, require greater privileges than the United Nations itself. Certain of the specialized agencies may, by reason of their particular functions, require privileges of a special nature which are not required by the United Nations. The privileges and immunities, therefore, of the United Nations might be regarded as a maximum within which the various specialized agencies should enjoy just such privileges and immunities as the proper fulfilment of their respective functions may require. It should be a principle that no immunities and privileges, which are not really necessary, should be asked for".

Appendix A; Study on Privileges and Immunities
(See this Annex, pp. 341 - 345)

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Annex to Study on Privileges and Immunities

IMMUNITIES AND PRIVILEGES GRANTED TO THE ORGANIZATION, REPRESENTATIVES OF THE MEMBERS, AND OFFICIALS IN ACCORDANCE WITH THE CONSTITUTIONS OF THE INTERNATIONAL MONETARY FUND - THE INTERNATIONAL BANK OF RECONSTRUCTION AND DEVELOPMENT - UNITED NATIONS RELIEF AND REHABILITATION ADMINISTRATION - FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS - AND EUROPEAN CENTRAL INLAND TRANSPORT ORGANIZATION

Status of the Organization

Purposes of the Immunities and Privileges

1. International Monetary Fund (Article IX - Section 1) and International Bank for Reconstruction and Development (Article VII-Section 1):

"To enable the Fund/Bank to fulfil the functions with which it is entrusted the status, immunities and privileges set forth in this Article shall be accorded to the Fund in the territories of each member".

2. United Nations Relief and Rehabilitation Administration (Resolution 32):

"WHEREAS the Council is desirous of insuring to the Administration and its agents the independence necessary for the efficient performance of the duties entrusted to them, and of avoiding the imposition of financial burdens upon the funds contributed by member governments to the Administration";

Legal Status of the Organization

3. International Monetary Fund (Article IX - Section 2), International Bank for Reconstruction and Development (Article VII - Section 2):

"The Fund/Bank shall possess full juridical personality, and, in particular, the capacity: (i) to contract; (ii) to acquire and dispose of immovable and movable property; (iii) to institute legal proceedings".

4. Food and Agriculture Organization (Article XV):

"1. The Organization shall have the capacity of a legal person to perform any legal act appropriate to its purpose which is not beyond the powers granted to it by this Constitution".

5. European Central Inland Transport Organization (Article 8 - paragraphs 1 and 3):

"Every member Government shall recognize the international personality and legal capacity which the Organization possesses".

Immunities from Judicial Process

6. International Monetary Fund (Article IX - Section 3):

"The Fund, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any proceedings or by the terms of any contract".

7. International Bank for Reconstruction and Development (Article VIII - Section 3):

"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".

8. United Nations Relief and Rehabilitation Administration (Resolution 32 - paragraph 1 - point 1(a)):

"That the Council recommends:

/1. That the

1. That the member governments accord to the Administration the facilities, privileges, immunities and exemptions which they accord to each other, including: (a) Immunity from suit and legal process except with the consent of, or so far as is provided for in any contract entered into by or on behalf of, the Administration".

9. Food and Agriculture Organization (Article XV - paragraph 2):

"Each member nation undertakes, in so far as it may be possible under its constitutional procedure, to accord to the Organization all the immunities and facilities which it accords to diplomatic missions, including inviolability of premises and archives, immunity from suit, and exemptions from taxation".

10. European Central Inland Transport Organization (Article 8 - paragraph 3(a)):

"Every member Government shall accord to the Organization the privileges, immunities, and facilities which they grant to each other, including in particular: (a) immunity from every form of legal process".

Immunities from Search, Requisition, Confiscation, Expropriation, or any other Form of Seizure

11. International Monetary Fund (Article IX - Section 4) and International Bank for Reconstruction and Development (Article VII - Section 4):

"Property and assets of the Fund/Bank, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation, or any other form of seizure by executive or legislative action".

12. United Nations Relief and Rehabilitation Administration (Resolution 32):

"I. That the Council recommends:

1. That the member governments accord to the Administration the facilities, privileges, immunities and exemptions which they accord to each other including: (b) inviolability of premises occupied by and of the archives of the Administration.

13. Food and Agriculture Organization (Article XV - Section 2):

"Each Member nation undertakes, in so far as it may be possible under its constitutional procedure, to accord to the Organization all the immunities and facilities which it accords to diplomatic missions, including inviolability of premises and archives, immunity from suit and exemptions from taxation".

/14. European

14. European Central Inland Transport Organization (Article 8 - paragraph 3(c)):

"Every member Government shall accord to the Organization the privileges, immunities and facilities which they grant to each other, including in particular: (c) inviolability of premises occupied by, and of the archives and communications of the Organization".

Inviolability of Archives

15. International Monetary Fund (Article IX - Section 5) and International Bank for Reconstruction and Development (Article VII - Section 5):

"The archives of the Fund/Bank shall be inviolable".

16. United Nations Relief and Rehabilitation Administration (Resolution 32):

"I. That the Council recommends:

1. That the member governments accord to the Administration the facilities, privileges, immunities and exemptions which they accord to each other including: (b) Inviolability of premises occupied by and of the archives of the Administration".

17. Food and Agriculture Organization (Article XV - Section 2):

"Each member nation undertakes, in so far as it may be possible under its constitutional procedure, to accord to the Organization all the immunities and facilities which it accords to diplomatic missions, including inviolability of premises and archives, immunity from suit, and exemptions from taxation".

18. European Central Inland Transport Organization (Article 8 - paragraph 4(c)):

"Every member Government shall accord to the Organization the privileges, immunities and facilities which they grant to each other, including in particular: (c) inviolability of premises occupied by, and of the archives and communications of the Organization".

Immunity of Assets from Restrictions

19. International Monetary Fund (Article IX - Section 6):

"To the extent necessary to carry out the operations provided for in this Agreement, all property and assets of the Fund shall be free from restrictions, regulations, controls and moratoria of any nature".

/20. International

20. International Bank for Reconstruction and Development (Article VII - Section 6):

"To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature".

Immunity from taxation

21. International Monetary Fund (Article IX - Section 9a and c):

"(a) The Fund, its assets, property, income and its operations and transactions authorized by this agreement, shall be immune from all taxation and from all customs duties. The Fund shall also be immune from liability for the collection or payment of any tax or duty.

"(c) 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 obligations or security solely because of its origin; or (ii) if the sole jurisdictional basis for such taxation is the place of currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Fund".

22. International Bank for Reconstruction and Development (Article VII - Section 9a, c, d):

"(a) The Bank, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from liability for the collection or payment of any tax or duty".

"(c) 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".

"(d) 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".

23. United Nations Relief and Rehabilitation Administration (Resolution 32):

"I. That the Council recommends:

1. That the member governments accord to the Administration the facilities, privileges, immunities, and exemptions which they accord each other, including:

(c) Exemptions from taxation, including customs duties".

24. Food and Agriculture Organization (Article XV - paragraph 2):

"Each member nation undertakes, insofar as it may be possible under its constitutional procedure, to accord to the Organization all the immunities and facilities which it accords to diplomatic missions, including inviolability of premises and archives, immunity from suit, and exemptions from taxation".

25. European Central Inland Transport Organization (Article 8 - paragraph 3b):

"Every member government shall accord to the Organization the privileges, immunities and facilities which they grant to each other, including in particular: (b) exemption from taxation and customs duties".

Immunity from Foreign Exchange Controls

26. International Monetary Fund (Article VII - Section 6) and International Bank for Reconstruction and Development (Article VII - Section 6):

"To the extent necessary to carry out the operations provided for in this Agreement all property and assets of the Fund/Bank shall be free from restrictions, regulations, controls and moratoria of any nature".

27. United Nations Relief and Rehabilitation Administration (Resolution 32):

"I. That the Council recommends:

1. That the member governments accord to the Administration the facilities, privileges, immunities, and exemptions which they accord to each other, including:

(d) exemptions from or facilities in respect of foreign exchange controls.

Privileges of the Organization

28. International Monetary Fund (Article IX - Section 7) and International Bank for Reconstruction and Development (Article VII - Section 7):

"The official communications of the Fund/Bank shall be accorded by members the same treatment as the official communications of other members".

29. United Nations Relief and Rehabilitation Administration (Resolution 34):

Whereas:

The Council recognizes the need for expenditure, economy and secrecy in the transmission of the official correspondence of the Administration; it is therefore

Resolved:

That the Council recommends:

1. That the member governments accord to the official correspondence of the Administration:

(a) the same treatment as is accorded by them to the official correspondence of other member governments, including:

(i) priorities for telephone and telegram communications, whether cable or radio, and for mail transmitted by pouch or by courier;

(ii) government rebates for official telegrams;

(iii) diplomatic status for couriers and pouches of the Administration;

(iv) under appropriate safeguards, exemption from censorship of the official correspondence of the Administration; and

(v) appropriate arrangements for the use of codes and of cable addresses for the telegraphic correspondence of the Administration.

(b) appropriate postal facilitiés, including such franking privileges or arrangements for the use of specially printed or overprinted stamps as may be possible.

30. Food and Agriculture Organization (Article XV - Section 2):

"Each member nation undertakes, in so far as it may be possible under its constitutional procedure, to accord to the Organization all the immunities and facilities which it accords to diplomatic missions, including inviolability of premises and archives, immunity from suit, and exemption from taxation".

31. European Central Inland Transport Organization (Article 8, paragraph 3):

"Every member government shall accord to the Organization the privileges, immunities and facilities which they grant to each other".

Status of Representatives of the Members

32. United Nations Relief and Rehabilitation Administration (Resolution 32):

"I. (3). That member governments accord to representatives of member governments on the Council and its committees and to the officials and employees of the Administration when engaged on the business of the Administration, the following privileges and immunities in their respective territories:

(a) immunity from legal process of any kind in respect of acts performed by them in their official capacity and falling within their functions as such;

(b) immunity from taxation on official salaries, allowances or other emoluments as representatives, officials, or employees of the Administration;

(c) the same immunities from immigration restrictions, alien registration and military service obligations and the same facilities as regards exchange restrictions as are accorded to representatives, officials and employees of similar rank of other member governments; and

(d) any further privileges and immunities that the Director-General may request as necessary to safeguard representatives, officials or employees in the territories of any member government where they are engaged and particularly those engaged in field operations in the areas in which the Administration may be undertaking relief and rehabilitation".

Provided that each member government shall determine to what extent the above recommendations shall apply to its own nationals, and to non-nationals in permanent residence in its territories".

33. European Central Inland Transport Organization (Article 8, paragraph 4):

"Every member government shall accord diplomatic privileges and immunities to persons appointed by other members as their

representatives in or to the Organization, to the members of the Executive Board, and to the higher officials of the Organization not being their own nationals."

Status of Officers and Employees

Immunity from legal process

34. International Monetary Fund (Article IX - Section 8(i)) and International Bank for Reconstruction and Development (Article VII - Section 8):

"All governors, executive directors, alternate officers and employees of the Fund/Bank (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Fund/Bank waives this immunity."

35. United Nations Relief and Rehabilitation Administration (Resolution 32):

"I. (3). That member governments accord to representatives of member governments on the Council and its committees and to the officials and employees of the Administration the following privileges and immunities in their respective territories:

(a) immunity from legal process of any kind in respect of acts performed by them in their official capacity and falling within their functions as such; . . Provided that each member government shall determine to what extent the above recommendations shall apply to its own nationals, and to non-nationals in permanent residence in its territories.'

36. Food and Agriculture Organization (Article VIII - paragraph 4):

"Each member nation undertakes in so far as it may be possible under its constitutional procedure, to accord to the Director-General and senior staff diplomatic privileges and immunities and to accord to other members of the staff all facilities and immunities accorded to non-diplomatic personnel attached to diplomatic missions, or alternatively to accord to such other members of the staff the immunities and facilities which may hereafter be accorded to equivalent members of the staffs of other public international organizations."

37. European Central Inland Transport Organization (Article 8):

"Every member government shall accord diplomatic privileges and immunities to persons appointed by other members as their representatives in or to the Organization, to the members of the Executive Board, and to the higher officials of the Organization not being their own nationals.

/"Every member

"Every member government shall accord to all officials and employees of the Organization: (a) immunity from suit and legal process relating to acts performed by them in their official capacity...."

Immunity from immigration restrictions, alien registration, national service obligations, and exchange restrictions

38. International Monetary Fund (Article IX - Section 8) and International Bank for Reconstruction and Development (Article VII - Section 8):

"All governors, executive directors, alternate officers and employees of the Fund/Bank . . . (ii) not being local nationals, shall be granted the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials and employees of comparable rank of other members."

39. United Nations Relief and Rehabilitation Administration (Resolution 32):

"1. (3). That member governments accord to representatives of member governments on the Council and its committees and to the officials and employees of the Administration when engaged on the business of the Administration, the following privileges and immunities in their respective territories . . . (c) the same immunities from immigration restrictions, alien registration and military service obligations and the same facilities as regards exchange restrictions as are accorded to representatives, officials and employees of similar rank of other member governments . . . .

"Provided that each member government shall determine to what extent the above recommendations shall apply to its own nationals, and to non-nationals in permanent residence in its territories."

40. Food and Agriculture Organization (Article VIII):

"4. Each Member nation undertakes, in so far as it may be possible under its constitutional procedure, to accord to the Director-General and senior staff diplomatic privileges and immunities and to accord to other members of the staff all facilities and immunities accorded to non-diplomatic personnel attached to diplomatic missions, or alternatively, to accord to such other members of the staff the immunities and facilities which may hereafter be accorded to equivalent members of the staffs of other public international organizations."

41. European Central Inland Transport Organization (Article 8):

"Every member government shall accord diplomatic privileges and immunities to persons appointed by other members as their representatives in or to the Organization, to the members of the Executive Board and to the higher officials of the Organization not being their own nationals."

Travel Facilities

42. International Monetary Fund (Article IX - Section 8):

"All governors, executive directors, alternate officers and employees of the Fund . . . (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank or other members."

43. International Bank for Reconstruction and Development (Article VII - Section 8):

"All Governors, executive directors, alternates, officers and employees of the Bank . . . (iii) shall be granted the same treatment in respect of travelling facilities, as is accorded by members to representatives, officials and employees of comparable rank or other members."

44. United Nations Relief and Rehabilitation Administration (Resolution 36):

Whereas:

the Council has in mind the importance of securing the expeditious and unhindered travel of officials and employees of the Administration necessary to permit the prompt fulfilment by the Administration of the urgent tasks entrusted to it; it is therefore

Resolved:

That the Council recommends:

1. That the Director-General issue to officials and employees of the Administration for use when travelling on official business a document identifying the official or employee and requesting in the name of the Administration that all appropriate facilities be granted to the bearer.

2. That all member governments give full recognition to such documents and instruct their diplomatic, consular, customs and immigration services, and any other services which may be concerned, to recognise such documents as entitling the bearer to all appropriate facilities.

/3. That in respect

3. That in respect to passports and visas, the member governments accord to the officials and employees of the Administration the same treatment as is accorded to the officials and employees of comparable rank of their own or other governments.

4. That all member governments take the necessary steps to grant all appropriate and possible priorities for the travel of the officials of the Administration on official business and government rebates for such travel.

45. Food and Agriculture Organization (Article VIII - paragraph 4):

"Each member nation undertakes, in so far as it may be possible under its constitutional procedure, to accord to the Director-General and senior staff diplomatic privileges and immunities and to accord to other members of the staff all facilities and immunities accorded to non-diplomatic personnel attached to diplomatic missions, or alternatively to accord to such other members of the staff the immunities and facilities which may hereafter be accorded to equivalent members of the staff of other public international organizations."

46. European Central Inland Transport Organization (Article 8):

"Every member government shall accord to all officials and employees of the Organization: . . . (b) all such facilities for their movements and for the execution of their functions, as are deemed necessary by the Organization for the speedy and effective fulfilment of their official duties. . . ."

Immunity from Taxation

47. International Monetary Fund (Article IX - Section 9):

"No tax shall be levied on or in respect of salaries and emoluments paid by the Fund to executive directors, alternates, officers or employees of the Fund who are not local citizens, local subjects, or other local nationals."

48. International Bank for Reconstruction and Development (Article VII - Section 9):

"(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to executive directors, alternates, officials or employees of the Bank who are not local citizens, local subjects, or other local nationals."

49. United Nations Relief and Rehabilitation Administration (Resolution 32):

"3. That member governments accord to representatives of member governments on the Council and its committees and to the officials and employees of the Administration when engaged on the business of the Administration, the following privileges and immunities in their respective territories . . . . (b) immunity from taxation on official salaries, allowances or other emoluments as representatives, officials, or employees of the Administration. . . . Provided that each member government shall determine to what extent the above recommendations shall apply to its own nationals, and to non-nationals in permanent residence in its territories."

50. Food and Agriculture Organization (Article VIII - Section 4):

"Each member nation undertakes, in so far as it may be possible under its constitutional procedure, to accord to the Director-General and senior staff diplomatic privileges and immunities accorded to non-diplomatic personnel attached to diplomatic missions, or alternatively to accord to such members of the staff the immunities and facilities which may hereafter be accorded to equivalent members of the staffs of other public international organizations."

51. European Central Inland Transport Organization (Article 8):

"Every member government shall accord diplomatic privileges and immunities to persons appointed by other members as their representatives in or to the Organization, to the members of the Executive Board, and to the higher officials of the Organization not being their own nationals.

"Every member government shall accord to all officials and employees of the Organization . . . (c) except in the case of their own nationals, exemption from taxation of their official salaries and emoluments."

Additional Privileges

52. United Nations Relief and Rehabilitation Administration (Resolution 32):

"I. (3). That member governments accord to representatives of member governments on the Council and its committees and to the officials and employees of the Administration when engaged on the business of the Administration, the following privileges and immunities in their respective territories: . . . .

/(d) any further

(d) any further privileges and immunities that the Director-General may request as necessary to safeguard representatives, officials, or employees in the territories of any member government where they are engaged and particularly those engaged in field operations in the areas in which the Administration may be undertaking relief and rehabilitation.

"Provided that each member government shall determine to what extent the above recommendations shall apply to its own nationals, and to non-nationals in permanent residence in its territories."

53. European Central Inland Transport Organization (Article 8):

"Every member government shall accord to all officials and employees of the Organization . . . (b) all such facilities for their movements and for the execution of their functions, as are deemed necessary by the Organization for the speedy and effective fulfilment of their official duties."

Disputes relating to the conditions and terms of appointment of members of the staff

54. Food and Agriculture Organization (Article XV - paragraph 3):

"The Conference shall make provision for the determination by an administrative tribunal of disputes relating to the conditions and terms of appointment of members of the staff."

General Obligations of Members

55. United Nations Relief and Rehabilitation Administration (Resolution 32):

I. (2). "That member governments take any steps that they may consider necessary to enable the Administration to exercise within their jurisdiction the powers conferred on it by Article I, paragraph 1, of the Agreement."

56. European Central Inland Transport Organization (Article 8):

"Every member government shall respect the exclusively international character of the members of the Executive Board, the chief officer and the staff of the Organization."

Application of Aforesaid Provisions

57. International Monetary Fund (Article IX - Section 10):

/"Each member

"Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Fund of the detailed action which it has taken."

58. United Nations Relief and Rehabilitation Administration: (Resolution 32):

"I. (4). That the member governments make any necessary arrangements with the Director-General for the application of the foregoing recommendations.

II. That the Council requests the Director-General:

1. To initiate immediate negotiations with member governments to bring such arrangements into operation as rapidly as possible.

2. Wherever appropriate, to approach non-member governments with a view to their granting such of the above-mentioned facilities, privileges, immunities, and exemptions as may be desirable to facilitate the work of the Administration."

(Resolution 34):

"I. (2). That the member governments make any necessary arrangements with the Director-General for the application of the foregoing recommendations.

II. That the Council requests the Director-General:

1. To initiate immediate negotiations with member governments to bring such arrangements into operation as rapidly as possible.

2. Wherever appropriate, to approach non-member governments with a view to their granting such of the above-mentioned facilities, privileges, immunities, and exemptions as may be desirable to facilitate the work of the Administration."

(Resolution 36):

"I. (5). That the member governments make any necessary arrangements with the Director-General for the application of the foregoing recommendations.

II. To initiate immediate negotiations with member governments to bring such arrangements into operation as rapidly as possible.

2. Wherever appropriate, to approach non-member governments with a view to their granting such of the above-mentioned facilities, privileges, immunities, and exemptions as may be desirable to facilitate the work of the Administration."

Appendix B: Draft Convention on Privileges and Immunities

WHEREAS Article 104 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes and

WHEREAS Article 105 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes and that representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization and

WHEREAS by a resolution of the General Assembly adopted on _____ it was decided to propose a convention with a view to determining the details of the application of the aforesaid Articles and

WHEREAS the present convention was drawn up and approved by a resolution of the General Assembly adopted on _____.

Introductory Article

1. The present convention is open to accession on behalf of every Member of the United Nations.

2. Accession shall be effected by a deposit of an instrument with the Secretary-General of the United Nations and the convention shall take effect as regards each Member as from the date of deposit of its instrument of accession.

3. The Secretary-General shall inform all Members of the United Nations of the deposit of each accession.

4. It is understood that, when an instrument of accession is deposited on behalf of any Member, this Member will have taken such action as is necessary in its own territories for the purpose of giving effect under its own laws to the terms of the present convention.

5. The present convention shall continue in force as between the Organization and every Member which has deposited an instrument of accession for so long as that Member remains a Member of the Organization unless, by agreement, other provisions are substituted for the provisions of the present Convention. The Secretary-General may conclude with any Member or Members supplementary agreements, approved in each case by the General Assembly, amending, so far as that Member or those Members are concerned, the provisions of the present Convention.

Article 1

The Organization shall possess full juridical personality and in particular, the capacity:

(a) to contract;
(b) to acquire and dispose of immovable and moveable property; and
(c) to institute legal proceedings.

Article 2

1. The Organization, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that in any case it expressly waives its immunity for the purpose of any proceedings or by the terms of any contract.

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

3. The archives of the Organization and in general all documents, belonging to it or held by it, shall be inviolable wherever located.

4. (a) Without being restricted by financial controls, regulations or moratoria of any kind:

(i) the Organization may hold funds or currency of any kind and operate accounts in any currency; and

(ii) the Organization shall be free to transfer its funds from one country to another or within any country and to convert any currency held by it into any other currency.

(b) In exercising its rights under (a) above, the Organization shall pay due regard to any representations by the national authorities of any Member insofar as effect can be given to such representations without detriment to the financial interests of the Organization.

Article 3

1. The Organization, its assets, income and other property shall be:

(a) exempt from all direct taxes*; it is understood, however, that the Organization cannot claim exemption from taxes which are, in fact, no more than charges for services rendered; and

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* The sub-committee considered that it may be desirable to define the expression "direct taxes," but did not feel able to perform this task, which requires the assistance of revenue experts.

/(b) exempt

(b) exempt from customs duties in respect of articles imported by the Organization for its official use and in respect of publications issued by it. It is, however, understood that articles imported free of customs duty will not be sold in the country into which they were imported except under conditions agreed with the authorities of that country.

2. While the Organization cannot in principle claim exemption from sales taxes and excise duties, which form part of the price of goods sold, nevertheless in cases where the Organization is making large purchases for official use of goods on which such taxes and duties have been charged or are chargeable, Members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of tax or duty.

Article 4

Provisions regarding communication facilities and facilities for purchases. (See Annex to Appendix C of this Chapter).

Article 5

1. Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the Organization shall be accorded, while exercising their functions and during their journey to and from the place of meeting, the following privileges and immunities:

(a) immunity from legal process of any kind;
(b) immunity from immigration restrictions, alien registration and national service obligations;
(c) the same facilities as regards exchange restrictions as are accorded to representatives of the Governments of Members visiting the country; and
(d) the same immunities and facilities as regards their personal baggage as are accorded to diplomatic envoys.

2. As a means of securing complete freedom of speech and independence in the discharge of their duties, the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the Organization shall be accorded immunity from legal process in respect of all acts done and words spoken or written by them in the discharge of their duties as such.

3. The provisions of paragraphs 1 (a) and (b) and of paragraph 2 of this Article cannot be invoked by any persons against the authorities of the country of which he is a national or of which he is or has been the representative, nor when the Member which he represented has waived the immunity in question.

/4. In this

4. In this Article the expression representatives shall be deemed to include all Delegates and Deputy Delegates, advisers, technical experts, and secretaries.

Article 6

1. All officials[1] of the Organization shall:

(a) be immune from legal process with respect to acts performed by them in their official capacity;
(b) be exempt from taxation on the salaries and emoluments paid to them by the Organization;
(c) be immune from national service obligations;
(d) be immune, together with their spouses and minor children, from immigration restrictions and alien registration;
(e) be accorded the same privileges as regards exchange facilities as are accorded to the officials of comparable ranks forming part of the diplomatic missions to the government of x; and
(f) be given together with their spouses and minor children the same repatriation facilities as diplomatic agents in time of international crisis.

2. In addition the Secretary-General, all Assistant Secretaries-General, their spouses and minor children shall be accorded the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, their spouses and minor children in accordance with international law, but shall not be entitled to invoke immunity from legal process as regards matters not connected with their official duties, before the courts of the country of which they are nationals.

Article 7

1. The Organization may issue United Nations passports to its officials.* All United Nations passports shall be recognized and accepted as passports.

2. Applications for visas from the holders of such passports when accompanied by a certificate that they are travelling on the business of the Organization, shall be dealt with with the minimum of delay. In addition the holders of United Nations passports shall be granted facilities for speedy travel.

3. Similar facilities to those specified in paragraph 2 above shall be accorded to experts and other persons who, though not officials of the United Nations have a certificate that they are travelling on the business of the Organization.

4. The Secretary-General, Assistant Secretaries-General, and Directors travelling on United Nations passports on the business of the Organization

1/ By this word it is intended to cover all ranks of the Secretariat and all those who have to make the declaration of loyalty to the Organization (Chapter VIII, Section 3, Regulation 2), but not to include local employees, such as office cleaners, motor car drivers, etc.

* See footnote to Article 6.

/shall be

shall be granted the same facilities as are accorded diplomatic envoys.

Article 8

1. It is understood that privileges and immunities are granted to officials in the interests of the Organization and not for the benefit of the officials themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, such immunity can be waived without prejudice to the interests of the Organization.

2. The Organization shall co-operate at all times with the appropriate authorities to facilitate the proper administration of justice, secure the execution of police regulations and prevent the occurrence of any abuse in connexion with the privileges, immunities and facilities mentioned in this convention. In particular the Secretary-General will ensure that the drivers of all official motor cars of the Organization and all officials who own or drive motor cars shall be properly insured against third party risks.1/

3. The Organization shall make provision for appropriate modes of settlement of:

(a) disputes arising out of contracts or other disputes of a private law character to which the Organization is a party; and

(b) disputes involving any official of the Organization, who by reason of his official position enjoys immunity, if such immunity has not been waived by the Secretary-General.

Article 9

Freedom of travel to the seat of the Organization for the press, representatives of non-governmental Organizations and private individuals. (See Annex to Appendix C of this Chapter).

Article 10

The provisions of Article 7 may be applied to the comparable officials of specialized agencies if the agreements for relationship made under Article 63 of the Charter so provide.

Article 11

All differences arising out of the interpretation or application of the present Convention shall be referred to the International Court of

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1/ If it is decided that the internal regulations of the Organization shall contain provisions to this effect this sentence could be omitted.

Justice, unless in any case it is agreed by the parties to have recourse to another mode of settlement. If the dispute is between the Organization on the one hand and a Member on the other hand, a request shall be made for an advisory opinion in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court. The advisory opinion of the Court shall be accepted by the parties to the dispute as a binding decision in the same manner as a judgment.

Appendix C: Draft Treaty to be concluded by the United Nations with the United States of America for the Location of the Headquarters of the United Nations

This draft convention is transmitted by the Preparatory Commission as a working paper for the General Assembly. See Recommendation 4 of Chapter X.

The General Assembly of the United Nations decided by resolution of __January, 1946, to establish the permanent seat of the Organization in the United States of America, and to conclude a treaty with the United States of America. The Congress of the United States of America, by Joint Resolution of __ January, 1946, approved by the President, agreed to the establishment of the permanent seat of the United Nations in the United States of America, and to the conclusion of a treaty with the United Nations. The Secretary-General of the United Nations, Mr. _____ and Mr. _____ have been authorized to sign this treaty on behalf of the United Nations and the United States of America respectively.

Article 1

The permanent seat of the United Nations shall be the area marked pink on the annexed map, situated _____. Additions may be made later to the area in accordance with the provisions of Article 22. In this treaty the expresssion "zone" means this area, together with any additions to it.

Article 2

The United States of America undertakes (on the entry into force of this treaty) to vest in the United Nations the full ownership of all land in the zone and of all buildings situated thereon at the moment of transfer.

Article 3

The United Nations shall have exclusive rights over the subsoil of land conveyed to it and in particular the right to make any constructions underground and to obtain therefrom water supplies. It shall not, however, have the right to exploit minerals.

Article 4

The United States of America shall be responsible for expropriating and compensating so far as necessary all interests in the land and buildings conveyed to the United Nations.

/Article 5

Article 5

Having regard to Article 2 above, the United Nations shall pay to the United States of America a fair price for any land and buildings conveyed, which sum shall be credited to the United States of America in the accounts of the United Nations and be set off against contributions due from the United States of America. In default of agreement, the price shall be determined by an expert selected by the President of the International Court of Justice.

Article 6

The United Nations zone, including the air space above it, shall be inviolable.

Article 7

The zone shall be entirely under the control and authority of the United Nations.

Article 8

Without prejudice to the generality of Article 7, the United States of America has no jurisdiction over any questions relating to entry in the zone and the conditions under which persons may remain or reside there, or any questions relating to the construction or removal of buildings in the zone.

Article 9

Officers or officials of any authority in the territory of the United States of America whether administrative, judicial, military or police, shall not enter the zone to perform any official duties therein except with the permission of and under conditions agreed by the Secretary-General. The service of civil legal process, including the seizure of private property, shall take place within the zone under conditions approved by the Secretary-General.

Article 10

Subject to Article 12, the law of the United States of America shall apply within the zone and in particular the ordinary civil and criminal law.

Article 11

The courts of the United States of America shall (without prejudice to any provisions of the Annex to this treaty and eventually of the General Convention relating to Immunities) have jurisdiction over acts done or transactions taking place in the zone in the same manner as they have done over similar acts or transactions taking place outside the zone.

/Article 12

Article 12

The United Nations may, however, enact regulations for the zone, excluding the application of particular provisions of the law of the United States of America and making provisions of an administrative character for the zone.

Article 13

The courts of the United States of America when dealing with cases arising out of acts done or transactions taking place in the zone or relating thereto shall take cognizance of the regulations by the United Nations under Article 12 above, though they shall not be obliged to inflict penalties for infraction of regulations made by the United Nations unless the United States of America has agreed to these regulations before the infraction was committed.

Article 14

Persons accredited to the United Nations by Members as permanent (resident) representatives and their staffs, whether residing inside or outside the zone, shall be recognized by the United States of America as entitled on its territory to the same privileges and immunities as the United States of America accords to the diplomatic envoys and their staffs accredited to the Government of the United States of America.

Article 15

The United States of America undertakes to ensure on equitable terms the provision of necessary public services to the zone including electricity, water, gas, post, telephone, telegraph, drainage and collection of refuse. If there is any difficulty in agreeing upon the terms, the question shall be decided by an expert appointed by the President of the International Court of Justice.

Article 16

The United States of America undertakes to guarantee at all times adequate means of communication between the zone and the limits of the territory of the United States of America both for the passage of persons and the transmission of correspondence and telegrams and the transport of goods required for use and consumption in the zone.

Article 17

Representatives of the Members, irrespective of the relations existing between their Government and the Government of the United States of America, and officials of the Organization, and specialized agencies, and their families, shall at all times enjoy the right of unimpeded and safe transit over the territory of the United States of America to and from the zone for the purpose of taking part in the Organization's work.

/Article 18

Article 18

The accredited representatives of the press, radio and films and of non-governmental organizations recognized by the United Nations for the purpose of consultation, shall enjoy the rights referred to in Article 17.

Article 19

Immigration regulations and other regulations regarding residence of foreigners in force in the United States of America shall not be applied in such a manner as to interfere with the rights referred to in Articles 16, 17 and 18. Any visas required shall be granted without charge, without delay, and without requirement of personal attendance for the issue of the visa.

Article 20

The United States of America shall give facilities for the issue of visas to, and for the use of the available means of transport by, persons coming from abroad who desire to visit the zone.

Article 21

Nothing in the preceding paragraphs shall prevent the Government of the United States of America from taking precautions in the interests of national security provided that such precautions shall not have the effect of interfering with the rights referred to in Articles 16, 17 and 18.

Article 22

The United Nations may establish its own radio telegraph sending and receiving stations (including broadcasting, teletype and telephoto services). The United Nations shall make arrangements with the International Telecommunications Union with regard to wavelengths and other similar matters.

Article 23

The United States of America undertakes at the request of the Secretary-General, acting in pursuance of a resolution of the General Assembly, to vest in the United Nations full ownership over such further land as may be required for the purpose of constructing an airport, railway station or radio telegraphic station or for such other purposes as may be required by the United Nations. Such land when conveyed to the United Nations shall form part of the United Nations zone.

The provisions of Articles 3, 4 and 5 shall apply to land so conveyed.

Article 24

In the event of the land conveyed in accordance with Article 23 not being contiguous to the remainder of the United Nations zone, the United States of America shall guarantee free communication and transit between the parts of the zone.

/Article 25

Article 25

The United States of America shall provide on the boundaries of the zone such police protection for the zone as is required and shall be responsible for ensuring that the tranquility of the zone is not disturbed by the unauthorized entry of persons from outside, or by disturbance in its immediate vicinity.

Article 26

If so requested by the Secretary-General, the United States of America undertakes to provide a sufficient number of police to perform duties inside the zone for the preservation of law and order therein and for the removal of persons who have committed or are suspected of having committed or being likely to commit offences.

Article 27

The United States of America undertakes to take the necessary steps to insure that the amenities of the zone and the purposes for which it is required are not prejudiced or obstructed by any use of the land in its vicinity.

Article 28

Without prejudice to the provisions in Annex 1 of this treaty and subsequently of the General Convention relating to the immunities of officials of the United Nations and the representatives of Members, the United Nations shall not permit the zone to become a refuge for persons who are avoiding arrest under the law of the United States of America or are required by the Government of the United States of America for extradition nor for persons who are endeavouring to avoid service of civil legal process.

Article 29

The Secretary-General and the Government of the United States of America shall settle by agreement the channels through which correspondence relating to the application of the different provisions of this treaty and other questions affecting the zone shall be conducted. If the Secretary-General so requests, the Government of the United States of America shall appoint a special representative for the purpose of liaison with the Secretary-General.

Article 30

Any differences between the Secretary-General and the United States of America concerning the interpretation or application of this treaty or of any supplementary agreement or arrangements which are not settled by negotiation may be referred for arbitration to an umpire appointed for the purpose by the President of the International Court of Justice.

/Article 31

Article 31

Either party may ask the General Assembly to request of the International Court of Justice an advisory opinion on any legal question of general importance arising in the course of the proceedings referred to in Article 30. Pending the receipt of the opinion of the International Court of Justice, an interim decision of an umpire shall be observed by both parties.

Article 32

Until half the Members of the United Nations have ratified the General Convention mentioned in Article 32, the provisions set out in Annex 1 to this Treaty shall apply between the United Nations and the United States of America. Thereafter, these provisions shall be replaced by the provisions of the General Convention, and the provisions of the General Convention shall be complementary to the provisions of this treaty.

Article 33

If any provision of this treaty and any provision of the General Convention mentioned in Article 32 relate to the same subject matter, the two provisions shall be treated as complementary so that both provisions shall be applicable and neither shall narrow the effect of the other, provided that if the provisions are in absolute conflict, the provisions of this treaty shall prevail.

Article 34

This treaty shall bind both parties as soon as the Government of the United States of America notifies the Secretary-General that it has all the powers necessary to fulfil its provisions and the Secretary-General has deposited an instrument of ratification with the Government of the United States of America. The Government of the United States of America shall take every possible step to enable it to give the notification as soon as possible and in any case not later than.

Article 35

This treaty shall remain in force as long as the seat of the United Nations is maintained in the territory of the United States of America.

Article 36

The seat of the United Nations shall only be removed from the territory of the United States of America if the United Nations should so decide.

Article 37

If the seat of the United Nations is removed from the United States of America, the United States of America shall pay to the United Nations an equitable sum for the land in the zone and for all buildings and installations thereon. An expert named by the President of the International Court of Justice shall decide, in default of agreement between the parties, what sum

/is equitable,

is equitable, having regard to the then value to the United States of America of the lands and of the buildings and installations as well as to the cost incurred by the United Nations in acquiring land and in erecting buildings and installations.

ANNEX

Article 1

The United Nations shall possess full juridical personality and in particular, the capacity:

(1) to contract;
(2) to acquire and dispose of immovable and movable property;
(3) to institute legal proceedings.

Article 2

The United Nations, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any particular proceedings or by the terms of any particular contract.

Article 3

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

Article 4

The archives of the United Nations and in general all documents, belonging to it or held by it, shall be inviolable wherever located.

Article 5

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

(1) the United Nations may hold funds or currency of any kind and operate accounts in any currency;
(2) the United Nations shall be free to transfer its funds from one state to another or within any state and to convert any currency held by it into any other currency.

Article 6

In exercising its right under Article 3 above the United Nations shall have regard to any representations by the national authorities of any Member

insofar as effect can be given to the representations without detriment to the financial interests of the organization.

Article 7

The United Nations, its assets, income and other property shall be:

(1) exempt from all direct taxes, it being understood, however, that the United Nations cannot claim exemption from charges for services rendered;
(2) exempt from customs duties in respect of articles imported by the United Nations for its official use and in respect of publications issued by it, it being understood, however, that articles imported free of customs duty will not be sold in the state into which they were imported except under conditions agreed with the authorities of that state.

Article 8

While the United Nations does not in principle claim exemption from sales taxes and excise duties, which form part of the price of goods sold, nevertheless when the United Nations is making large purchases for official use of goods on which such taxes and duties have been charged or are chargeable, the United States of America, wherever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

Article 9

The communications of the United Nations shall enjoy treatment not less favourable than that accorded by the United States of America to any of its Members in the matter of: franking privileges: priorities, rates and taxes on cables, telegrams, radiograms, telephotos, and telephone communications; use of codes, and couriers and pouches; and press rates for information to the press and radios, when originating with or addressed to the Secretary-General and the heads of the specialized agencies, or their duly authorized deputies. No censorship or delays shall apply to the transmission of the correspondence and communications of the United Nations.

Article 10

Representatives of Members to the organs of the United Nations and to conferences convened by the United Nations shall be accorded, while exercising their functions and during their journey to and from the place of meeting, the following facilities, privileges and immunities:

(1) immunity from legal process of any kind;
(2) immunity from immigration restrictions, alien registration and national service obligations;
(3) facilities as regards exchange restrictions not less favourable than those accorded by the United States of America to diplomatic representatives of the Governments of Members;

(4) immunities and facilities as regards their personal baggage not less favourable than those accorded by the United States of America to diplomatic representatives of the Governments of Members.

Article 11

As a means of securing complete freedom of speech and independence in the discharge of their duties, the representatives of Members to the organs of the United Nations and to conferences convened by the United Nations shall be accorded immunity from legal process in respect of all acts done and words spoken or written by them in the discharge of their duties.

Article 12

The provisions of Article 10 (1) and (2) and of Article 11 cannot be invoked by any citizen of the United States of America against the authorities of the United States of America.

Article 13

In Articles 10, 11 and 12 "representatives" includes all representatives, alternate representatives, advisers, technical advisers, and persons of similar status.

Article 14

All officials[1] of the United Nations shall:

(1) be immune from legal process with respect to acts performed by them in their official capacity;
(2) be exempt from taxation on the salaries and emoluments paid to them by the Organization;
(3) be immune from national service obligations;
(4) be immune, together with their spouses and minor children, from immigration restrictions and alien registration;
(5) be accorded exchange facilities no less favourable than those accorded to the officials of comparable ranks of the Governments of other Members;
(6) be given together with their spouses and minor children repatriation facilities not less favourable than those accorded to diplomatic representatives in time of international crisis.

1/ By this word it is intended to cover all ranks of the Secretariat and all those who have to make the declaration of loyalty to the Organization (Chapter VIII, Section 3, Regulation 2), but not to include local employees, such as office cleaners, motor car drivers, etc.

Article 15

In addition to the immunities in Article 14 the Secretary-General, all Assistant Secretaries-General, their spouses and minor children shall be accorded the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, their spouses and minor children in accordance with international law, but shall not be entitled to invoke before the courts of the state of which they are nationals immunity from legal process as regards matters not connected with their official duties.

Article 16

United Nations passports issued by the Organization to its officials and to comparable officials of specialized agencies shall be given treatment not less favourable than that accorded by the United States of America to passports issued by Members.

Article 17

Applications for visas from the holders of United Nations passports, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with with the minimum of delay. In addition they shall be granted facilities for speedy travel.

Article 18

Similar facilities to those specified in Article 17 shall be accorded to experts and other persons who, though not officials of the United Nations, have a certificate that they are travelling on the business of the Organization.

Article 19

The Secretary-General, Assistant Secretaries-General, and Directors travelling on United Nations passports on the business of the Organization shall be granted the same facilities as are accorded diplomatic envoys.

Article 20

Privileges and immunities are granted to officials in the interest of the Organization and not for the benefit of the officials themselves. The Secretary-General shall waive the immunity of any official if, in his opinion, the immunity can be waived without prejudice to the interests of the United Nations.

Article 21

The United Nations shall co-operate at all times with the appropriate authorities of the United States of America to facilitate the proper administration of justice, secure the execution of police regulations and prevent the occurrence of any abuse in connexion with the immunities and

facilities provided for in this Annex. In particular the Secretary-General shall ensure that the drivers of all official motor cars of the United Nations and all officials who own or drive motor cars shall be properly insured against third party risks.

Article 22

The United Nations shall make provision for appropriate modes or settlement of:

(1) disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party;
(2) disputes involving any official of the United Nations, who by reason of his official position enjoys immunity, if the immunity has not been waived by the Secretary-General.

oOo

B. THE GENERAL ASSEMBLY OF THE UNITED NATIONS

First session, first part:

First Report of the Sub-Committee on Privileges and Immunities /A/C.6/17, 26 January 1946/.

Rapporteur: Mr. W.E. Beckett (United Kingdom)

1. On 24 January 1946, the Sixth Committee appointed a Sub-Committee to consider chapter VII of the Report of the Preparatory Commission.* The Sub-Committee was invited to present a preliminary report on the most appropriate methods of implementing the provisions of Article 105 of the Charter. The Sub-Committee met on 25 January, and after having elected a Chairman: H.E. M. Guerrero (El Salvador); a Vice-Chairman, Professor Krylov (Union of Soviet Socialist Republics) and Rapporteur, Mr. Beckett (United Kingdom), examined the respective advantages of:

(a) The Assembly making recommendations;

and (b) The Assembly proposing conventions to the Members of the United Nations.

Both these courses are mentioned in Article 105 of the Charter as possible alternatives.

2. The Sub-Committee agreed, without reservation, to request the Sixth Committee to recommend that the General Assembly should propose to the Members of the United Nations a general Convention which would determine the details of application of paragraphs 1 and 2 of Article 105 of the Charter. This suggestion does not prejudice the separate question of the conclusion of a special Convention with the State on the territory of which the seat of the United Nations will be situated.

3. There were three main reasons for the conclusion of the Sub-Committee. In the first place, it was thought that the immunities necessary for the fulfilment of the purposes of the Organization and the independent exercise of their functions by its officials and by the representatives of Members should be laid down in a manner which was as precise as possible. Secondly, that the method should be adopted which would be likely to lead to the greatest uniformity in application; and, thirdly, that the procedure should be such as best to facilitate the passing by Members of the necessary domestic legislation. All these three reasons pointed to the adoption of a Convention

* [illegible] p. 349 supra.

/as the

as the best course. The procedure of recommendations in itself suggests some indefinity of content as well as latitude in application. Further, a Convention is more usual, as well as in general a more satisfactory basis upon which Governments can approach their respective legislatures in order to obtain any legislative action which may be necessary. Certain members of the Sub-Committee, and amongst them some representing Federal States, stressed their view that a Convention adopted by the General Assembly would be the method best calculated to facilitate legislation.

4. The adoption of a Convention would not exclude the possibility of the adoption, in addition, of recommendations upon particular points which were not fully dealt with in the Convention. This possibility is merely alluded to, in case in the course of later discussion it is thought desirable to deal with particular points in this way. It should not be supposed that the Sub-Committee has yet come to the conclusion that it would be necessary or desirable to have such additional recommendations.

5. The general Convention on immunities and privileges of the United Nations is, in a sense, a Convention between the United Nations as an Organization, on the one part, and each of its Members individually on the other part. The adoption of a Convention by the General Assembly would therefore at one and the same time fix the text of the Convention and also imply the acceptance of that text by the United Nations as a body. On the other hand, each of the Members individually would only accept and become bound by the Convention when it had deposited its formal instrument of accession or ratification, a step which the Member would only take after it had fulfilled such requirements as its constitution prescribed.

Second Report of the Sub-Committee on Privileges and Immunities /A/C.6/31, 5 February 1946/7.

Rapporteur: Mr. W.E. Beckett (United Kingdom)

The Sub-Committee held several meetings, and has the honour to submit to the Legal Committee the following documents:

/1. A resolution

1. A resolution relating to the adoption of the general Convention on privileges and immunities of the United Nations, to which the text of the Convention is annexed (document A/C.6/28).

2. A resolution relating to negotiations with the competent authorities of the United States of America concerning the arrangements required as a result of the establishment of the seat of the United Nations in the United States, together with a draft Convention to be transmitted as a basis of discussion for these negotiations (document A/C.6/29).

3. A draft recommendation on the privileges and immunities of the International Court of Justice (annex 3c).

4. A draft recommendation on the co-ordination of the privileges and immunities of the United Nations and the specialized agencies (annex 3d).

5. A draft recommendation relating to the insurance against third party risks of motor-cars of the Organization and of members of the staff (annex 3e).

6. A draft recommendation relating to arrangements to be made so that officials of Members who are transferred or seconded for service with the United Nations should not lose their accrued pension rights by reason of such transfer or secondment (annex 3b).

The above documents call for certain short comments.

The draft general Convention on privileges and immunities was submitted to a most thorough discussion in the Sub-Committee. There are two provisions with regard to which certain representatives were obliged to make reservations in the Sub-Committee because they had not received final instructions at the time of the close of the Sub-Committee's proceedings. This observation applies to section 18, paragraph (c), and to section 30.

Further, in connexion with section 11, the Sub-Committee desired to place on record that the words (in the fifth line of that section) "rates and taxes on mails" did not cover free postage.

In connexion with the recommendation referred to above under No. 6, it should be explained that the Sub-Committee considers that, in principle, this recommendation dealt with a matter which was rather within the scope of the Administrative and Budgetary Committee (Fifth Committee) than that of the Sixth Committee). The matter had originally been brought before the Sub-Committee with a

/view to

view to its being included in the draft general Convention, and at the time when the Sub-Committee came to the conclusion that it could only become the subject of a recommendation, it was pointed out by the representatives of the Advisory Group of Experts on administrative and budgetary matters, who brought the matter before the Sub-Committee, that it would no longer be possible for the Administrative and Budgetary Committee to propose a recommendation on the matter. Consequently, the Sub-Committee considered that the recommendation might, in the circumstances be forwarded by the Legal Committee.

The Sub-Committee examined another proposal submitted by the Advisory Group of Experts on administrative and budgetary matters, with a view to exempting all members of the staff of the Organization "from taxation on retirement benefits and exempting their beneficiaries from taxation on death benefits, either in the form of a lump sum or benefits paid by the Organization to widows and orphans".

The Sub-Committee decided, without prejudice to this question being taken up and considered separately at a later stage, that a provision to this effect should not be included in the general Convention.

The Rapporteur of the Sub-Committee places himself at the disposal of the Legal Committee to give any explanations with regard to particular provisions that the Committee may desire.

Report of the Sixth Committee to the General Assembly on Privileges and Immunities of the United Nations [A/43/Rev.1, A/43/Rev.1/Corr.1, A/43/Rev.1/Corr.2 and A/43/Corr.1, 9 February 1946]

Rapporteur: Mr. W.E. Beckett (United Kingdom)

The General Assembly, at its sixteenth plenary meeting held on 19 January 1946, referred to the Sixth Committee for consideration and report, chapter VII of the Report of the Preparatory Commission, (Privileges, Immunities and Facilities of the United Nations). In fulfilment of this task, the Sixth Committee has the honour to submit to the General Assembly the following documents concerning the privileges and immunities of the United Nations:-

1. A resolution relating to the adoption of the General Convention on Privileges and Immunities of the United Nations, to which the text of the Convention is annexed (Appendix I).

2. A resolution relating to negotiations with the competent authorities of the United States of America concerning the arrangements required as a result of the establishment of the seat of the United Nations in the United States, together with a draft Convention to be transmitted as a basis of discussion for these negotiations (Appendix II).

3. A resolution on the privileges and immunities of the International Court of Justice (Appendix III).

4. A resolution on the co-ordination of the privileges and immunities of the United Nations and the specialized agencies (Appendix IV).

5. A resolution relating to the insurance against third party risks of motor-cars of the Organization and of members of the staff (Appendix V).

6. A resolution relating to arrangements to be made so that officials of Members who are transferred or seconded for service with the United Nations should not lose their accrued pension rights by reason of such transfer or secondment (Appendix VI).

All these documents, before being submitted to the Sixth Committee, have been dealt with very carefully by a Sub-Committee, presided over by H.E. J.G. Guerrero (El Salvador).

They call only for certain short comments.

The discussion of the general Convention on privileges and immunities was particularly exhaustive and thorough. The text now submitted to the General Assembly was approved unanimously, but on paragraphs (b) and (c) of section 18 the United States delegate made reservations on the grounds that the right to exempt United States nationals from taxation and from national service obligations was a prerogative of the Congress of the United States of America.

The delegations of the Byelorussian Soviet Socialist Republic, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics made reservations with regard to section 18 (c) and section 30 on the grounds that these items raised constitutional problems on which the most representative bodies in their countries had to be consulted.

/The delegate

The delegate for Argentina stated that his Government might have to make reservations regarding section 18 (c) and section 30, but he had not been able to receive instructions on this matter.

The delegate for Australia stated that his Government was opposed to the making of officials of the United Nations a tax free class. The Australian delegation could only agree to the exemption of such officials from taxation on condition that some such scheme as that suggested by the Advisory Group of Experts on financial matters for a United Nations staff contribution plan, should be adopted.

Other delegates stressed the importance of these provisions and urged those delegations which had made them, to do their utmost to secure that their Governments should ultimately be able to fall in with the view of the majority on these questions.

Further, in connexion with section 9, the Committee desired to place on record that the words "rates and taxes on mails" did not cover free postage.

In the case of the resolution referred to above under paragraph 2, namely, the special Convention with the United States of America, the United States delegation stated that, in view of the fact that the draft Convention was being adopted as a basis of discussion for the purpose of negotiations with the competent authorities of the United States, they considered that the United States delegation should take no part in the discussion and the vote on this matter.

Sub-Appendix II of the special Convention with the United States is the same as the general Convention, except that it has been put in a bilateral form, and therefore reservations to the general Convention naturally apply to the corresponding provisions of this Sub-Appendix.

In connexion with the resolution referred to above under paragraph 6, it should be explained that the Committee considered that, in principle, this resolution dealt with a matter which was rather within the scope of the Fifth Committee (Administrative and Budgetary) than of the Sixth Committee. The matter had originally been brought before the Committee with a view to its being included in the draft general Convention, and at the time when the Committee came to the conclusion that it could only become the subject of a recommendation, it was pointed out by the representatives of the Advisory Group of Experts on

on administrative and budgetary matters, who brought the matter before the Sub-Committee of the Sixth Committee, which was then dealing with the matter, that it would no longer be possible for the Fifth Committee to propose such a recommendation. Consequently, the Committee approved the view of the Sub-Committee that the recommendation might, in the circumstances, be forwarded to the General Assembly by the Sixth Committee.

The Sub-Committee on privileges and immunities examined another proposal submitted by the Advisory Group of Experts on administrative and budgetary matters, made with a view to exempting all members of the staff of the Organization from taxation on retirement benefits and exempting their beneficiaries from taxation on death benefits, either in the form of a lump sum or benefits paid by the Organizations to widows and orphans. The Sub-Committee decided, without prejudice to this question being taken up and considered separately at a later stage, that a provision to this effect should not be included in the general Convention.

The Rapporteur of the Sixth Committee places himself at the disposal of the General Assembly to give any explanations, with regard to particular provisions of the text submitted to the General Assembly, that the Assembly may desire.

APPENDIX I

The Sixth Committee after having examined the respective advantages, as methods of implementing the provisions of Article 105 of the Charter, of the General Assembly (a) making recommendations or (b) proposing conventions to the Members of the United Nations, recommends to the General Assembly to propose to the Members of the United Nations a general Convention on the privileges and immunities of the United Nations of which the text is annexed hereto. The Sixth Committee recommends that the General Assembly adopt the following resolution:

"The General Assembly approves the annexed Convention on the privileges and immunities of the United Nations and proposes it for accession by each Member of the United Nations."

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

Whereas Article 104 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes; and

Whereas Article 105 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes and that representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of the functions in connexion with the Organization;

Consequently the General Assembly, by a resolution adopted on 13 February 1946, approved the following convention and proposes it for accession by each Member of the United Nations.

ARTICLE I

Juridical Personality

Section 1. The United Nations shall possess juridical personality. It shall have the capacity:

(a) To contract;

(b) To acquire and dispose of immovable and movable property;

(c) To institute legal proceedings.

/ARTICLE II

ARTICLE II

Property, Funds and Assets

Section 2. The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

Section 3. The premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by shomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

Section 4. The archives of the United Nations, and in general all documents belonging to it or held by it, shall be inviolable wherever located.

Section 5. Without being restricted by financial controls, regulations or moratoria of any kind:

(a) The United Nations may hold funds, gold or currency of any kind and operate accounts in any currency;

(b) The United Nations shall be free to transfer its funds, gold or currency from one country to another or within any country and to convert any currency held by it into any other currency.

Section 6. In exercising its rights under section 5 above, the United Nations shall pay due regard to any representations made by the Government of any Member in so far as it is considered that effect can be given to such representations without detriment to the interests of the United Nations.

Section 7. The United Nations, its assets, income and other property shall be:

(a) Exempt from all direct taxes; it is understood, however, that the United Nations 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 United Nations for its official use. It is understood, however, that articles imported under such exemption will not be sold in the country into

/which they

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 its publications.

Section 8. While the United Nations 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 United Nations is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE III

Facilities in respect of Communications

Section 9. The United Nations shall enjoy in the territory of each Member, for its official communications, treatment not less favourable than that accorded by the Government of that Member 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. No censorship shall be applied to the official correspondence and other official communications of the United Nations.

Section 10. The United Nations shall have the right to use codes and to dispatch and receive its correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

ARTICLE IV

The Representatives of Members

Section 11. Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, shall, while exercising their functions and during their journey 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 capacity as representatives, 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 facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

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

(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.

Section 12. In order to secure for the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, 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 the representatives of Members.

Section 13. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations are present in a State for the discharge of their duties, shall not be considered as periods of residence.

Section 14. 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 connexion with the United Nations. Consequently a Member not only has the right but is under a duty to waive the immunity of its representative 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 15. The provisions of sections 11, 12 and 13 are not applicable as between a representative and the authorities of the State of which he is a national or of which he is or has been the representative.

Section 16. In this article the expression "representatives" shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

ARTICLE V

Officials

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

Section 18. Officials of the United Nations shall:

(a) Be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) Be exempt from taxation of the salaries and emoluments paid to them by the United Nations;

(c) Be immune from national service obligations;

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

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

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

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

/Section 19.

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

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

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

ARTICLE VI

Experts on Missions for the United Nations

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

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

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

(c) Inviolability for all papers and documents;

/(d) For the purpose

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

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

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

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

ARTICLE VII

United Nations Laissez-Passer

Section 24. The United Nations may issue United Nations laissez-passer to its officials. These laissez-passer shall be recognized and accepted as valid travel documents, by the authorities of Members, taking into account the provisions of section 25.

Section 25. Applications for visas (where required) from the holders of United Nations laissez-passer, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

Section 26. Similar facilities to those specified in section 25 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 the United Nations.

Section 27. The Secretary-General, Assistant Secretaries-General and Directors travelling on United Nations laissez-passer on the business of the United Nations shall be granted the same facilities as are accorded to diplomatic envoys.

/Section 28.

Section 28. The provisions of this article may be applied to the comparable officials of specialized agencies if the agreements for relationship made under Article 63 of the Charter so provide.

ARTICLE VIII

Settlement of Disputes

Section 29. The United Nations shall make provision for appropriate modes of settlement of:

(a) Disputes arising out of contracts or other disputes of a private law character, to which the United Nations is a party;

(b) Disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General.

Section 30. 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 the United Nations 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. The opinion given by the Court shall be accepted as decisive by the parties.

FINAL ARTICLE

Section 31. This convention is submitted to every Member of the United Nations for accession.

Section 32. Accession shall be effected by deposit of an instrument with the Secretary-General of the United Nations and the convention shall come into force as regards each Member on the date of deposit of each instrument of accession.

Section 33. The Secretary-General shall inform all Members of the United Nations of the deposit of each accession.

Section 34. It is understood that, when an instrument of accession is deposited on behalf of any Member, the Member will be in a position under its own law to give effect to the terms of this convention.

/Section 35.

Section 35. This convention shall continue in force as between the United Nations and every Member which has deposited an instrument of accession for so long as that Member remains a Member of the United Nations, or until a revised general convention has been approved by the General Assembly and that Member has become a party to this revised convention.

Section 36. The Secretary-General may conclude with any Member or Members, supplementary agreements adjusting the provisions of this convention so far as that Member or those Members are concerned. These supplementary agreements shall in each case be subject to the approval of the General Assembly.

APPENDIX II

The Sixth Committee recommends that the General Assembly adopt the following resolution:

1. The General Assembly authorizes the Secretary-General (with the assistance of a committee composed of persons appointed by the Governments of Australia, Belgium, Bolivia, China, Cuba, Egypt, France, Poland, United Kingdom, Union of Soviet Socialist Republics) to negotiate with the competent authorities of the United States of America the arrangements required as a result of the establishment of the seat of the United Nations in the United States of America.

2. The following draft convention is transmitted by the General Assembly to the Secretary-General for use in these negotiations as a basis of discussion.

3. The Secretary-General shall report to the General Assembly the results of these negotiations.

4. Any agreement, apart from purely temporary agreements with the competent authorities of the United States of America, resulting from these negotiations shall be subject to approval by the General Assembly before being signed on behalf of the United Nations.

CONVENTION BETWEEN THE UNITED NATIONS AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA

(This draft has been prepared on the assumption that there will be no private persons living within the zone containing the seat of the United Nations)

THE UNITED NATIONS AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Desiring to conclude a convention for the purpose of carrying out the resolution adopted by the General Assembly....., to establish the seat of the United Nations in..... and to regulate questions arising as a result thereof:

Have appointed as their plenipotentiaries for this purpose:

The United Nations.....
Secretary-General

The Government of the United States of America .....

who have agreed as follows:

/ARTICLE I

ARTICLE I

Definitions

Section 1. In this convention:

(a) The expression "zone" means the area referred to in section 2, including any additions to it;

(b) The expression "law of the United States of America" includes federal, state and local laws, however designated;

(c) The expression "Government of the United States of America" includes a state or a competent state authority wherever the context so requires;

(d) The expression "courts of the United States of America" includes federal and state courts;

(e) The expression "United Nations" means the International Organization established by the Charter of the United Nations;

ARTICLE II

The United Nations Zone

Section 2. The seat of the United Nations shall be the area situated ..... and marked pink on the map which forms annex I. Additions may be made later to this area in accordance with the provisions of section 8.

Section 3. The Government of the United States of America undertakes, on the entry into force of this convention, to cause to be vested in the United Nations, possession immediately and full ownership as soon as possible of all land in the zone as shown in annex I and of all buildings situated thereon at the time of transfer.

Section 4. The Government of the United States of America shall be responsible for expropriating and compensating so far as necessary and as soon as possible all interests in land and buildings conveyed to the United Nations.

Section 5. Having regard to section 4, the United Nations shall pay to the United States of America a fair price for any land and buildings conveyed to the United Nations. The amount so payable shall be credited to the United States of America in the accounts of the United Nations and shall be set off during such period as may be fixed, against contributions due from the United States of America. In default of agreement, this price and this period shall be determined by an expert selected by the President of the International Court of Justice.

/Section 6.

Section 6. The United Nations shall have exclusive rights over the subsoil of land conveyed to it, and in particular the right to make construction underground and to obtain therefrom supplies of water. It shall not, however, have the right to exploit minerals.

Section 7. The United Nations may establish in the zone any type of installation which it deems necessary for the purpose of its work, and in particular may establish its own radio telegraph sending and receiving stations, including broadcasting, teletype, and telephoto services. The United Nations shall make arrangements with the International Telecommunications Union with regard to wavelengths and other similar matters.

Section 8. The Government of the United States of America shall, at the request of the Secretary-General acting in pursuance of a resolution of the General Assembly, cause to be vested in the United Nations, possession immediately and full ownership as soon as possible over such further land as may be required for the purpose of constructing an airport, railway station, or radio telegraphic station or for such other purposes as may be required by the United Nations. The provisions of sections 4, 5 and 6 shall apply to land so conveyed.

Section 9. In the event of the land conveyed in accordance with section 8 not being contiguous to the remainder of the zone, the Government of the United States of America shall guarantee unimpeded communication and transit between parts of the zone.

ARTICLE III

Law and Authority in the Zone

Section 10. The zone, including the air space above it and the subsoil below it, shall be inviolable.

Section 11. Save as otherwise provided in this convention, the zone shall be under the control and authority of the United Nations.

Section 12. Without prejudice to the generality of section 11, the Government of the United States of America renounces jurisdiction over any matter relating to entry into the zone and to the conditions under which persons may remain or reside there, and over any matters relating to the construction or removal of buildings in the zone.

Section 13. Officers or officials of any authority in the territory of

the United States of America, whether administrative, judicial, military, or police, shall not enter the zone to perform any official duties therein except with the permission of and under conditions agreed by the Secretary-General. The service of legal process, including the seizure of private property, shall take place within the zone under conditions approved by the Secretary-General.

Section 14. Without prejudice to the provisions which are contained in annex II and subsequently in the General Convention referred to in section 32, and which relate to the immunities of officials of the United Nations and of the representatives of Members, the United Nations shall not permit the zone to become a refuge either for persons who are avoiding arrest under the law of the United States of America or are required by the Government of the United States of America for extradition to another country, or for persons who are endeavouring to avoid service of legal process.

Section 15. Subject to section 16, the law of the United States of America shall apply within the zone, and in particular the ordinary civil and criminal law.

Section 16. The United Nations may enact regulations making provision of an administrative character for the zone. Any such regulation shall prevail over any provisions in the law of the United States of America which are inconsistent with it. It is agreed that within the zone the protection afforded by the Constitution of the United States to personal liberty and to the basic human freedoms of expression and worship shall not be lessened, and no form of racial discrimination shall be permitted.

Section 17. The courts of the United States of America shall, without prejudice to any provisions of annex II and subsequently of the General Convention referred to in section 32, have jurisdiction over acts done and transactions taking place in the zone, in the same manner as they have over similar acts and transactions taking place outside the zone.

Section 18. The courts of the United States of America, when dealing with cases arising out of or relating to acts done or transactions taking place in the zone, shall take cognizance of the regulations enacted by the United Nations under section 16, though they shall not be obliged to inflict penalties for infraction of such regulations unless the Government of the

United States of America has agreed to these regulations before the infraction was committed.

ARTICLE IV

Communications and Transit to and from the Zone

Section 19. The Government of the United States of America shall guarantee at all times adequate means of communication to and from the zone through the territory of the United States of America, for the passage of persons, the transmission of postal correspondence and telegrams, and the transport of goods required for use and consumption in the zone.

Section 20. Representatives of Members, irrespective of the relations existing between their Government and the Government of the United States of America, officials both of the United Nations and of the specialized agencies, and the families of these representatives and officials, shall at all times enjoy the right of unimpeded and safe transit through the territory of the United States of America to and from the zone.

Section 21. The accredited representatives of news agencies, whether press, radio or films, and of non-governmental organizations recognized by the United Nations for the purpose of consultation, shall also enjoy the rights referred to in section 20.

Section 22. Immigration and other regulations in force in the United States of America, regarding the entry and residence of foreigners, shall not be applied in such a manner as to interfere with the rights referred to in sections 20 and 21. Visas required by the persons referred to in those sections shall be granted without charge, without delay and without requirement of personal attendance for the issue of the visa.

Section 23. The Government of the United States of America shall give or cause to be given facilities for the issue of visas to, and for the use of the available means of transport by, persons coming from abroad (other than those referred to in sections 20 and 21) who desire to visit the zone. The Secretary-General of the United Nations and the Government of the United States of America shall, at the request of either of them, enter into discussion with regard to the application of this section.

/Section 24.

Section 24. The provisions of this article shall not prevent the Government of the United States of America from taking precautions in the interests of national security, provided that such precautions shall not have the effect of interfering with the rights referred to in sections 19, 20 and 21.

ARTICLE V

Resident Representatives to the United Nations

Section 25. Persons accredited to the United Nations by Members as resident representatives and their staffs, whether residing inside or outside the zone, shall be recognized by the Government of the United States of America as entitled on its territory to the same privileges and immunities as that Government accords to the diplomatic envoys accredited to it, and the staffs of these envoys.

ARTICLE VI

Police Protection of the Zone

Section 26. The Government of the United States of America shall cause to be provided on the boundaries of the zone such police protection for the zone as is required, and shall be responsible for ensuring that the tranquillity of the zone is not disturbed by the unauthorized entry of bodies of persons from outside or by disturbances in its immediate vicinity.

Section 27. If so requested by the Secretary-General, the Government of the United States of America shall cause to be provided a sufficient number of police to perform duties inside the zone for the preservation of law and order therein, and for the removal of persons who have committed or are suspected of having committed or of being about to commit offences, including infractions to the administrative regulations of the United Nations.

ARTICLE VII

Public Services for and the Amenities of the Zone

Section 28. The Government of the United States of America will exercise all the powers which it possesses to ensure that the zone shall be supplied on equitable terms with the necessary public services (including electricity, water, gas, post, telephone, telegraph, drainage, collection of refuse) and

/that these

that these services shall not be interrupted. In case of any interruption or thr atened interruption of any of these services, the Government of the United States of America will consider the needs of the zone as being of equal importance with the essential services of the United States Government itself. Consequently, in that event it will take all those steps which it would take in case of interruption or threatened interruption of these services to the essential Departments of the United States Government to ensure that the work of the United Nations is not prejudiced.

Section 29. The Government of the United States of America shall be responsible for ensuring that the amenities of the zone are not prejudiced and the purposes for which the zone is required are not obstructed by any use made of the land in its vicinity.

ARTICLE VIII

Matters relating to the operation of this Convention

Section 30. The Secretary-General and the Government of the United States of America shall settle by agreement the channel or channels through which shall be conducted correspondence relating to the application of the provisions of this convention and to other questions affecting the zone. If the Secretary-General so requests, the Government of the United States of America shall appoint a special representative for the purpose of liaison with the Secretary-General.

Section 31. In so far as the fulfilment of this convention requires co-operation and action by any state or other non-federal authority of the United States of America, the Government of the United States will conclude with that state or authority such agreements as are necessary for this purpose. The conclusion of these agreements, together with the enactment of any necessary legislation by the United States and by the state, shall be completed before the notice is given which is required under section 35 to be given by the Government of the United States of America before this convention enters into force.

ARTICLE IX

Relation between this Convention and the General Convention

Section 32. Until the Government of the United States of America becomes a party to the General Convention relating to the privileges and immunities of the United Nations, the provisions of annex II shall apply between the United Nations and the Government of the United States of America. Thereafter, these provisions shall be replaced by the provisions of the General Convention, which shall continue in force so long as the present convention remains in operation.

Section 33. The provisions of this convention shall be complementary to the provisions of the General Convention and, until the Government of the United States of America becomes a party to the General Convention, to the provisions of annex II.

Section 34. In so far as any provision of this convention and any provision of the General Convention (or of annex II as the case may be) relate to the same subject matter, the two provisions shall, wherever possible, be treated as complementary, so that both provisions shall be applicable and neither shall narrow the effect of the other; but in any case of absolute conflict, the provisions of this convention shall prevail.

ARTICLE X

Final Provisions

Section 35. This convention, having already been approved by a resolution of the General Assembly, shall enter into force as soon as the Government of the United States of America notifies the Secretary-General that it has all the powers necessary to fulfil the provisions of the convention. The Government of the United States of America shall take every possible step to enable it to give this notification as soon as possible, and in any case not later than.....

Section 36. This convention shall remain in force so long as the seat of the United Nations is maintained in the territory of the United States of America.

Section 37. The seat of the United Nations shall only be removed from the territory of the United States of America if the United Nations should so decide.

/Section 38.

Section 38. If the seat of the United Nations is removed from the territory of the United States of America, the Government of the United States of America shall pay to the United Nations an equitable sum for the land in the zone and for all buildings and installations thereon. An expert, nominated by the President of the International Court of Justice, shall decide, in default of agreement between the parties, what sum is equitable, having regard to:

(a) The then value to the United States of America of the land, buildings and installations; and

(b) The cost incurred by the United Nations in acquiring the land and in erecting the buildings and installations.

Section 39. Any difference between the United Nations and the Government of the United States of America concerning the interpretation or application of this convention or of any supplementary agreement or agreement which is not settled by negotiation shall be referred to the arbitration of an umpire appointed for the purpose by the President of the International Court of Justice.

Section 40. Either party may ask the General Assembly to request of the International Court of Justice an advisory opinion on any legal question arising in the course of the proceedings referred to in section 39. Pending the receipt of the opinion of the Court, an interim decision of the umpire shall be observed by both parties. Thereafter the umpire shall render a final decision, having regard to the opinion of the Court.

IN WITNESS THEREOF THE ABOVE-MENTIONED PLENIPOTENTIARIES HAVE SIGNED THIS CONVENTION:

DONE THIS .....DAY OF .....AT.....
IN DUPLICATE.

ANNEX I

MAP

(Not reproduced)

ANNEX II

ARTICLE I

Juridical Personality

Section 1. The United Nations shall possess juridical personality. It shall have the capacity:

(a) To contract;

(b) To acquire and dispose of immovable and movable property;

(c) To institute legal proceedings.

ARTICLE II

Property, Funds and Assets

Section 2. The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as, in any particular case, it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

Section 3. The premises of the United Nations shall be inviolable. The property and assets of the United Nations, 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 4. The archives of the United Nations, and in general all documents belonging to it or held by it, shall be inviolable wherever located.

Section 5. Without being restricted by financial controls, regulations or moratoria of any kind,

(a) The United Nations may hold funds, gold or currency of any kind and operate accounts in any currency;

(b) The United Nations shall be free to transfer its funds, gold or currency between the United States of America and any other State, and from one place to another within within the United States of America, and to convert any currency held by it into any other currency.

Section 6. In exercising its right under section 5 above, the United Nations shall pay due regard to any representaticns made by the Government of the United States, in so far as it is considered that effect can be given to such representations without detriment to the interests of the United Nations.

Section 7. The United Nations, its assets, income and other property shall be:

(a) Exempt from all direct taxes; it is understood, however, that the United Nations 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 United Nations for its official use. It is understood, however, that articles imported under such exemption will not be sold in the United States of America except under conditions agreed with the Government of the United States of America;

(c) Exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

Section 8. While the United Nations 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 United Nations is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, the Government of the United States of America will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE III

Facilities in respect of Communications

Section 9. The United Nations shall enjoy in the territory of the United States of America for its official communications treatment not less favourable than that accorded by the Government of the United States of America 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. No censorship shall be applied to the official correspondence and other official communications of the United Nations.

Section 10. The United Nations shall have the right to use codes and to despatch and receive its correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

ARTICLE IV

The Representatives of Members

Section 11. Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, shall, while exercising their functions and during their journey to and from the place of meeting, be accorded by the Government of the United States of America 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 capacity as representatives, 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 to the Government of the United States;

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

(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.

Section 12. In order to secure for the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, 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 the representatives of Members.

Section 13. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations are present in the United States of America for the discharge of their duties shall not be considered as periods of residence.

Section 14. 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 connexion with the United Nations. Consequently, a Member not only has the right but is under a duty to waive the immunity of its representative in any case where 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 15. The provisions of sections 11, 12 and 13 may not be invoked against the authorities of the United States of America:

(a) By a national of the United States of America;

(b) By a representative of the United States of America;

/(c) By a

(c) By a representative of another Member, when that Member has waived the immunity in question.

Section 16. In this article the expression "representatives" shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

ARTICLE V

Officials

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

Section 18. Officials of the United Nations shall:

(a) Be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) Be exempt from taxation on the salaries and emoluments paid to them by the United Nations;

(c) Be immune from national service obligations;

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

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

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

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

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

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

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

ARTICLE VI

Experts on Missions for the United Nations

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

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

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

/(c) Inviolability

(c) Inviolability for all papers and documents;

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

(e) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions to the Government of the United States of America;

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

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

ARTICLE VII

United Nations Laissez-Passer

Section 24. The United Nations may issue United Nations laissez-passer to its officials. These laissez-passer shall be recognized and accepted as valid travel documents by the authorities of the United States of America, taking into account the provisions of section 25.

Section 25. Applications for visas (where required) from the holders of United Nations laissez-passer, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

Section 26. Similar facilities to those specified in section 25 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 the United Nations.

Section 27. The Secretary-General, Assistant Secretaries-General and Directors travelling on United Nations laissez-passer on the business of the United Nations shall be granted the same facilities as are accorded to diplomatic envoys.

Section 28. The provisions of this article may be applied to the comparable officials of specialized agencies if the agreements for relationship made under Article 63 of the Charter so provide.

ARTICLE VIII

Settlement of Disputes

Section 29. The United Nations shall make provision for appropriate modes of settlement of:

(a) Disputes arising out of contracts or other disputes of a private law character, to which the United Nations is a party;

(b) Disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General.

APPENDIX III

The Sixth Committee has examined the question of the privileges and immunities to be accorded to the members of the International Court of Justice, the agents, counsel and advocates of parties before the Court in accordance with the provisions of Articles 19, 32 (paragraph 8) and 42 (paragraph 3) of the Statute, as well as the privileges and immunities to be accorded to the registrar and other officers of the Court, and recommends that the General Assembly adopt the following resolution:

"1. The General Assembly, with a view to ensuring that the International Court of Justice shall enjoy the privileges, immunities and facilities necessary for the exercise of its functions and the fulfilment of its purposes, in the country of its seat and elsewhere, invites the members of the Court at their first session to consider this question and to inform the Secretary-General of their recommendations.

"2. The General Assembly decides that the question of the privileges and immunities of the Court shall be considered as soon as possible after the receipt of the recommendations of the Court.

"3. The General Assembly recommends that, until further action has been taken, the rules which have been applied to the Permanent Court of International Justice should be observed by Members in relation to the International Court of Justi ."

/APPENDIX IV

APPENDIX IV

The Sixth Committee records its agreement with the recommendations of the Preparatory Commission of the United Nations concerning the desirability of a unification, as far as possible, of the privileges and immunities enjoyed by the United Nations and the various specialized agencies, and recommends that the General Assembly adopt the following resolution:

"The General Assembly considers that there are 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 not all specialized agencies require all the privileges and immunities which may be needed by others, and that certain of these may, by reason of their particular functions, require privileges of a special nature which are not required by the United Nations itself, the General Assembly considers 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 may require, and that no privileges and immunities which are not really necessary should be asked for.

"Therefore, the General Assembly instructs the Secretary-General to open negotiations with a view to the re-consideration, 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."

/APPENDIX V

APPENDIX V

The Sixth Committee recommends that the General Assembly adopt the following resolution:

"It has been found that a frequent source of difficulty is road accidents in which motor cars, owned or driven by persons possessing immunity from legal process, are involved.

"It is the intention of the United Nations to prevent the occurrence of any abuse in connexion with privileges, immunities and facilities granted to it under Articles 104 and 105 of the Charter and the General Convention on privileges and immunities, which determines the details of the application of these articles.

"Therefore the General Assembly instructs the Secretary-General to ensure that the drivers of all official motor cars of the United Nations and all members of the staff who own or drive motor cars, shall be properly insured against third party risks."

/APPENDIX VI

APPENDIX VI

The Sixth Committee considered a proposal from the Advisory Group of Experts on Administrative and Budgetary Matters, to the effect that an article should be included in the General Convention providing for the preservation of the accrued pension rights of persons who, at the time that they enter the service of the United Nations, have held official positions in the territories of Members. The Sixth Committee did not consider that a provision on these lines could be included in the Convention. The Committee was, however, of the opinion that the substance of the proposal was of great importance for the purpose of facilitating the recruitment of suitable personnel for the staff of the United Nations, especially in the earlier years. Consequently, the Sixth Committee proposes that the matter should be the subject of a recommendation, which this Committee felt competent to make, seeing that the matter had been referred to it, although in principle it might be maintained that the subject fell more properly within the scope of the Committee on Administrative and Budgetary questions (Fifth Committee).

Accordingly, the Sixth Committee recommends that the General Assembly adopt the following resolution:

"In order to facilitate the engagement, as members of the staff of the United Nations, of persons who have accrued pension rights as officials, either of the central government of Members, or of subordinate governmental or other administrative authorities within the territory of Members, it is desirable that arrangements should be made to secure that accrued pension rights are not lost when such persons accept posts on the staff of the United Nations, by way either of transfer or of secondment.

"Therefore, the General Assembly recommends that:

"After such discussion with the Secretary-General as may be necessary to settle details the Governments of Members adopt such legislative or administrative measures as may be required to preserve such pension rights."

SUGGESTIONS OF THE ADVISORY GROUP OF EXPERTS ON THE QUESTION OF TAX EQUALIZATION FOR PERSONNEL OF THE UNITED NATIONS (A/C.5/3, 17 January 1946)

1. In accordance with the Minutes of the last meeting of the Administrative and Budgetary Committee of the Preparatory Commission, the delegation of the United States of America submitted the attached paper (PC/AB/72) on salary equalization. The Advisory Group of Experts, in preparing recommendations on salaries for the staff, have considered the taxation problems raised by the paper. (See Section entitled "The Problem of Salary Equalization.") Other items in PC/AB/72 are excluded from consideration in this paper. The Advisory Group is of the opinion that these taxation questions are essentially questions of policy outside the ambit of the Advisory Group.

2. The taxation questions which have been raised may be stated briefly as follows:

(a) Are the salaries and allowances paid to the staff by the United Nations to be immune from income taxation by Members?*

(b) Should members of the staff be subject to an income tax levy assessed by the United Nations?

(c) How can the net salaries of all staff members with similar responsibilities be equalized pending the agreement of Members to exempt their nationals in the United Nations from taxation?

3. The Advisory Group submits the following suggestions for consideration to the Administrative and Budgetary Committee of the General Assembly:

(a) That among the privileges and immunities to be accorded to the staff of the United Nations, agreement be reached with Members to exempt from national income taxation the salaries and allowances paid to the staff by the United Nations Organization.

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* In this connexion see the draft Convention on Privileges and Immunities (Report of the Preparatory Commission).

(i) This suggestion is intended to apply to salaries and allowances received by the regular staff recruited centrally, regardless of whether the individuals are stationed at the permanent site of the United Nations or at its branch offices.*

(b) That all personnel on the staff of the United Nations be subject to a tax contribution scheme levied by the Organization.

(i) It is suggested that a progressive income tax schedule be developed for the Organization, that the receipts from this taxation should not accrue to any Member but to the Treasury of the Organization with a corresponding reduction in the budget of the Organization and that the income tax rate of the country in which the seat of the United Nations is situated might be used as a simple and practical guide for the Organization schedule.

(c) That pending a reasonable period for appropriate action to be taken to grant immunity from income tax of Members on the salaries of the staff, a provisional staff contribution plan such as that outlined in the attached paper of the delegation of the United States of America be adopted.

(i) The plan proposed in the United States paper provides for a refund from this contribution fund to individuals on the staff who have paid income tax levied by Members on their United Nations Organization salaries. It is suggested that this plan be modified to provide that an amount equivalent to such refunds to individuals because of income taxes be added to the budget contribution of the Members whose nationals were required to pay the income tax.

4. In making these suggestions, the Advisory Group has acted on the following considerations:

(a) With regard to the exemption of the staff from income taxation by Members it was felt that the staff was international in character and, so far as possible, should be freed from national obligations.

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* In this connexion see footnote to Article 6 of the draft Convention on Privileges and Immunities (Report of the Preparatory Commission, p. 368, supra).

/Moreover,

Moreover, the income tax contributions of Members vary greatly, and if each national on the staff were required to pay income tax to Members the real or net salaries and allowances for individuals on the staff would not be equal, although the gross salaries and allowances might be the same. In addition, some Members exempt their nationals from such income taxation when they serve on international organizations in other countries, making the inequalities that much greater.

(b) In regard to the desirability of the United Nations establishing a tax schedule of its own for members of the staff, recognition of the principle that the international Secretariat should be subject to some form of contribution in lieu of taxation by Members seems very desirable. In addition, this provision would facilitate the approval by many national Governments of the provision of income tax immunity for their nationals serving on the United Nations staff.

(c) The establishment of a provisional staff contribution scheme would make it possible to establish from the outset a uniform basis of remuneration for the staff, while, at the same time, it would not favour those Members who did not provide for income tax immunity for their nationals serving with the United Nations.

5. The Advisory Group recommends that the questions raised in this paper be considered as early as feasible by the Administrative and Budgetary Committee in order that its recommendations may be subm[illegible]ed on the basic salaries and allowances for the staff. It is submitted the Advisory Group cannot make such salary and allowances recommendations until these questions of income tax equalization have been acted upon by the Fifth Committee.

14. Report of the Sub-Committee of the Fifth Committee on Tax Equalization /A/C.5/11, 24 January 1946/

Mr. VANDENBERG (United States of America), Chairman of the Sub-Committee, submitted the following report on behalf of the Sub-Committee:

(1) The Sub-Committee believes there is no alternative to the proposition that tax exemption for United Nations Organization salaries

/is indispensable

is indispensable to equity among its Member nations and equality among its Member nations and equality among its personnel;

(2) It recommends that, pending this accomplishment, the budget should carry a contingent appropriation to equalize tax payments;

(3) It recommends that all its files respecting staff contributions plans be referred to the Secretary-General for his information; and that further consideration of the matter be postponed pending his subsequent report and recommendation.

Mr. Vandenberg considered that this was a complex and controversial problem and that the report submitted was the best compromise possible taking into account the divergent views expressed in the Sub-Committee. The first paragraph had been approved unanimously, paragraphs (2) and (3) had been approved by seven votes to two, in each case, the adverse votes being those of Australia and France with the United States of America abstaining.

Report of the Fifth Committee on Tax Equalization (Excerpts) (A/41, 8 February 1946)

Perhaps the most difficult problem which the Fifth Committee had to consider resulted from proposals submitted by the Advisory Group of Experts on the subject of tax equalization. The Advisory Group's proposals were drawn up on the basis of a paper submitted by the delegation of the United States of America at the close of the Preparatory Commission (document PC/AB/72).

The Advisory Group's proposals, as presented in document A/C.5/3 to the Fifth Committee, were referred by the Committee to the Sub-Committee of ten presided over by Senator Vandenberg, and the draft resolution which the Committee submits on this subject is the outcome of a long discussion on the report of that Sub-Committee.

The first proposition contained in the draft resolution now submitted to the Assembly, stating that exemption from national taxation for the salaries and allowances of United Nations employees is indispensable to equity among its Members and equality among its personnel, was unanimously

adopted by the Committee, with the delegation of the United States of America reserving its position.

The second proposition, providing for a contingent appropriation in the budget of the Organization for the purpose of reimbursing staff members required to pay national taxation on salaries and wages received from the Organization pending full application of the principle of national tax exemption, was the subject of lengthy discussion and considerable difference of opinion, the Sub-Committee's recommendation being finally adopted by sixteen votes to thirteen.

The third proposition, resulting from an amendment moved by the delegation of Mexico -- that in the case of any Member whose nationals in the service of the Organization are required to pay taxes on salaries and allowances received from the Organization, an amount equal to such reimbursement should be added to the contribution of that Member -- also failed to secure unanimous approval and was adopted by sixteen votes to eleven.

Some delegates considered that the insertion of this third provision would prejudice the attainment of national tax exemption for all employees of the Organization, since it represented, in effect, an attempt to obtain by indirect means what could not be attained by direct measures. They argued that countries which had a deep-rooted prejudice against tax exemption would best be convinced of its rightness in this particular instance by a simple and frank statement of the position. Others, however, pointed out that to omit this provision would permit those Members levying taxes on their nationals who were employed by the Organization to profit at the expense of other Members.

This question was re-opened at a subsequent meeting, and an amendment proposed by the Netherlands delegation to the effect that "the Secretary-General should explore with the Member concerned methods of ensuring as soon as possible the application of the principle of equity amongst all Members" was adopted by thirteen votes to eight.

There was considerable difference of opinion over the proposals for the establishment of a staff contribution plan, some delegates opposing the idea in principle and others expressing the conviction that such a scheme

would counter any criticism of international officials as a privileged class. Although an amendment by the Australian delegate that the Committee adopt the proposals put forward by the Advisory Group in preference to the recommendations of the Sub-Committee was defeated, it was finally decided by twenty-one votes to two that further consideration of the question should be deferred until the Secretary-General had reported his recommendation to the second part of the first session of the General Assembly.

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First session, second part:

Report by the Secretary-General on the categories of officials to which the provisions of articles V and VII of the Convention on the Privileges and Immunities of the United Nations shall apply, and draft resolution /A.116 and A.116/Add.1, 9 November 1947/

The Secretary-General has considered, in the light of the discussions which took place at the Preparatory Commission and the first part of the first session of the General Assembly and in relation to the classifications which have been adopted in determining the duties of the members of the staff, the categories of officials to be specified as those to which articles V and VII of the Convention on the Privileges and Immunities of the United Nations shall apply.

The Secretary-General recommends that the Assembly approve that the privileges and immunities referred to in these articles should be granted to all members of the staff of the United Nations with the exception of those who are recruited locally and who are assigned to hourly rates, and that the Assembly adopts a resolution on the lines of that contained in Appendix I.

Appendix II contains a list of categories of staff working in New York who would be excluded from the application of articles V and VII, if the suggested resolution is adopted.*

Appendix III contains a list of categories of staff working in New York to which the above articles would apply if the suggested resolution were adopted.*

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* The lists contained in Appendix I and Appendix II are not reproduced here because they are no longer applicable. Since 1 January 1949, all staff members of the United Nations in New York have been recruited and assigned to annual or weekly rates.

APPENDIX I

In accordance with section 17 of article V of the Convention on the Privileges and Immunities of the United Nations, the Secretary-General has proposed that the categories of officials to which the provisions of articles V and VII shall apply should include all members of the staff with the exception of those who are recruited locally and who are assigned to hourly rates.

The General Assembly has considered this recommendation at the second part of its first session and

Therefore, the General Assembly resolves That the privileges and immunities referred to in articles V and VII of the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946, shall be granted to all members of the staff of the United Nations with the exception of those who are recruited locally and who are assigned to hourly rates.

Report of the Joint Sub-Committee of the Fifth and Sixth Committees; Convention on the privileges and immunities of the United Nations: Categories of officials to which the provisions of articles V and VII shall apply. /A/C.5/99 - A/C.6/77, 28 November 1946/ *

1. The Joint Sub-Committee, at its meetings on 25 and 26 November 1946, examined a report in which the Secretary-General specified, in accordance with section 17 of the Convention on the Privileges and Immunities of the United Nations, recommendations as to the categories of officials to which the provisions of articles V and VII shall apply (documents A/116 and A/116/Add.1).

2. The Sub-Committee made the following amendments to the draft resolution submitted by the Secretary-General:

(a) The phrase "The General Assembly... approves" was substituted for the phrase "The General Assembly resolves." The amended terminology is somewhat more in conformity with the provisions of section 17 of article V of the Convention and makes for greater flexibility in administration;

(b) The word "who" was deleted from the following clause, as indicated: "... with the exception of those who are recruited locally and /who/ are assigned to hourly rates".

The purpose of this change is to make clear the intention that both factors, local recruitment and hourly rates, must be present in each case before the exception shall applicable.

3. The Sub-Committee approved the amended text of the draft resolution attached hereto (appendix).

4. The Sub-Committee considered the possibility of basing the determination of categories of officials to whom the privileges and immunities shall be extended upon the functions to be performed by the officials included in each category. It was agreed that this approach was impracticable. It was, however, stressed that as the privileges and immunities are not granted in the interest of the individuals concerned, they should avail themselves of these privileges and immunities in a restrictive manner.

5. The representative of the United States requested that the record show that the Government of the United States reserved its position with respect to the exemption of United States citizens from national service and from taxation in the United States.

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* This report was approved by the Fifth Committee without discussion. See document A/212.

6. The Sub-Committee was concerned as to whether or not the categories of officials covered by the draft resolution included all specialized personnel employed by or performing special functions for or on behalf of the United Nations, either at its headquarters or elsewhere, who are serving on a temporary basis or for a period of limited duration and who may be compensated on a "when-actually-employed" basis, on short-term contracts or merely on the basis of subsistence and travel allowances. It was concluded that such personnel, when serving as consultants in the Secretariat, would be covered by the proposed resolution and, in other cases, would be entitled to the privileges and immunities provided for in article VI of the Convention, which extends to "experts" (other than officials coming within the scope of article V) performing missions for the United Nations..."

APPENDIX

DRAFT RESOLUTION CONCERNING OFFICIALS OF THE UNITED NATIONS TO WHOM THE PRIVILEGES AND IMMUNITIES PROVIDED FOR IN ARTICLES V AND VII OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS SHALL BE GRANTED*

The Secretary-General has proposed, in accordance with 17 of article V of the Convention on the Privileges and Immunities of the United Nations, that the categories of officials to which the provisions of articles V and VII shall apply should include all members of the staff of the United Nations with the exception of those who are recruited locally and are assigned to hourly rates.

Having considered this specification at the second part of its first session,

The General Assembly

Approves that the privileges and immunities referred to in articles V and VII of the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946, shall be granted to all members of the staff of the United Nations with the exception of those who are recruited locally and are assigned to hourly rates.

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* See General Assembly Resolution 76 (I).

Report of the International Court of Justice on the immunities of members of the Court, the Registrar, officials of the Registry, assessors, the agents and counsel of parties and also of witnesses and experts [Document A/105, 9 October 1946]

The General Assembly at its thirty-first plenary meeting, held on 13 February 1946, invited the members of the International Court of Justice to consider the question of the privileges, immunities and facilities which the members of the Court shall enjoy, and to inform the Secretary-General of their recommendations.

The Secretary-General submits to the General Assembly for consideration the recommendations of the members of the Court.

By a resolution dated 13 February 1946, [22(I)] the General Assembly of the United Nations invited the International Court of Justice to consider at its first session the question of the privileges, immunities and facilities necessary for the exercise of its functions and the fulfilment of its purposes, in the country of its seat and elsewhere.

The Court has accordingly examined the problem in its various aspects during its first session held at The Hague (3 April to 6 May 1946).

In transmitting the results of this examination to the General Assembly, the Court suggests that they should form the subject of a resolution by the Assembly recommending that Members of the United Nations adopt them and apply them in their respective countries. This method will achieve the purpose of the Assembly's resolution and will avoid the delays inherent in the conclusion of an international convention.

As the principal judicial organ of the United Nations, the Court as such, and its chambers, are already furnished with the guarantees of independence necessary for the collective exercise of their functions, by the provisions of the Charter and of the Statute of the Court. Moreover, the Court's Statute secures individual privileges and immunities to the members of the Court and to the agents, counsel and advocates of parties. The relevant provisions of the Statute to which the present resolutions are designed to give full effect are as follows:

/"Article 19.

"Article 19. The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

"Article 22. The seat of the Court shall be established at The Hague. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.

"Article 42, paragraph 3. The agents, counsel and advocates of parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties."

Like the Permanent Court of International Justice, the International Court of Justice has its seat at The Hague. The Court finds that the question of the privileges, immunities, facilities and prerogatives of the members of the Permanent Court of International Justice and its Registrar, as well as of the higher officials of the Court, was settled in so far as concerns the Netherlands authorities by an agreement dated 22 May 1928, recorded by means of an exchange of letters between the President of the Permanent Court of International Justice and the Minister for Foreign Affairs of the Netherlands. This settlement was based on the principle that the members of the Court and the Registrar were assimilated in this respect to the heads of missions accredited to Her Majesty the Queen of the Netherlands, and the higher officials of the Court to diplomatic officials attached to the legations at The Hague. Exemptions and facilities were also extended to all officials of the Court by a series of communications addressed by the Minister for Foreign Affairs of the Netherlands to the Registrar of the Court.

The Court finds that, in the past, this regime has given satisfaction to the Permanent Court of International Justice, and that these liberal measures fully satisfy the requirements of the Statute; that the Netherlands Government has declared its readiness to extend the benefits of these measures to the members of the Court and to its officials, as will be seen from the agreement recorded in the exchange of letters dated 26 June 1946;* that, furthermore, it accords to the agends, counsel and advocates of parties all the safeguards which article 42, No. 3, of the Court's Statute is designed to secure for them, as will be seen from the above-mentioned agreements dated 26 June 1946;

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* See Resolutions adopted by the General Assembly during the second part of its first session, page 179.

The Court accordingly considers that in regard to this point it need only ask the General Assembly to declare the agreements concluded with the Netherlands Government to be satisfactory, since they give full effect to the requirements of articles 19 and 42, No. 3, of the Statute.

Outside the country where the Court normally has its seat, the status of the members of the Court and its officials, and that of the agents, counsel and advocates of parties, necessitates supplementary arrangements, the desirability of which, already recognized in the days of the Permanent Court of International Justice, is now increased by the new provisions in articles 22 and 42, paragraph 3, of the Statute of the International Court of Justice.

In this connexion, the position of members of the Court, the Registrar and the Court's officials on the one hand, and that of the agents, counsel and advocates of parties, on the other, must be considered separately.

I. As regards the members of the Court, States Members of the United Nations should be recommended to accord diplomatic privileges and immunities to judges in countries where, with the express or tacit consent of the local Government, they may select a place of residence which may be regarded as connected with their judicial functions.

This provision might run as follows:

> "If a judge, for the purpose of holding himself permanently at the disposal of the Court, intends to reside in some country other than his own and obtains the consent of the Government of that country after communicating his intention to it, he should be accorded diplomatic privileges and immunities during the period of his residence there."

Furthermore, the Court considers that the immunities, privileges, prerogatives and facilities required by judges for the purpose of travelling between the country in which they may be residing, even temporarily, and that to which their duties may call them, should also be more clearly defined.

Thus, judges should not only be exempt from restrictions of any kind on leaving the country in which they reside and on entering the country where the Court is sitting, but should also actively enjoy, while travelling, the privileges and immunities normally accorded to diplomatic agents in such circumstances.

/The following

The following provisions appear suitable for recommendation to the States:

"Members of the Court shall be accorded every facility to leave the country where they may happen to be and to enter the country where the Court is sitting, and to leave it. On journeys in connexion with the exercise of their functions, they shall, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic agents. This provision shall also apply to the Registrar of the Court and his deputy."

The position of officials of the Permanent Court of International Justice was based on Article 7 of the Covenant of the League of Nations, which granted officials of the League, when engaged on the business of the League, diplomatic privileges and immunities. A draft convention on the privileges and immunities of the United Nations Organization was prepared during the first session of the General Assembly in London. But as this convention has not yet come into force, the following provision might be adopted as regards officials of the Court:

"Officials of the Court shall enjoy in any country where they may be on the business of the Court or in any country through which they may pass on such business, such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions. Higher officials shall enjoy the treatment accorded to diplomatic agents of similar rank."

II. As regards the agents, counsel and advocates of parties, the immunities and privileges accorded them by Article 42, paragraph 3, of the Statute serve a more limited purpose and are consequently more restricted in scope. The mission of these representatives is essentially one of a temporary character.

There are two other classes of person whose missions present the same temporary character and to whom the Court considers that the requisite safeguards for the exercise of their functions should be accorded. These are, first, the assessors referred to in Article 30, paragraph 2, of the Statute, and secondly, the witnesses and experts referred to in Articles 50 and 51 of the Statute.

The Netherlands Government has for its part declared its readiness to grant to assessors, agents, counsel, advocates, witnesses and experts the fullest measure of independence in the fulfilment of their mission at the usual seat of the Court. It would suffice to recommend that other Members of the United Nations should accord them the requisite guarantees in all countries where they may have to exercise their function in connexion with the Court or through which they may pass for this purpose. The following text would fulfil these requirements:

"Assessors of the Court, as also the agents, counsel and advocates before the Court, shall be accorded in the countries where they may have to fulfil their mission before the Court and on journeys necessitated by this mission, such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions. Witnesses and experts who may have to proceed to the country where the Court is sitting shall be accorded the immunities and facilities necessary for the fulfilment of their mission."

The resolution relating to the adoption of the General Convention on Privileges and Immunities of the United Nations* adopted by the General Assembly on 13 February 1946 provides in sections 24 et seq. for the delivery of special laissez-passer by the United Nations. These laissez-passer would be accepted as official documents in any journey undertaken by their holders.

If these provisions are put into effect, the International Court of Justice shall have the same power in so far as concerns its members, the Registrar and the officials of the Court.

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* See Resolutions adopted by the General Assembly during the first part of its first session, page 25.

Report of the Sixth Committee on privileges and immunities of members of the International Court of Justice, the Registrar, officials of the Registry, assessors, the agents and counsel of the parties and of witnesses and experts /A/202, 29 November 1946/.

Rapporteur: Mr. K. H. Bailey (Australia)

1. The General Assembly, at its forty-sixth plenary meeting, on 31 October 1946, referred to the Sixth Committee the question of the privileges and immunities of the Judges, Registrar, officials, et cetera, of the International Court of Justice.

The subject has been examined in detail on the basis of recommendations transmitted by the International Court of Justice both by Sub-Committee 2 of the Sixth Committee and by the Committee itself. The President of the International Court of Justice (Mr. J. G. Guerrero) and the Registrar (Mr. E. Hambro) assisted in these discussions.

2. Following the discussion in the Sub-Committee, a draft resolution was prepared by its Rapporteur (Jonkheer G. Beelaerts van Blokland) and was submitted to the Sixth Committee, which now recommends its adoption by the General Assembly.*

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* For the text of this resolution see General Assembly Resolution 90 (I).

Joint report by the Secretary-General and the Negotiating Committee on the negotiations with the authorities of the United States of America concerning the arrangements required as a result of the establishment of the seat of the United Nations in the United States of America /A/67 and A/67/Add.1, 4 September 1947/.

INTRODUCTION

By its resolution of 13 February 1946 /22(I)/ the General Assembly entrusted the Secretary-General with the task of negotiating "with the competent authorities of the United States of America the arrangements required as a result of the establishment of the seat of the United Nations in the United States of America". The resolution provided that in these negotiations the Secretary-General should be assisted by a committee hereinafter called the "Negotiating Committee". This body was to consist of ten members nominated respectively by the Governments of Australia, Belgium, Bolivia, China, Cuba, Egypt, France, Poland, the Union of Soviet Socialist Republics, and the United Kingdom. The agreement resulting from the negotiations was to be submitted for approval to the General Assembly before being signed by the Secretary-General. A draft convention drawn up by the Assembly and annexed to the above-mentioned Assembly resolution was to serve as "a basis of discussion" in the negotiations.

The Negotiating Committee held its first meeting in New York on 15 May. It consisted of: Mr. K. H. Bailey (Australia); Mr. J. Nisot (Belgium); Mr. G. Salamanca (Bolivia); Mr. Shushi Hsu (China); Mr. G. Belt (Cuba); Mahmoud Bey Fawzi (Egypt); Mr. J. Cahen-Salvador (France); Mr. A. Rudzinski (Poland); Mr. V. F. Tepliakov (Union of Soviet Socialist Republics); and Mr. H. McKinnon Wood (United Kingdom).

Mr. Bailey was elected Chairman. On his being obliged to return to Australia, Mr. Body acted as the Australian member of the Committee, and Mr. McKinnon Wood was elected Chairman.

The Secretary-General was represented throughout the negotiations by Mr. Kerno, Assistant Secretary-General in charge of Legal Affairs, assisted by Mr. A. Feller, General Counsel and Director of the Legal Department, and Mr. M. Schreiber, Legal Adviser, who acted as secretary to the United Nations

delegation. It was intended that, after studying the draft convention, Mr. Kerno, his assistants and the Committee should proceed to Washington, where the negotiations with the United States of America would take place. In fact, however, the State Department was not in the position to commence formal negotiations until 10 June, although the officials concerned were good enough to furnish the Negotiating Committee unofficially with indications of their probable attitude, which were extremely useful to its preparatory work. The negotiations proceeded continuously from 10 June to 19 June inclusive, and have resulted in a text which represents the state of the negotiations up to date. It was felt, however, by the representatives of the United States of America that further discussions might be necessary after the General Assembly had selected a specific location as the site of the permanent headquarters of the United Nations. It is hoped that it will be possible to hold these further negotiations during the second part of the first session of the General Assembly, with a view to submitting a final text for the approval of the Assembly before it adjourns.

The Secretary-General and the Negotiating Committee desire to express their appreciation of the spirit of cordial co-operation in overcoming difficulties and of sympathetic understanding of the requirements of the United Nations which was shown by Mr. Fahy, the Legal Adviser of the State Department, and his able associates.

The text which has resulted from the preliminary negotiations is in general self-explanatory, but the following brief comments may facilitate its study by the General Assembly.

GENERAL CHARACTER OF THE INSTRUMENT

The text of the instrument dated 20 June 1946 differs in detail but in the main follows the substance of the convention drawn up as a basis for discussion, which will hereinafter be called the "basis of discussion". It must be remembered that this latter document was drafted without the participation of the United States delegation and without full knowledge of the complexity of the problems involved. The changes are in every case the result of most careful discussions with expert United States officials as to the most practical and convenient means of attaining the purposes aimed at in the

Assembly's text. In some cases, changes have been made in order to remove misapprehensions which were found to exist as to the extent of the rights claimed by the United Nations. The Secretary-General and the Negotiating Committee are satisfied that none of the changes diminish the rights and powers which under the Charter (Articles 104 and 105) the United Nations should enjoy within its seat. Furthermore, since neither the exact location nor the dimensions of the headquarters district have been settled, the Secretary-General and the Negotiating Committee have kept in touch with the Headquarters Commission and have endeavoured to make the provisions of the agreement easily adaptable to any plan which may be adopted.

While it was recognized that the method of obtaining the necessary constitutional approval for the conclusion of the instrument must be decided by the United States, the Secretary-General and the Negotiating Committee felt it to be their duty to urge that the method adopted should be one which would give the United Nations the maximum legal protection, and in particular ensure that those provisions which concerned states of the Union should be directly binding upon those states as well as upon the United States of America. The representatives of the United States stated that the form of an "executive agreement" authorized by a joint resolution of Congress might be adopted, and not that of a treaty subject to ratification by the Senate, and that they considered either form would have the same legal effect both in international law and in United States law.*

The parties to the instrument are the United Nations and the United States of America. Certain provisions impose specific obligations on the "appropriate American authorities" which are defined to mean "such federal, state or local authorities in the United States of America as may be appropriate in the context and in accordance with the laws and customs of the United States" (section 1c). It is, however, expressly provided that wherever the instrument imposes obligations on the appropriate American authorities, the Government of the United States of America shall have the ultimate responsibility for the fulfilment of such obligations (section 40).

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* See Appendix III.

COMMENTS ON PARTICULAR PASSAGES

Article I: Definitions

This article merely defines certain terms used in subsequent articles.

Article II: The Headquarters District and the Zone

By providing for the concentration of the activities of the United Nations in a headquarters district which forms part of a larger zone serving as a protection for the amenities and tranquility of the district and its eventual enlargement, article II gives the greatest possible freedom of action to the Headquarters Commission and the General Assembly. The system enables the United Nations to limit expenditure at the beginning to the most necessary requirements. At the same time it leaves it free to expand the area acquired by it and taken under its control as the necessities of its work demand and according to its financial possibilities.

The first section of the article (section 2) declares that the seat of the United Nations shall be the headquarters district. The article contains (sections 3, 4 and 5) the provisions which have been found necessary for vesting the required land in the Organization. They are somewhat complicated, but are believed to be fair to all parties concerned.

It is anticipated that, even in the case of gifts, if there are any, the land (including buildings thereon) will be acquired first by the United States and transferred by it to the United Nations.

Section 3 imposes upon the United States the obligation to place itself in a position to transfer the whole area of the headquarters district to the United Nations on being requested to do so by the Secretary-General. Further acquisitions of land will be made by the United States as the needs of the United Nations may require. The title to land acquired and transferred to the United Nations by the United States will be guaranteed by the United States (section 4).

The United States representatives intimated that a special statute might be enacted by Congress to provide whenever necessary for the compulsory acquisition (condemnation) of the necessary land. Under section 5 the actual cost to the United States will be repaid to it by the United Nations. It is understood that in the condemnation proceedings the Secretary-General

/will have

will have an opportunity to state his views as to the price, and will have the right to have the proceedings discontinued if the cost proves to be more than he thinks proper. The United States may acquire land by purchase, but only if the Secretary-General agrees to the price. The question how the payments due to the United States are to be made should, for obvious financial and budgetary reasons, be examined by the General Assembly, and is accordingly to be dealt with in a supplemental agreement or agreements. In order to meet fears of depreciation of land values in the zone as the result of the United Nations receiving the right to have such land compulsorily acquired for transfer to it, it is provided that if the courts of the United States should decide that there has been a "taking of an interest" in the land not so acquired which entitles its owners to compensation, the question of reimbursing the United States for money paid as such compensation shall be made the subject of an equitable settlement.

It has been agreed that the United Nations, while retaining for itself the ownership of the land, may invite specialized agencies which have been brought into relationship with it to establish their headquarters in the zone, or even in the headquarters district, and a paragraph in section 3 enables additional land outside the headquarters district to be acquired for this purpose.

Section 6 defines the rights of the United Nations in the sub-soil of the land acquired by it. The reservations permitted by this section are necessary owing to the uncertainty as to where the seat of the United Nations will ultimately be located.

Section 7 deals with the highly technical subject of telecommunications. It assures the United Nations a possibility of world-wide coverage by short-wave broadcasting. In case of emergency, as well as in special circumstances to be determined by the Secretary-General, the existing United Nations short-wave facilities may be used for radio telegraph, teletype, telephone, telephoto and similar services. If the United Nations so desires, its zone shall be covered by standard and frequency modulation broadcasting stations. The text of the section has been drawn up in agreement with the United States Telecommunications Co-ordinating Committee. The experts, Mr. Kagan and Mr. van Dissol, consider that it meets all the foreseeable needs of the United Nations.

/Section 8

Section 8 entitles the United Nations to establish an airport, but leaves the details of its operation to be negotiated between the United Nations and the United States when the time for creating such an airport arrives.

Section 9 enables the radio station and airport to be established outside the zone, but nevertheless as legally part of the headquarters district.

Article III: Law and Authority in the Headquarters District

In the opinion of the representatives of the United States, the terms in which the control and authority to be exercised by the United Nations within the headquarters district were defined in article III, as they appeared in the basis of discussion (sections 11 and 16), were not precise enough to be accepted. At the same time, they were prepared to give the United Nations a substantial measure of exemption from United States laws and regulations and of power to make its own regulations. A solution acceptable to both the United States representatives and those of the United Nations has been found in the adoption of two amendments. The first gives the United Nations only such control and authority as is provided in the instrument (section 11), while the second substitutes for section 16 of the basis of discussion an entirely new text which imposes no limitation on the power of the United Nations to make regulations which will be operative within the headquarters district, and to exclude the operation of United States laws or regulations inconsistent therewith, so long as the United Nations regulations can properly be held to have for their object the establishment, in the district, of "conditions in all respects appropriate for the full execution" of the functions of the United Nations.

Disputes as to whether a United Nations regulation really has the required character, or a United States law or regulation really is inconsistent with a United Nations regulation, will be settled by arbitration under sections 39 and 40, but pending the settlement the United Nations regulation and not the United States law or regulation will apply. A provision (section 41) which, at the suggestion of the United States

representatives, has been inserted at the end of the agreement, and which directs that the agreement "shall be construed in the light of its primary purpose to enable the United Nations, at its headquarters in the United States of America, fully and efficiently to discharge its responsibilities and fulfil its purposes", should prevent the arbitrators from placing a narrow construction on the United Nations' right to make regulations.

The questions of the air above and the sub-soil below the headquarters district are dealt with in sections 13 and 16 respectively.

Article IV: Communications and Transit

The first section of this article (now section 20) has been redrafted so as to deal exclusively with public roads, which are the only means of transit normally provided in the United States by the public authorities. All other means of transit and communications are dealt with in section 30.

The remaining sections, dealing with the treatment to be accorded to the various classes of persons having occasion to come to the headquarters district, have been somewhat altered as the result of the negotiations, but the legal effect remains the same.

Article V: Resident Representatives to the United Nations

The representatives of the United States accepted the principle of this article as it stood in the basis of discussions, but felt that there should be some safeguard against too extensive an application. The Secretary-General and the Negotiating Committee consider the new text (section 27) to be a possible compromise.

This article deals only with the special situation of members of resident delegations and its provisions are in addition to the privileges and immunities provided in the General Convention.

Article VI: Police Protection of the Headquarters District

This article (sections 28 and 29) has been redrafted. Provisions have been inserted entitling the United States authorities to ask

reimbursement for the cost incurred in giving police protection in the headquarters district.

Article VII: Public Services and Protection of the Zone

Section 30, which deals with the provision of public services, has been made more complete and more precise.

Under section 31 the United Nations and the United States are jointly to make arrangements for the "zoning" (town-planning) of that part of the United Nations zone which is outside the headquarters district, and under section 32 they reciprocally assume obligations regarding the maintenance of the amenities of the United Nations zone and the land in its vicinity.

Section 32, forbidding racial and religious discrimination, has been transferred from the original section 16.

Article VIII: Matters Relating to the Operation of this Convention/Agreement

This article deals with the channels through which the United Nations and United States authorities are to communicate with one another and provides for the making of agreements to supplement the principal agreement. It retains, from the original discussions, a provision that, at the request of the Secretary-General, the Secretary of State of the United States shall appoint a special representative for the purpose of liaison.

Article IX: Relation between this Convention/Agreement and the General Convention

This provision has the same effect as sections 33 and 34 of the basis of discussion. The annex reproducing the provisions of the General Convention has been omitted since the agreement is to be brought into force by an exchange of notes between the Secretary-General and the United States (section 42) and it is thus possible for the United Nations to prevent it from coming into force before the United States has acceded to the General Convention.

/Article X:

Article X: Final Provisions

The provisions of this article as to what is to happen if the seat of the United Nations is removed from the territory of the United States (sections 37 and 38) are new and are believed to be preferable to those of the corresponding sections of the basis of discussion.

In sections 37 and 38, the "umpire" provided for in the original text has been replaced, at the request of the United States representatives, by a board of three arbitrators.

As already mentioned, the agreement is to be brought into force by a simple exchange of notes between the Secretary-General and the United States of America (section 42).

APPENDIX I

CONVENTION/AGREEMENT BETWEEN THE UNITED NATIONS AND THE UNITED STATES OF AMERICA*

The United Nations and the United States of America:

Desiring to conclude a convention/agreement for the purpose of carrying out the resolution adopted by the General Assembly on ..... to establish the seat of the United Nations in ..... and to regulate questions arising as a result thereof;

Have appointed as their plenipotentiaries/representatives for this purpose:

The United Nations:

Trygve Lie, Secretary-General

The United States of America:

James F. Byrnes, Secretary of State

Who have agreed as follows:

ARTICLE I

Definitions

Section 1

In this convention/agreement:

(a) The expression "zone" means the area identified as such in Appendix I and includes the headquarters district.

(b) The expression "headquarters district" means the original acquisition identified as such in Appendix I and any other lands and buildings which, from time to time, may be added in accordance with sections 3 and 9.

(c) The expression "appropriate American authorities" means such federal, state, or local authorities in the United States of America as may be appropriate in the context and in accordance with the laws and customs of the United States.

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* Working draft, not as yet finally approved by either party.

/(d) The expression

(d) The expression "General Convention" means the Convention on the Privileges and Immunities of the United Nations approved by the General Assembly of the United Nations on 13 February 1946, as acceded to by the United States.

(e) The expression "United Nations" means the international organization established by the Charter of the United Nations, hereinafter referred to as the "Charter".

(f) The expression "Secretary-General" means the Secretary-General of the United Nations.

ARTICLE II

The Headquarters District and the Zone

Section 2

The seat of the United Nations shall be the headquarters district.

Section 3

At the written request of the Secretary-General, the United States of America shall, without delay, cause possession of the headquarters district (including the buildings therein) to be vested in the United Nations, and, as soon as possible thereafter, it shall also cause the full ownership to be so vested.

The United States shall, in the same manner, at the written request of the Secretary-General accompanied by a statement that the property in question is required for the efficient performance of the functions of the United Nations or of specialized agencies which have been brought into relationship with it in accordance with the Charter, cause possession and full ownership of additional land (including buildings) situated in the zone and specified in the request, to be vested in the United Nations. The additional land so acquired shall become part of the headquarters district on the giving of notice to that effect to the United States by the Secretary-General.

Any part of the headquarters district shall cease to be a part of the headquarters district for such period as may be specified on the giving of notice to that effect to the United States by the Secretary-General.

Section 4

The United States of America shall guarantee and defend against adverse

claims whatever property interest in land and buildings is conveyed to the United Nations in pursuance of section 3.

Section 5

For any real property acquired by the United States of America at the request of the United Nations for conveyance pursuant to section 3, the United Nations shall pay to the United States the actual cost, if any, to the United States of any such acquisition. In case owners of any land in the zone which is not so conveyed shall be held to be entitled, under the constitutional requirements of the United States, to compensation by the United States for the taking of an interest in their land by the creation of the zone, the question of any reimbursement to the United States for such compensation shall be made the subject of an equitable settlement between the United Nations and the United States.

In the event that any property in the original acquisition referred to in Appendix I is owned by the United States at the time of the coming into force of this convention/agreement, or in the event that any property conveyed pursuant to the second paragraph of section 3 is owned by the United States before its conveyance is requested by the United Nations, the price to be paid shall be settled by mutual agreement or, in the absence of such agreement, as provided in sections 38 and 39.

In negotiations for the purchase of any property to be conveyed to the United Nations, the United States shall act in agreement with the Secretary-General regarding the price to be paid. Any condemnation proceedings brought by the United States for the acquisition of property requested by the Secretary-General under section 3 shall be discontinued on request of the Secretary-General and reimbursement by the United Nations to the United States of the expenses incurred by it which are directly attributable to the conduct of such proceedings.

The method by which payment shall be made shall be determined by supplemental agreement between the United Nations and the United States.

Section 6

The United Nations shall have exclusive rights over the sub-soil of land conveyed to it pursuant to section 3, and in particular the right to make

constructions underground and to obtain therefrom supplies of water, subject to such reservations as may be provided in Appendix I with respect to minerals or on account of local water supply conditions.

Section 7

The United Nations may establish and operate in the headquarters district its own short-wave radio broadcasting facilities (sending and receiving stations) which in the case of emergency, or when the Secretary-General considers that special circumstances justify doing so, may be used for radio telegraph, radio teletype, telephone, telephoto and similar services. The United Nations shall make arrangements for the operation of such services with the International Telecommunications Union, the appropriate agencies of the United States Government and the appropriate agencies of other affected Governments with regard to wave lengths and other similar matters.

Arrangements shall also be made to enable the United Nations to establish in the headquarters district a standard and frequency modulation broadcasting station of the type normally licensed in the United States to serve a community of comparable line to the zone.

Section 8

The United Nations may establish and operate an airport within the zone or in its vicinity. The location and use of such airport and the conditions under which there shall be entry into and exit from the airport shall be determined by mutual agreement between the United Nations and the United States of America.

Section 9

If the United Nations shall find it impracticable to obtain within the zone suitable land for an airport, or for a radio station or other terminal communication facilities to be operated by it, the United States of America shall, at the request of the Secretary-General, cause suitable land in the vicinity of the zone to be conveyed to the United Nations in the same manner as provided in section 3 with respect to land in the zone. Such land shall be selected by mutual agreement between the United Nations and the appropriate American authorities, it being understood that the United Nations shall be entitled to acquire land that will permit the efficient functioning of the desired facilities. Unless otherwise provided in such agreement, the land so acquired shall be made part of the headquarters district in the same manner as provided in section 3 and the price to be paid shall be determined as provided in section 5.

ARTICLE III

Law and Authority in the Headquarters District

Section 10

The headquarters district shall be inviolable. Federal, state or local officers or officials of the United States of America, whether administrative, judicial, military or police, shall not enter the headquarters district to perfrom any official duties therein except with the consent of and under conditions agreed to by the Secretary-General. The service of legal process, including the seizure of private property, may take place within the headquarters district only with the consent of and under conditions approved by the Secretary-General.

Section 11

The headquarters district shall be under the control and authority of the United Nations as provided in this convention/agreement.

Section 12

The United Nations shall have the exclusive right to authorize or prohibit entry of persons and property into the headquarters district and to prescribe the conditions under which persons may remain or reside there.

Section 13

At the request of the Secretary-General, the appropriate American authorities shall issue such regulations approved by the Secretary-General as may be necessary to prevent the operation of aircraft over the zone in a manner which would interfere with the exercise of the functions of the United Nations or with the tranquillity of the headquarters district.

Section 14

Without prejudice to the provisions of the General Convention, or article IV of this convention/agreement, the United Nations shall not permit the headquarters district to become a refuge either for persons who are avoiding arrest under the federal, state, or local law of the United States of America or are required by the Government of the United States for extradition to another country, or for persons who are endeavouring to avoid service of legal process.

/Section 15

Section 15

Except as otherwise provided in this convention/agreement, or in the General Convention, the federal, state and local laws of the United States of America shall apply within the zone.

Section 16

The United Nations shall have the power to make regulations, operative within the headquarters district, for the purpose of establishing therein conditions in all respects appropriate for the full execution of its functions. No federal, state or local law or regulation of the United States of America which is inconsistent with a regulation of the United Nations authorized by this section shall, to the extent of such inconsistency, be applicable within the headquarters district. Any dispute between the United Nations and the United States as to whether a regulation of the United Nations is authorized by this section or as to whether a federal, state or local law or regulation is inconsistent with any regulation of the United Nations authorized by this section, shall be promptly settled as provided in sections 38 and 39. Pending such settlement, the regulation of the United Nations shall apply, and the federal, state or local law or regulation shall be inapplicable in the headquarters district to the extent that the United Nations claims it to be inconsistent with the regulation of the United Nations.

Section 17

Except as otherwise provided in this convention/agreement, or the General Convention, the federal, state and local courts of the United States of America shall have jurisdiction over acts done and transactions taking place in the headquarters district as provided in applicable federal, state and local laws.

Section 18

The federal, state and local courts of the United States of America, when dealing with cases arising out of or relating to acts done or transactions taking place in the headquarters district, shall take into account the regulations enacted by the United Nations under section 16.

/Section 19

Section 19

The United Nations may expel or exclude persons from the headquarters district for violation of its regulations adopted under section 16 or for other cause. Persons who violate such regulations shall be subject to other penalties or to detention under arrest only in accordance with the provisions of such laws or regulations as may be adopted by the appropriate United States authorities.

ARTICLE IV

Communications and Transit

Section 20

The appropriate United States authorities shall provide and maintain adequate public roads as specified in Appendix I for the transportation of persons and goods to and from the headquarters district and between any non-contiguous parts thereof. Adequate facilities for other means of transportation and communication shall be provided for in supplemental agreements.

Section 21

The federal, state or local authorities of the United States of America shall not impose any impediments to transit to and from the headquarters district by representatives of Members or officials of the United Nations or their families or by experts performing missions for the United Nations. The appropriate United States authorities shall take such measures as may be necessary to protect such persons while in transit to or from the headquarters district against any violence and against any activities designed to interfere with such transit. This section does not apply to general interruptions of transportation, which are to be dealt with as provided in section 30.

Section 22

Officials of specialized agencies which have been brought into relationship with the United Nations in accordance with the Charter and their families, and representatives of the Press, or of radio, film, or other information agencies who have been accredited by the United Nations in its discretion after consultation with the United States, and representatives of non-governmental organizations recognized by the United Nations for the purpose of consultation under Article 71 of the Charter, shall likewise enjoy the rights referred to in section 21.

/Section 23

Section 23

The protection to be provided to individuals under sections 21 and 22 shall be furnished irrespective of the relations existing between their governments and the Government of the United States of America.

Section 24

The Secretary-General and the appropriate United States authorities shall, at the request of either of them, consult as to methods of facilitating entrance into the United States of America, and the use of available means of transportation by persons coming from abroad who wish to visit the headquarters district and do not enjoy the rights referred to in sections 21 and 22.

Section 25

Laws and regulations in force in the United States of America regarding the entry and residence of foreigners shall not be applied in such manner as to interfere with the rights referred to in sections 21 and 22. Visas required by the persons referred to in those sections shall be granted without charge and as promptly as possible.

Section 26

Except as provided in this article, and in the General Convention, the United States of America retains full control and authority over the entry of persons or property into the territory of the United States and the conditions under which persons may remain or reside there.

The Secretary-General shall, at the request of the appropriate United States authorities, enter into discussions with such authorities, with a view to making arrangements for registering the arrival and departure of persons who have been granted visas valid only for transit to and from the zone and sojourn therein and in its immediate vicinity.

ARTICLE V

Resident Representatives to the United Nations

Section 27

Every person accredited to the United Nations by a Member as the principal resident representative of such Member or as a resident representative with the

rank of ambassador or minister plenipotentiary, and such resident members of their staffs as may be agreed upon between the Secretary-General, the United States of America and the Government of the Member concerned shall, whether residing inside or outside the zone, be entitled in the territory of the United States to the same privileges and immunities as it accords to diplomatic envoys accredited to it. In the case of Members whose Governments are not recognized by the United States of America, such privileges and immunities need be extended to their representatives, or persons on the staffs of such representatives, only within the zone, at their residences and offices outside the zone, in transit between the zone and such residences and offices, and in transit on official business to or from foreign countries.

ARTICLE VI

Police Protection of the Headquarters District

Section 28

The appropriate United States authorities shall exercise due diligence to ensure that the tranquillity of the headquarters district is not disturbed by the unauthorized entry of groups of persons from outside or by disturbances in its immediate vicinity and shall cause to be provided in the zone and on the boundaries of the headquarters district such police protection as is required for these purposes.

Section 29

If so requested by the Secretary-General, the appropriate United States authorities shall provide a sufficient number of police for the preservation of law and order in the headquarters district, and for the removal therefrom of persons as requested under the authority of the United Nations. The United Nations shall, if requested, enter into arrangements with the appropriate United States authorities to reimburse them for the reasonable cost of such services.

ARTICLE VII

Public Services and Protection of the Zone

Section 30

The appropriate United States authorities shall exercise to the extent requested by the Secretary-General the powers which they possess with respect to the supplying of public services to ensure that the headquarters district shall be supplied on equitable terms with the necessary public services, including electricity, water, gas, post, telephone, telegraph, transportation, drainage, collection of refuse, fire protection, snow removal, etc. In case of any interruption or threatened interruption of any such services, the appropriate United States authorities shall consider the needs of the United Nations in the zone as being of equal importance with the similar needs of essential agencies of the Government of the United States of America, and will take steps accordingly to ensure that the work of the United Nations is not prejudiced.

Section 31

For that part of the zone which does not constitute the headquarters district arrangements shall be made between the United Nations and the appropriate United States authorities regarding the erection of new buildings, the establishment of commercial or industrial enterprises, the laying of new streets, and other matters pertaining to zoning, in order to protect the amenities of the zone as a community suitable for the efficient functioning of the United Nations and for the enlargement, if necessary of the headquarters district as provided in section 3.

The appropriate United States authorities shall take all reasonable steps to ensure that the amenities of the zone are not prejudiced and the purposes for which the zone is required are not obstructed by any use made of the land in the vicinity of the zone. The United Nations shall on its part take all reasonable steps to ensure that the amenities of the land in the zone or its vicinity are not prejudiced by any use made of the land in the headquarters district by the United Nations.

/Section 32

Section 32

It is agreed that no form of racial or religious discrimination shall be permitted within the zone.

ARTICLE VIII

Matters Relating to the Operation of this Convention/Agreement

Section 33

The Secretary-General and the appropriate United States authorities shall settle by agreement the channels through which they shall communicate regarding the application of the provisions of this convention/agreement and other questions affecting the zone, and may enter into such supplemental agreements as may be necessary to fulfil the purpose of this convention/agreement. If the Secretary-General so requests, the Secretary of State of the United States of America shall appoint a special representative for the purpose of liaison with the Secretary-General.

ARTICLE IX

Relation between this Convention/Agreement and the General Convention

Section 34

The provisions of this convention/agreement shall be complementary to the provisions of the General Convention. In so far as any provision of this convention/agreement and any provision of the General Convention relate to the same subject matter, the two provisions shall wherever possible be treated as complementary, so that both provisions shall be applicable and neither shall narrow the effect of the other; but in any case of absolute conflict, the provisions of this convention/agreement shall prevail.

ARTICLE X

Final Provisions

Section 35

This convention/agreement shall cease to be in force if the seat of the

United Nations is removed from the territory of the United States of America.

Section 36

The seat of the United Nations shall not be removed from the zone unless the United Nations should so decide.

Section 37

The United Nations shall not dispose of all or any part of the land owned by it in the zone without the consent of the United States of America. If the United States is unwilling to consent to a disposition which the United Nations wishes to make of all or any part of such land, the United States shall buy the same from the United Nations at a price to be determined as provided below in this section.

If the seat of the United Nations is removed from the zone, the land owned by the United Nations in the zone, or any part of it, shall, on request of either the United Nations or the United States, be conveyed to the United States or, at the election of the United States, to the state or states in which the land is located.

If the United Nations alienates all or any part of the headquarters district, the provisions of this convention/agreement which apply to the headquarters district shall immediately cease to apply to the land and buildings so disposed of.

The price to be paid for any conveyance under this section shall, in default of agreement, then be the fair value of the land, buildings and installations, to be determined as provided in sections 38 and 39.

Section 38

Any dispute between the United Nations and the United States of America concerning the interpretation or application of this convention/agreement or of any supplemental agreement which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators, one to be named by the Secretary-General, one to be named by the United States, and the third to be chosen by the two or, if they should fail to agree upon a third, then by the President of the International Court of Justice.

/Section 39

Section 39

The Secretary-General or the United States of America may ask the General Assembly to request of the International Court of Justice an advisory opinion on any legal question arising in the course of the proceedings referred to in section 38. Pending the receipt of the opinion of the Court, an interim decision of the arbitral tribunal shall be observed by both parties. Thereafter, the arbitral tribunal shall render a final decision, having regard to the opinion of the Court.

Section 40

Wherever this convention/agreement imposes obligations on the appropriate United States authorities, the Government of the United States of America shall have the ultimate responsibility for the fulfilment of such obligations by the appropriate United States authorities.

Section 41

This convention/agreement shall be construed in the light of its primary purpose to enable the United Nations at its headquarters in the United States of America fully and efficiently to discharge its responsibilities and fulfil its purposes.

Section 42

This convention/agreement shall be brought into force by an exchange of notes between the Secretary-General, duly authorized by a resolution of the General Assembly of the United Nations, and the United States of America.

20 June 1946

APPENDIX II

LETTERS EXCHANGED BETWEEN MR. CHARLES FAHY, LEGAL ADVISOR, DEPARTMENT OF STATE, WASHINGTON, D. C., AND MR. IVAN KERNO, ASSISTANT SECRETARY-GENERAL, UNITED NATIONS

30 July 1946

My dear Mr. Kerno,

This will confirm the understanding of the Department of State regarding the proposed agreement between the United Nations and the United States with respect to the establishment of the permanent headquarters of the United Nations.

The attached draft embodies the changes in the document originally submitted to the Secretary-General by the General Assembly which have resulted from the extremely helpful and friendly negotiations recently held between representatives of the United Nations and the Department of State, in which representatives of the States of Connecticut and New York also participated.

An effort was made in these negotiations to reach a form of agreement which would be suitable regardless of the location and size of the headquarters, on the theory that, before the agreement is actually executed, the details which must be worked out after determination of the location and size would be incorporated in an annex. Very satisfactory progress has been made in this respect, but it seems unwise, for two reasons, to approve this document definitely now as representing agreement between the Secretary-General and the Department of State.

In the first place, the significance of several provisions of the proposed agreement cannot be adequately determined except in the light of specific locations which may be under consideration and with the benefit of consultation with representatives of the particular communities affected. This is especially true with respect to such matters as loss of local tax revenues and the effect on land values of the proposed option to acquire additional land in the defined "zone".

In the second place, although the Committee named by the General Assembly to assist in the negotiations of the agreement is no longer in session, the Headquarters Commission is continuing to explore with various local officials many of the legal problems which may be involved. These discussions are almost sure to shed new light on various matters which are covered by the proposed

/agreement

agreement and to result in suggestions for mutually agreeable modifications.

It is understood that the attached draft agreement will be included in the report of the Secretary-General to the General Assembly as representing the result of the negotiations to date; that it is to be regarded as an unfinished draft, with respect to which both parties remain free to request modifications in the light of various factors which may develop as particular locations come up for specific consideration; that the Secretary-General's report including this document will be made public; but that all copies of the draft agreement which are released either by the United Nations or by this Department will be plainly marked so as to indicate that it is an unfinished or working draft only and has not been finally approved by either party.

Allow me to express once more my appreciation of the friendly spirit, devotion to the ideals of the United Nations, and keen understanding of the many problems involved, which have been shown by you and your associates and the members of the Negotiating Committee in the course of our discussions of this subject.

Sincerely yours,

(Signed) Charles FAHY

2 August 1946

My dear Mr. Fahy,

I acknowledge with thanks the receipt of your letter of 30 July, and the enclosed copy of the draft instrument relating to the establishment of the permanent headquarters of the United Nations.

It is my understanding also that the draft instrument does not, at this stage, represent a definitive agreement between the Secretary-General and the Secretary of State, and that further discussions may be needed when a specific location is chosen as the site of the permanent headquarters. I am certain that you share my hope that it will be possible to hold these further discussions during the forthcoming session of the General Assembly, with a view to submitting a definitive text before the Assembly adjourns.

/It is the intention

It is the intention of the Secretary-General to report on this matter to the General Assembly and to transmit the present text with the explanation that it represents the results of negotiations to date and that a definitive text will be prepared at a later date, probably during the course of the session.

In publishing the text, the Secretariat will use the following caption: "Working draft, not as yet approved by either party". I would suggest that a similar caption might be used on any text released by the Department of State.

May I thank you again for the close and helpful co-operation which we have had from you and your associates, and in particular the broad comprehension of the needs of the United Nations which you have shown in our negotiations.

Sincerely yours,

(Signed) Ivan KERNO

APPENDIX III

OPINION OF ACTING ATTORNEY-GENERAL OF THE UNITED STATES REGARDING THE EFFECTIVENESS OF THE PROPOSED HEADQUARTERS AGREEMENT

20 August 1946

The Honourable The Secretary of State.

My dear Mr. Secretary,

By letter dated 9 July 1946, you have asked for my opinion with respect to the following question:

"Would the enclosed agreement when executed by the President pursuant to authorization by a joint resolution of the Congress operate as the supreme law of the land superseding any inconsistent state or local laws with the same effect in that regard as a treaty ratified by and with the advice and consent of the Senate?"

The draft agreement referred to, dated 20 June 1946, would be between the United States and the United Nations. It would create a zone in which the headquarters of the United Nations would be located, and would define, broadly, the rights, privileges and obligations of the parties in connexion therewith. At its present stage of negotiation, the agreement does not specify the size of the zone or its precise location within the borders of the United States. Your letter indicates that it has not yet been determined whether the agreement will take the form of a treaty or be executed by the President pursuant to a joint resolution of the Congress.

In this connexion, representatives of the United Nations have asked you whether the proposed agreement, in the event that it is authorized by a joint resolution of the Congress, would have the same binding effect as a treaty, in superseding inconsistent state and local laws. It is your view that an agreement executed by the President, pursuant to such a joint resolution, would have the effect indicated, and you desire to have my opinion in the matter. I concur fully in your position.

The question you have asked is confined to the particular agreement now before me, and does not require me to consider whether or not there are circumstances

/under which

under which a given international compact must take the form of a treaty. It is sufficient to say that the proposed agreement is clearly within the constitutional authority of the Federal Government, and may, with full legal effect, be executed as a legislative-executive agreement.

The Constitution of the United States expressly provides in section 2 of article VI that:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding."

It is thus axiomatic that where there is a conflict between a state or local law and a treaty, the state or local law must yield (Ware v. Hylton, 3 Dall. 199, 236-237, 242-243, 282 (1796); Asakura v. Seattle, 265 U.S. 332, 341 (1924); 1 Willoughby, The Constitutional Law of the United States second edition, 1929, section 76). It is equally well established that such a state or local law must give way to a conflicting Federal statute (Gibbons v. Ogden, 9 Wheat. 1, 210-211 (1824); Hines v. Davidowitz, 312 U.S. 52, 62, 66 (1941); 1 Willoughby, op. cit. supra). A like rule applies where the conflict is occasioned by Federal executive action authorized by an act of Congress (Case v. Bowles, U.S. 66 Sup. Ct. 438, 443 (1946); the Shreveport Case, 234 U.S. 342 (1914); Wisconsin RR. Comm. v. C., B. & Q. R.R. Co., 257 U.S. 563 (1922); 35 Op. A.G. 110).

Since a joint resolution, approved by the President, is, plainly, a law of the United States (Wells v. United States, 257 Fed. 605, 610 (C.C.A. 9)), it follows that an otherwise valid joint resolution authorizing execution of the proposed agreement will supersede state or local laws inconsistent with the joint resolution or the agreement. Cases cited supra.

The Supreme Court has pointed out that if international understandings could be vitiated by state laws, the United States would be open to a "charge of national perfidy" (United States v. Belmont, 301 U.S. 324, 331 (1937)). The need for supremacy of Federal action in the field of foreign affairs is, therefore, if anything, greater than with respect to exclusively domestic concerns (Hines v. Davidowitz, 312 U.S. 52, 68 (1941)).

/Thus, the Supreme

Thus, the Supreme Court held in the Belmont case that the laws of New York, otherwise applicable to the disposition of a bank deposit, must yield to a conflicting executive agreement with a foreign Government executed by the President pursuant to authority vested in him by the Constitution. Mr. Justice Sutherland, speaking for the Court, said in part (331-332):

"Plainly, the external powers of the United States are to be exercised without regard to state laws or policies. The supremacy of a treaty in this respect has been recognized from the beginning....the same rule would result in the case of all international compacts and agreements from the very fact that complete power over international affairs is in the national Government and is not and cannot be subject to any curtailment or interference on the part of the several states. Compare United States v. Curtis-Wright Export Corp., 299 U.S. 304, 316, et seq. In respect of all international negotiations and compacts, and in respect of our foreign relations generally, state lines disappear. As to such purposes the state of New York does not exist. Within the field of its powers, whatever the United States rightfully undertakes, it necessarily has warrant to consummate."

A similar conclusion with respect to the same executive agreement was subsequently reached in United States v. Pink, 315 U.S. 203 (1942), in which the Supreme Court, per Mr. Justice Douglas, stated, in part, the following (230-233):

" 'All constitutional acts of power, whether in the executive or in the judicial department, have as much legal validity and obligation as if they proceeded from the legislature...' (The Federalist, No. 64). A treaty is a 'Law of the Land' under the supremacy clause (Art. VI, Cl. 2) of the Constitution. Such international compacts and agreements as the Litvinov Assignment have a similar dignity (United States v. Belmont, supra, 301 U.S., page 331; Corwin, The President, Office & Powers (1940), pages 228-240).

"... But state law must yield when it is inconsistent with, or impairs the policy or provisions of, a treaty or an international compact or agreement (Nielsen v. Johnson, 279 U.S. 47). Then, the power of a state to refuse enforcement of rights based on foreign law which runs counter to the public policy of the forum (Griffin v. McCoach, 313 U.S. 498, 506) must give way before

/the superior

the superior Federal policy evidenced by a treaty or international compact or agreement (Santovincenzo v. Egan, supra, 284 U.S. 30; United States v. Belmont, supra)."

"We recently stated in Hines v. Davidowitz, 312 U.S. 52, 68, that the field which affects international relations is 'the one aspect of our Government that from the first has been most generally conceded imperatively to demand broad national authority'; and that any state power which may exist 'is restricted to the narrowest of limits'. There, we were dealing with the question as to whether a state statute regulating aliens survived a similar Federal statute. We held that it did not. Here, we are dealing with an exclusive Federal function. If state laws and policies did not yield before the exercise of the external powers of the United States, then our foreign policy might be thwarted. These are delicate matters. If state action could defeat or alter our foreign policy, serious consequences might ensue. The nation as a whole would be held to answer if a state created difficulties with a foreign Power (Cf. Chy Lung v. Freeman, 92 U.S. 275, 279-280). Certainly, the conditions for 'enduring friendship' between the nations, which the policy of recognition in this instance was designed to effectuate, are not likely to flourish where, contrary to national policy, a lingering atmosphere of hostility is created by state action."

The agreement involved in the Belmont and Pink cases, and given precedence over conflicting state policy, was not predicated on an act of Congress. Hence, there can be no doubt that the proposed agreement, if executed pursuant to Congressional authority, will supersede incompatible state and local laws. As the Supreme Court stated, in the Belmont case, "it is inconceivable" that state constitutions, state laws and state policies "can be interposed as an obstacle to the effective operation of a Federal constitutional power." (301 U.S. 324, 332).

Sincerely yours

(Signed) James P. McGranery

Report of the Sixth Committee on the arrangements required as a result of the establishment of the permanent headquarters of the United Nations in the United States of America [A/271, 13 December 1946]

Rapporteur: Mr. K.H. Bailey (Australia).

1. By its resolution of 13 February 1946, the General Assembly entrusted the Secretary-General with the task of negotiating with the competent authorities of the United States of America the arrangements required as a result of the establishment of the permanent headquarters of the United Nations in the United States of America.

2. The resolution of 13 February 1946 also provided that in these negotiations the Secretary-General should be assisted by a committee which became known as the "Negotiating Committee". This body consisted of ten members, nominated respectively by the Governments of Australia, Belgium, Bolivia, China, Cuba, Egypt, France, Poland, the United Kingdom and the Union of Soviet Socialist Republics.

3. The General Assembly referred to the Sixth Committee a joint report by the Secretary-General and the Negotiating Committee on the negotiations that had taken place with the authorities of the United States of America (document A/67). The negotiations had resulted in a draft agreement making the necessary arrangements for the immunities, privileges and facilities required by the United Nations.

4. These negotiations were based on the assumption that the permanent headquarters of the United Nations would be located in a rural area. The decision of the General Assembly, however, that the permanent headquarters shall be located in the City of New York necessitates some modification of the draft agreement in order to adapt it to the circumstances of an urban site. Further negotiations will therefore be necessary, and the agreement cannot be submitted for the approval of the General Assembly until its second session.

5. The Sixth Committee recommends that the General Assembly should deal with the whole position in the manner provided for in the resolution contained in the present report.*

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* For the text of this resolution see General Assembly Resolution 99 (I).

/Joint report

Joint report by the Secretary-General and the Negotiating Committee relating to the Interim Arrangement on the Privileges and Immunities of the United Nations in Switzerland concluded with the Swiss Federal Council and on agreement concerning the Ariana Site* /A/175, 4 November 1946/.

I. The Secretary-General has the honour to communicate to the Assembly the report drawn up by the Negotiating Committee which was set up by the Assembly on 12 February 1946 to assist him in negotiations with the Swiss Federal authorities in connexion with the transfer to the United Nations of the Geneva buildings and certain of the assets of the League of Nations. Appendices I and II of this report contain the Interim Arrangement on Privileges and Immunities of the United Nations in Switzerland and the Agreement concerning the Ariana Site which were initialled by representatives of the Swiss Federal Council and, on behalf of the Secretary-General, by the Negotiating Committee. These two agreements were signed first on behalf of the Swiss Federal Council, and on 1 July by the Secretary-General, on which date they duly entered into force.

The Secretary-General desires to express his appreciation of the co-operative attitude shown by the Swiss authorities throughout these negotiations.

II. In the minutes of the discussion between the Negotiating Committee and the Swiss delegation concerning the Interim Arrangement, reproduced as Appendix IV to the Committee's report, a reservation by the Swiss representatives is recorded to the effect that "in the event of new agreements being concluded, problems likely to affect the safeguarding of Swiss interests would have to be reconsidered".

When the Secretary-General visited Switzerland in August he took the opportunity to discuss this reservation with the Federal authorities. He felt that it was impossible for him to make any recommendations concerning the future use of the United Nations buildings in Geneva until and unless all doubts were removed that the United Nations would at all times have the necessary freedom to use those buildings for the meetings of any of its organs or for the work of any of its services. He also raised informally the question of the acquisition by the United Nations of the radio transmitting and receiving station known as

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* The General Assembly, at its sixty-fifth plenary meeting, approved the Interim Arrangement on the Privileges and Immunities of the United Nations concluded with the Swiss Federal Council, and Agreement concerning the Ariana Site. See General Assembly Resolution 98 (I).

Radio-Nations previously operated by the League of Nations.

Discussions begun in Berne by the Secretary-General with the President of the Swiss Confederation and the Head of the Federal Political Department were continued by his representative in Geneva; and early in October a representative of the Federal Council came to New York to renew direct conversations with the Secretary-General. A draft letter was prepared for the signature of the Swiss authorities stating categorically that the provisions of the Interim Arrangement "apply to all the services and all the meetings which the United Nations may see fit to establish and hold in Switzerland, without any distinction." At the same time it embodied a paragraph under which "military operations, in case of conflict between States Members of the United Nations or between a Member State and a third State, would in no case be directed from Swiss territory". Such a clause would clearly be inadmissible in any agreement with a State in which the headquarters of the United Nations were to be located. But in view of the purposes which, in the Secretary-General's opinion, the Geneva building ought to serve -- namely to provide the site for a United Nations office in Europe -- he felt that he could recommend a letter containing this clause to the General Assembly for approval.

Except for a paragraph relating to the radio station (which is discussed under III below) the following letter dated 22 October 1946 from Mr. Max Petitpierre reproduces the terms of the agreed draft.

"Berne
"22 October 1946

"Sir,

"In accordance with the agreement reached between us on the occasion of your visit to Berne, I have the honour to inform you of the views of the Swiss Federal Council on the use by the United Nations of its properties at Geneva, in so far as this may concern the Federal Council.

"As you were able to observe, the Swiss Government and people, true to their ancient traditions of peace through justice, are sincerely desirous to afford the United Nations on their territory all possible facilities for the fulfilment of the tasks laid down in the San Francisco Charter. We therefore had much pleasure in concluding with you an interim agreement to settle -- we trust to your entire satisfaction -- all the questions to which the presence among us of international delegates, experts and officials have given rise.

/"I have the honour

"I have the honour to confirm that the provisions of that agreement apply to all the services and all the meetings which the United Nations may see fit to establish or hold in Switzerland, without any distinction.

"It is understood that the Swiss Confederation incurs no responsibility in respect of the activities in Switzerland of the United Nations Organization, its organs, its officials, or any person acting on its behalf or in its name.

"It is understood, further, that military operations, in case of conflict between States Members of the United Nations, or between the United Nations and a third State, will in no case be directed from Swiss Territory.

"On the question of the Radio-Nations transmitting and receiving station, I am writing you a special letter which is attached hereto.

"Requesting you to submit the text of the present communication to the General Assembly of the United Nations for approval, I have the honour to be, etc.

"(Signed) MAX PETITPIERRE"

The Secretary-General believes that Mr. Petitpierre's letter, together with the two Agreements referred to above, constitutes a satisfactory basis for the establishment of an office of the United Nations in Geneva. He therefore recommends the terms of this letter to the General Assembly for approval.

III. As regards the radio station, the following clause in the draft letter had been approved by the Secretary-General in the course of the discussions referred to above:

"The Federal Government agrees in principle that the United Nations may purchase the Radio-Nations transmitting and receiving station including buildings and land on terms to be agreed upon, the wave-lengths originally registered by Radio-Suisse for the use of Radio-Nations to be transferred to the Nations."

The Swiss representative had not felt able, pending consultation with the Federal authorities, to agree to this formula. He proposed the following alternative:

"The Federal Government undertakes to examine as soon as possible the question of the placing at the disposal of the United Nations, and of the purchase by it, of the Radio-Nations transmitting and receiving station including buildings and land on terms to be agreed upon, as well as the question of the transfer to the United Nations of the wave-lengths originally registered by Radio-Suisse for the use of Radio-Nations."

/This text

This text the Secretary-General was unable to accept, feeling it necessary, in the interests of the United Nations, that the Swiss Government should signify its agreement in principle to the purchase by the United Nations of the station and to the transfer of the wave-lengths to it.

Mr. Petitpierre's letter concerning the radio station reads as follows:

"Berne
"22 October 1946

"Sir,

"In the draft letter of 10 October, drafted at New York jointly by your representatives and M. Daniel Secretan, Head of the International Organizations Service in the Federal Political Department, the following alternatives were inserted under Item 6:

"The Federal Government agrees in principle that the United Nations may purchase the Radio-Nations transmitting and receiving station, including buildings and land, on terms to be agreed upon. The wave-lengths originally registered by Radio-Suisse for the use of Radio-Nations to be transferred to the United Nations.

Alternative: "The Federal Government undertakes to examine as soon as possible the question of placing at the disposal of the United Nations, and of the purchase by it, of the Radio-Nations transmitting and receiving station, including buildings and land, on terms to be agreed upon, as well as the question of the transfer to the United Nations of the wave-lengths originally registered by Radio-Suisse for the use of Radio-Nations."

"The Federal Council is ready to undertake the examination envisaged in the second alternative, but the problem raised is more complex than would appear at first sight. It must be solved with due regard to certain facts and technical considerations which I shall briefly summarize in accordance with the information which has been given to me:

"The Station of Prangins was established by Radio-Suisse in 1929. At that time Radio-Suisse owned the land, two buildings, and a long-wave transmitter.

"The League of Nations, which had contemplated the creation of a special station for its own needs, finally decided to conclude an arrangement with Radio-Suisse on the following basis:

"1. It would install at its own expense two short-wave transmitters and a

certain number of receivers, of which it would remain the owner.

"2. In normal times Radio-Suisse was to use the transmitters and the receivers. In times of emergency, the station was to pass under the exclusive control of the League of Nations, which would not, however, become the owner of the installations. That eventuality never arose, and even in 1939 and the following years, Radio-Suisse continued to operate the stations.

"That arrangement, which was signed in 1930 and came into effect in February 1932, was concluded for a period of ten years. It was renounced as from February 1942 by the Federal Council.

"All the installations, both those belonging to the League of Nations and those belonging to Radio-Suisse, were used almost exclusively for Swiss traffic throughout the period of the Convention, and quite exclusively from 1939. No difficulties arose between the League of Nations and Radio-Suisse.

"When the agreement was renounced in 1942, the installations belonging to the League of Nations were taken over by Radio-Suisse.

"At the present time, some of those installations have been replaced by new installations, and others have been improved. At the receiving station, the receivers have been replaced. The original aerials have likewise been replaced by new aerials; some of the pylons, however, are those which formerly belonged to the League of Nations.

"What remains to-day of the installations which were the property of the League of Nations amounts to very little. At present the Prangins station has six short-wave transmitters and is constructing a seventh which will be finished in about two months' time.

"In view of the development of radio communications, the use of the Prangins station is essential to Swiss traffic, as Radio-Suisse has only one other station, which is inadequate for that traffic.

"In view of the expansion of the Prangins Colovrex station, and of the fact that very little remains of the installations set up by the League of Nations, the object of your request really amounts, not to the repurchase of the Prangins station, but to its purchase by the United Nations. Further, according to the information we have received from the Swiss technicians whom we consulted, the Prangins station, which has now been adapted to Swiss traffic, might not be suitable for the needs of the United Nations, which are different.

/"The Federal

"The Federal Council has no objection to the United Nations having their own radio stations, both transmitting and receiving, on Swiss territory, nor to their owning both the installations themselves and the buildings where they will be established. It is ready to facilitate any solution which takes into account the legitimate desires of the United Nations and the needs of Swiss traffic, both as regards the stations themselves and their wave-lengths. It is ready to accept principles and a procedure similar to those envisaged in the joint report of 26 August 1946 on the establishment of the United Nations in the United States,* and set forth in particular in Section 7 of Appendix I, page 14. But it considers that the problem is too complex and that its technical aspect is too important for it to be solved by a simple exchange of letters.

"The Federal Council therefore instructs me to suggest that you send to Switzerland a delegation to examine on the spot with a Swiss delegation all the aspects of the problem with a view to submitting concrete proposals to you. As the question is essentially a technical one, I have no doubt that a satisfactory solution can be found quickly.

"I have the honour to be...

"(Signed) MAX PETITPIERRE"

The Secretary-General takes note with satisfaction of the penultimate paragraph of Mr. Petitpierre's letter, and in particular his statement that the Swiss Federal Council is prepared to accept principles and a procedure similar to those envisaged in the Joint Report referred to. He has informed Mr. Petitpierre that, subject to the agreement of the General Assembly, he is willing, as suggested, to send a delegation to examine on the spot, with a Swiss delegation, the technical aspects of the problem; but that he must ask for a reply to his request that the Federal Council agree in principle to the transfer to the United Nations of the wave-lengths originally registered by Radio-Suisse for the use of Radio-Nations. He trusts the Federal authorities will be able to give him an assurance in this matter during the present session of the General Assembly.

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* See A/67 and A/67/Add.1, p. 447, supra.

Report on the negotiations with the Swiss authorities by the Negotiating Committee on League of Nations Assets

The Committee was set up under a resolution of the General Assembly of the United Nations of 12 February 1946, to assist the Secretary-General in negotiating agreements in connexion with the transfer to the United Nations and in connexion with the premises of the Peace Palace at The Hague.

The negotiations with the Carnegie Foundation at The Hague, on which the Committee submitted a separate report (document A/NLA/W/6), were completed in February 1946. On 2 April 1946 Mr. W. Moderow (Poland) (Chairman), Mr. A. Muñoz (Chile), Mr. Y. Dao (China), Mr. G. Peissel (France), Mr. D. B. Sole (Union of South Africa), Sir William Matthews (United Kingdom) and Mr. H. McKinnon Wood (United Kingdom; legal adviser) arrived in Berne, where they were joined by Mr. H. Elting, Jr. (United States of America); by Mr. A. Pelt, an Assistant Secretary-General representing the Secretary-General of the United Nations; and Mr. A. B. Elkin of the United Nations Secretariat.

The Swiss delegation was headed by M. P. Ruegger, the Swiss Minister in London. The first series of meetings were held at Kehrsatz, Berne, and were inaugurated on 4 April 1946 by M. M. Petitpierre, Chief of the Federal Political Department. At these meetings, the text of an Interim Arrangement on Privileges and Immunities of the United Nations in Switzerland - a draft of which had previously been submitted by the Committee to the Swiss Government as a basis for discussion - was considered and approved, together with certain declarations to be included in the minutes of the Conference. The Committee then proceeded to Geneva, where the draft of an agreement on the Ariana Site and a final act were prepared, pending the adoption by the League of Nations Assembly of the Common Plan for the transfer of certain League of Nations assets to the United Nations, which the General Assembly of the United Nations had approved on 12 February 1946, and which was approved by the League of Nations Assembly on 18 April 1946. At a final meeting at the Palais des Nations on 19 April, the Committee and the Swiss delegation approved the records of the meetings previously held, and the final texts in English and French of the Interim Arrangements on Privileges and Immunities of the United Nations in Switzerland, and of the Agreement on the Ariana Site.

/The provisions

The provisions of the Interim Arrangement follow closely those of the United Nations General Convention on Privileges and Immunities adopted by the First General Assembly and now open to accession by the Member States. As compared with the modus vivendi agreed in 1926 between the League of Nations and the Swiss Government, the Interim Arrangement deals with a number of important matters such as currency regulations, immunities of representatives of Members or experts on missions for the United Nations, and the United Nations laissez-passer - subjects which are not covered by the modus vivendi. On the other hand, the modus vivendi accords better treatment to League of Nations officials than the General Convention to United Nations officials. The Committee, however, felt that uniformity should as far as possible be secured in the immunities granted to the United Nations in the various countries, and confined itself largely to such modifications in the Interim Agreement, as compared with the General Convention, as were necessary in view of the fact that the Interim Arrangement is a bilateral agreement with a non-member State.

The main differences between the Interim Arrangement and the United Nations General Convention are as follows:

(a) In view of the fact that Switzerland is not a member of the United Nations, the Committee felt that the question of the juridical personality of the United Nations should be dealt with in the Interim Arrangement on a different basis from that outlined in Sections 1 and 2 of the General Convention.

(b) Under section 5 (a) of the General Convention, the United Nations, its assets, income and other property are exempt from all direct taxes, while under the Interim Arrangement the exemption extends to all direct and indirect taxes, whether federal, cantonal or communal. Sub-section (b) of this section provides for a special exemption from the Swiss droit de timbre on coupons and the impôt anticipé. To sub-section (d), dealing with the exemption from all prohibitions and restrictions on imports and exports, was added, at the request of the Swiss delegation, the provision that the exemption is granted "on the understanding that the United Nations will use its good offices to obtain, if necessary, the consent of any other State which may be concerned, and subject to the provisions of general international conventions and public health measures".

/(c) Also

(c) Also at the request of the Swiss delegation, there is added to Section 15 (c) concerning the immunity of United Nations officials from national service obligations, the reservation that officials of Swiss nationality are subject to certain special provisions contained in the Annex to the Interim Agreement.

(d) Sections 16 and 24, dealing with immunities and privileges of the highest United Nations officials, provide that, if the Secretary-General should so desire, the chief administrative officer of the United Nations in Switzerland should be accorded similar immunities and privileges.

(e) Section 27, dealing with disputes concerning the interpretation or application of the Interim Arrangement, is based not on the General Convention, but on Section 39 of the Draft Convention between the United Nations and the United States of America adopted by the first General Assembly.* It provides for a Board of three arbitrators, of which the presiding arbitrator is to be appointed by the President of the International Court of Justice.

As mentioned above, certain declarations are included in the records of the negotiations between the Committee and the Swiss delegation. At the first meeting, it was stated on behalf of the United Nations Committee that it was not desired to modify the draft of the Interim Arrangement, but that the Committee wished to emphasize that it would certainly not refuse, and in fact would welcome, any facilities and privileges which the Swiss authorities, in accordance with their general practice, would grant to United Nations officials. In reply, the Swiss delegation stated that the Geneva authorities were prepared to accord to the United Nations, to the representatives of its Members, and to its officials, the same treatment as that accorded previously to other international institutions.

In reply to a question put by the Swiss delegation referring to the exemption of United Nations assets from taxes on real property under Section 5(a), the Committee stated that the United Nations had no intention at present of purchasing real property in Geneva for purposes of investment only. The United Nations, however, must insist that real property which it might acquire should be exempt from taxation.

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* General Assembly resolution 22(I)B.

/The Swiss

The Swiss delegation declared that Switzerland, in accordance with international law, would incur no international responsibility for the activities which the Interim Arrangement facilitated. Further, as regards the possible conclusion of new agreements in the future, the Swiss Government wished to reserve the right to reopen the examination of problems which might concern the safeguarding of the interests of Switzerland. The Swiss delegation noted that, in accordance with the explanations offered by the United Nations Committee, the United Nations laissez-passer would have to be considered as a new form of passport, the nature of which remained to be determined at a later date.

The provisions of the Ariana Site Agreement follow closely those of the agreement concluded between the League of Nations and the Swiss Confederation in March 1929, with the introduction of changes required to bring the text up to date, as various provisions, particularly regarding the construction of certain buildings, structures and roads, are now obsolete.

The properties and rights with which the agreement is concerned are as follows: The United Nations is the owner of the buildings of the League of Nations on the Ariana site and of any other buildings it may erect on that site. It has a transferable and exclusive right of user of the surface of the land on which these buildings are, or may be, erected. It has also a non-transferable and exclusive right of user over the remainder of the site. The property in the soil, however, remains with the Town of Geneva which is unable to dispose of it under the terms of the bequest under which it acquired its rights in the Ariana site.

In consideration for the rights which the League of Nations acquired in the Ariana site when it was about to erect the Palais des Nations, it assigned to the Town of Geneva certain rights which it had in the Sécheron lands situated at the border of the Lake of Geneva. These lands, which now become the property of the United Nations, remain subject to rights in favour of the Town of Geneva identical with those enjoyed by the United Nations with regard to the Ariana site. Buildings erected on these lands are the property of the Town of Geneva.

/In addition

In addition to the property and rights dealt with in the Ariana Site Agreement, there will, under the "Common Plan" be transferred to the United Nations by the League of Nations certain private properties acquired by the League of Nations to preserve the amenities of the Ariana site and held in freehold. For this purpose the United Nations will have to be registered as the owner of the properties concerned in the Geneva Land Registry.

The Committee felt strongly that in order to avoid expense, a dispensation from the necessity of having notarial acts in connexion with the registration of property rights in the lands or buildings transferred to the United Nations by the League of Nations and the Town of Geneva should be obtained without prejudice to the validity of the transfer. This point was specifically put to the Swiss delegation, which stated in reply that the Geneva authorities will make the necessary dispositions accordingly.

During the course of its stay in Geneva the Committee had every opportunity for examining the facilities provided by the Palais des Nations for the holding of international conferences and for their efficient servicing. The Committee made a tour of the buildings which form the Palais and was present for the whole duration of the final session of the Assembly of the League of Nations. It was thus in a position to form an opinion on the worth of the Assembly, Council, Secretariat and Library buildings. The lay-out of the buildings has been so efficiently planned and completed that maintenance and operational costs are surprisingly low. It has been conceived in such a way as to provide every possible facility for the holding of international meetings, large and small, and the general amenities provided by the city and Canton of Geneva are comparable with those available anywhere else.

Summarizing, the Committee believes that in the Palais des Nations at Geneva the United Nations has acquired a valuable asset which could play an important role in facilitating future international meetings of every description.

In accordance with the foregoing, the Committee has the honour to recommend for the signature of the Secretary-General the following initialled documents annexed to this Report:

Appendix I: Interim Arrangement on Privileges and Immunities of the United Nations concluded between the Swiss Federal Council and the Secretary-General of the United Nations.*

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* For text of Interim Arrangement, see p. 47 supra. Appendices II, III and

Appendix II: Agreement between the United Nations and the Swiss Confederation on the Ariana Site.

There are added for the information of the Secretary-General:

Appendix III: The Final Act signed at the Conference.

Appendix IV: Records of the Conference between the United Nations Negotiating Committee and the Swiss delegation.

Report of Sub-Committee 2 on the joint report of the Secretary-General and the Negotiating Committee on the Interim Arrangement on the Privileges and Immunities of the United Nations concluded with the Swiss Federal Council and on agreement concerning the Ariana Site
/A/C.6/85, 25 November 1946/

The Report of the Secretary-General contains the Interim Arrangement on Privileges and Immunities of the United Nations in Switzerland and the Agreement on the Ariana Site, which were drawn up in April by the Negotiating Committee on League of Nations Assets and representatives of the Swiss Federal Council, and entered into force on the date of their signature by the Secretary-General, 1 July 1946. It also contains a review of later discussions between the Secretary-General and the Swiss Federal authorities and sets out the text of letters dated 22 October 1946 from the Head of the Federal Political Department, the first dealing with a point of interpretation of the Interim Arrangement on Privileges and Immunities and the second dealing with the question of radio facilities for the United Nations in Switzerland.

The Sub-Committee felt that the Interim Arrangemen Privileges and Immunities and the Agreement on the Ariana Site were entirely satisfactory, and wished to express its appreciation to the Secretary-General and the Negotiating Committee on League of Nations Assets, as well as to the Swiss Federal authorities, for the results achieved. The Sub-Committee considered further that in view of the purposes which it is proposed that the United Nations office in Geneva should serve, it could recommend approval of the interpretation of the Interim Arrangement contained in the letter from the Head of the Federal Political Department referred to above.

/The question

The question of radio facilities for the United Nations in Switzerland has legal as well as administrative aspects. The Sub-Committee, however, did not feel it necessary to discuss the matter at this stage, in the hope that the assurances concerning the transfer to the United Nations of wave-lengths previously registered for the use of Radio-Nations may shortly be received from the Swiss Federal authorities, as requested by the Secretary-General. Once this assurance has been received, the matter of radio facilities will fall entirely within the competence of the Fifth Committee.

Supplementary Report by the Secretary-General on the Negotiations with the Swiss Federal Council [A/247, 11 December 1946]

In his report of 4 November on Negotiations with the Swiss Federal Council (document A/175) the Secretary-General referred to his exchange of communications with the Head of the Swiss Federal Political Department, Monsieur Max Petitpierre, on the subject of the transfer to the United Nations of the wave-lengths originally registered by Radio-Suisse for Radio-Nations, the station which had been utilized by the League of Nations. He expressed the hope that the Federal authorities would be able to give him certain assurances in this matter during the present session of the General Assembly.

He has now received a message on behalf of Monsieur Petitpierre which, together with the text of his reply, he has the honour to communicate to the General Assembly herewith for information (Annex). It has not proved possible at this stage to reach a definitive solution. But, as the Secretary-General has indicated in his reply to Monsieur Petitpierre, the procedure proposed with a view to reaching such a solution seems appropriate; and as regards interim practical arrangements to be made without prejudice to the results of that procedure he welcomes Monsieur Petitpierre's assurance of co-operation.

The Secretary-General will present a further report to the General Assembly at its second session.

/ANNEX

ANNEX

Letter to the Secretary-General from
the Delegation of Switzerland appointed
to follow the work of the General Assembly

New York, 9 December 1946

Sir,

The Swiss Delegation appointed to follow the work of the General Assembly has been instructed by M. Max Petitpierre, Head of the Federal Political Department, to convey to you the following message in reply to your letter of 4 November 1946:

1. By letter dated 22 October from M. Max Petitpierre on the subject of the Prangins-Colovrex station, the Swiss Government has recognized the right of the United Nations to build and to operate a radio station in Switzerland and has declared its readiness to accept principles and a procedure similar to those envisaged in the joint report (document A/67) of 26 August 1946 on the arrangements resulting from the establishment of the United Nations in the United States, and set forth in particular in Section 7 of Annex I, page 14.

2. M. Petitpierre has the honour to inform you that Radio-Suisse is willing to return to the United Nations, at its request, all or part of the installations and material taken over from the League of Nations in 1942, in so far as such installations and material still exist. The price should be fixed by a committee of experts to be appointed by mutual agreement between the United Nations and the Federal Government.

3. As regards the wave-lengths originally registered by Radio-Suisse for the use of Radio-Nations, M. Petitpierre proposes that you and he should jointly consult the League of Nations authorities and, so far as necessary, the International Telecommunications Union, regarding the rights of the League in respect of the said wave-lengths and the disposal of such rights. If the United Nations or the Swiss

/authorities

authorities do not accept the conclusions of these consultations, it is proposed that both parties should submit the matter for final decision to arbitration, the Secretary-General of the United Nations and the Swiss Federal authorities each appointing one arbitrator, a third arbitrator being appointed by the President of the International Court of Justice.

4. The Swiss authorities note that certain of the said wave-lengths may be necessary forthwith for the satisfactory operation of the United Nations telecommunications. Without prejudice to the results of the procedure envisaged in paragraph 3 above, they are therefore ready to contribute to the solution of the problem by relinquishing such wave-lengths as may be determined by mutual agreement. It is understood that the United Nations will take due account during the period preceding the establishment of its station, as well as in its permanent plans, of the requirements of the Swiss Telecommunications System.

5. It is suggested that the technical delegation which you contemplated sending to Switzerland should examine with the competent Federal authorities the detailed arrangements to give effect to the terms of paragraph 4 above.

The Swiss Delegation:

(Signed) C. BRUGGMAN D. SECRETAN A. ZEHNDER

REPLY BY THE SECRETARY-GENERAL

Lake Success, New York, 10 December 1946

Excellencies,

I have the honour to acknowledge receipt of your letter of 9 December 1946 conveying a message from Monsieur Max Petitpierre, Head of the Federal Political Department, in reply to my communication of 4 November 1946 concerning the transfer to the United Nations of the wave-lengths originally registered by Radio-Suisse for the use of the Radio-Nations station.

The procedure proposed in your letter with a view to reaching a definitive solution of the question seems to me to be an appropriate one.

/As regards

As regards practical arrangements to be made without prejudice to the results of that procedure, I welcome Monsieur Petitpierre's assurance of co-operation and in particular his statement that the Federal authorities are ready to relinquish the use of such wave-lengths as may be determined by mutual agreement.

I wish to assure you that for its part, the United Nations will take account, during the period preceding the establishment of its station as well as in its permanent plans, of the requirements of the Swiss Telecommunications System in so far as its own necessities permit.

I have the honour to be etc.

(Signed) Trygve Lie
Secretary-General

Swiss Delegation appointed
to follow the work of the
General Assembly.

Report of the Sixth Committee on the interim arrangements on the privileges and immunities of the United Nations concluded with the Swiss Federal Council and on agreements concerning the Ariana site. Joint report of the Secretary-General and the Negotiating Committee [A/257, 12 December 1947].

Rapporteur: Mr. K.H. Bailey (Australia)

1. The report of the Secretary-General on negotiations with the Swiss Federal Council (document A/175) contains the Interim Arrangement on Privileges and Immunities of the United Nations in Switzerland and the Agreement on the Ariana Site, which were drawn up in April by the Negotiating Committee on League of Nations Assets and representatives of the Swiss Federal Council, and which entered into force on the date of their signature by the Secretary-General (1 July 1946). The report also contains a review of later discussions between the Secretary-General and the Swiss federal authorities and the text of two letters dated 22 October 1946 from the Head of the Political Department, the first dealing with a point of interpretation of the Interim Arrangement on Privileges and Immunities and the second dealing with the question of radio facilities for the United Nations in Switzerland.

/2. The

2. The General Assembly, at its forty-sixth plenary meeting on 31 October 1946 referred the Secretary-General's report to the Sixth Committee. It was given detailed consideration by a Sub-Committee. The report of this Sub-Committee was presented to the Sixth Committee by its Rapporteur, Jonkheer G. Beelaerts van Blokland.

3. The Committee is of the opinion that the Interim Arrangement on Privileges and Immunities and the Agreement on the Ariana Site are entirely satisfactory, and that an expression of the General Assembly's appreciation of the results obtained should be conveyed to the Secretary-General and to the Negotiating Committee on League of Nations Assets, as well as to the Swiss federal authorities. In view of the purposes which it is proposed that the United Nations Office in Geneva should serve, the Committee is further of the opinion that it can recommend approval of the interpretation of the Interim Arrangement contained in the letter from the Head of the Federal Political Department referred to above.

4. The question of radio facilities for the United Nations in Switzerland has legal as well as administrative aspects. The Committee does not feel it necessary to discuss the matter at this stage, in the hope that assurances concerning the transfer to the United Nations of wave-lengths previously registered for the use of Radio-Nations may shortly be received from the Swiss federal authorities, as requested by the Secretary-General. Once the assurances have been received, the matter of radio facilities will fall entirely within the competence of the Fifth Committee.

5. The Sixth Committee recommends the adoption by the General Assembly of the resolution contained in the present report.

Note: The text of this resolution is published in Resolutions adopted by the General Assembly, second part of the first session, page 194. (GA Resolution 98 (I), see p. 547, infra)

/Report of the Fifth

Report of the Fifth Committee on tax equalization. /A/211, 4 December 1947/

Rapporteur: Mr. T. Aghnides (Greece).

1. In accordance with instructions given by the General Assembly at its forty-sixth plenary meeting on 31 October 1946, the Fifth Committee considered, at its twenty-second and twenty-third meetings, the question of tax equalization (documents A/82, A/82/Add.1, A/C.5/60 and A/C.5/62).

2. After review of the decisions and recommendations made by the General Assembly at the first part of its first session, and extensive discussions of the principles involved in immunity from taxation, the Committee voted unanimously to recommend the adoption by the General Assembly of a resolution urging that Members take early action in exempting from taxation salaries and allowances paid out of the budget of the United Nations.

3. A draft resolution submitted by the delegation of the Union of Soviet Socialist Republics provided:

(a) That all Members who had not already totally exempted from tax salaries and allowances paid out of the Organization's budget should be invited to take immediate steps in the matter;

(b) That refunds to members of the United Nations Secretariat of national taxes paid by them as from 1 January 1947 should cease; and

(c) That the Secretary-General should seek agreement with the Governments which, by 1 January 1947, had accorded the desired tax examption, for repayment to the United Nations of tax refunds made by the Organization to their nationals.

The Committee decided to reject the Soviet proposal for the cessation of tax refunds as from 1 January 1947 (paragraph 2 of document A/C.5/60). In the light of this decision, the Soviet delegation did not insist on a vote on paragraph 3 of the draft resolution concerning recovery of tax refunds.

4. Paragraph (b) of the draft resolution submitted by the Secretary-General (document A/82) recommended that the General Assembly appoint a Committee to consider whether a staff contributions plan should be established in the United Nations and the specialized agencies and, if so, to outline the principles of such a staff contributions plan, having due regard to the suggestions of the Advisory

Group of Experts and the policy questions raised by the Secretary-General, and requesting such technical and expert assistance as might be required. This recommendation was debated at length. It was subsequently amended by the acceptance of a United Kingdom proposal designed to prolong the time available for study and report, but finally rejected by twenty votes to seventeen.

5. A proposal made by the Chair that the entire question of a staff contributions plan be examined by the Advisory Committee on Administrative and Budgetary Questions, which should, if it thought advisable, request the Secretary-General to submit new proposals to the next session of the General Assembly, was accepted by twenty votes to five, with thirteen abstentions.

6. The Secretary-General stated in his report that, in order to achieve as far as practicable the equality among personnel expressly desired by the General Assembly, his authority "to reimburse staff members who are required to pay taxation on salaries and wages received from the Organization" should and would, in the absence of a directive to the contrary, be interpreted to include authority to reimburse staff members who are required to pay taxation on any allowances or other emoluments which, under applicable tax laws and regulations, may actually be taxed as salaries and wages. The Committee accepted such interpretation as reasonable and necessary in the circumstances.

7. Mr. Vandenberg, of the delegation of the United States, asked that it be recorded that the United States had abstained on all votes on these questions, feeling that it had no right to participate until the United States Congress had decided whether it would accept the principle of tax exemption. He stated that he expected the question to be raised in the next few months.

8. The Committee recommends that the General Assembly adopt the resolution contained in the present report.*

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* For the text of this resolution, see General Assembly Resolution 78(I).

Second session:

Report by the Secretary-General on the agreement between the United Nations and the United States of America regarding the headquarters of the United Nations [A/371, 3 September 1947]

1. By Resolution No. 99 (I) of 14 December 1946 the General Assembly authorized the Secretary-General to negotiate and conclude with the appropriate authorities of the United States of America an agreement concerning the arrangements arrangements required as a result of the establishment of the permanent headquarters of the United Nations in New York.

The Secretary-General was also instructed to conclude with the same authorities arrangements regarding the privileges and immunities needed by the United Nations at its temporary headquarters.

The resolution of 14 December laid down that the Secretary-General should be guided by the provisions of a draft agreement prepared in June 1946 which represented the outcome of negotiations up to that date (document A/67). These negotiations, it will be remembered, had been conducted jointly by the Secretary-General and a committee consisting of representatives of ten Members designated by the General Assembly.

In pursuance of the resolution of 14 December, the Secretary-General resumed his negotiations with the competent United States authorities and on 26 June 1947 signed, with the Secretary of State of the United States of America, the "agreement between the United Nations and the United States of America regarding the headquarters of the United Nations."

Section 28 of this agreement provides that it "shall be brought into effect by an exchange of notes between the Secretary-General, duly authorized pursuant to a resolution of the General Assembly of the United Nations, and the appropriate executive officer of the United States, duly authorized pursuant to appropriate action of the Congress."

In accordance with that provision, the agreement (Annex I) was submitted to the Congress of the United States of America which, on 26 July 1947, approved a joint resolution, "S. J. Resolution 144", authorizing the President of the

United States to bring into effect the agreement which had been concluded and granting him the necessary powers for that purpose. As a result of the President's approval on 4 August this joint resolution became Public Law 357 (Annex II). Both the joint resolution and Public Law 357 refer to the interpretation placed on the agreement by Congress, in particular to the right of the United States to control the entry of aliens into the territory of the United States. In this connexion it would appear desirable to draw the General Assembly's attention to Section 6 of Public Law 357.

Furthermore, Public Law 357 provides that the President of the United States may extend to the temporary headquarters of the United Nations any provisions of the agreement which might be deemed appropriate. A special report on arrangements to this effect will be submitted to the General Assembly later.

Throughout its work which resulted in the drafting of the General Convention and of the various draft agreements on the headquarters district, the General Assembly always considered that these two instruments formed an organic whole defining the status of the organization in the country where its headquarters would be located. Moreover, the agreement on the headquarters district expressly refers to the General Convention to which it forms the natural complement. In view of this relation of interdependence the accession of the United States to the General Convention is necessary in order that the agreement on the headquarters district may fully produce all its effects. The Convention on the Privileges and Immunities of the United Nations submitted to Congress and, subject to certain reservations, accepted by the Senate of the United States, could not be approved by the House of Representatives before the close of its Session. It should be remarked that in a letter addressed to the Assistant Secretary-General in charge of Legal Affairs the Legal Adviser to the Department of State has stated that, in view of the advanced stage of the parliamentary work connected with the approval of the General Convention, it was his opinion that a favourable decision by Congress might be expected when it reconvenes in January 1948 (Annex III).

The draft agreement referred to in the resolution of 14 December 1946, and which served as a basis and guide for the negotiations by the Secretary-General, had been drawn up before a final decision on the exact location of the headquarters of the United Nations had been reached. It had been understood that the draft

should be regarded "as an unfinished draft with respect to which both parties remained free to request modifications in the light of various factors which might be developed as particular locations came up for specific consideration."

In actual fact the draft related to a headquarters site in a comparatively wide area within which the United Nations might acquire further parcels of land for the extension of the headquarters district or for other purposes. Such a description could only reasonably be applied to a site some distance away from any large centre of population.

The General Assembly's decision to establish the permanent headquarters of the United Nations in a small area of the City of New York called for an extensive revision of the provisions of the draft agreement.

In the course of the negotiations, which were conducted in an extremely cordial atmosphere, agreement in principle was quickly reached on the necessary modifications.

Furthermore, the American authorities, showing the fullest co-operation, agreed to extend the privileges and facilities of the United Nations in certain directions, including telecommunications, establishment of a postal service, and transit of persons invited to the administrative district but not covered by the provisions of the original draft.

The conclusion of the agreement was somewhat delayed, however, owing to a difference of opinion as regards the extent of the privilege of residence in the United States of America. After protracted negotiations, during which a number of proposals were considered, a compromise text was finally adopted.

Except for the points mentioned above, the text of the agreement concluded on 26 June 1947 does not appreciably differ from that of the draft on which the Secretary-General's negotiations were based and on which detailed comments were submitted to the General Assembly in document A/67. In these circumstances this report will be restricted to explanations of the changes in the draft.

2. Comments on Specific Changes in the Draft Agreement Used as a Basis for Negotiations.

Article I (Definitions) and Article II (Headquarters District)

Section 1 (a) defines the headquarters district and provides that it may be extended beyond its present limits by supplemental agreements to be concluded with

/the appropriate

the appropriate American authorities. Public Law 357 provides that, save in the case of the location of the airport, these agreements, and any of the supplemental agreements referred to in the text of 26 June 1947, may be approved by the responsible executive officer of the United States without having to be submitted to Congress.

The draft contained in document A/67 provided that the United States of America would be responsible for acquiring the land for the headquarters district and for conveying it to the United Nations. In fact the land was acquired directly by the United Nations, so Section 3 and 5 of the draft, relating to procedure and determination of the purchase price, have been omitted. Section 4, whereby the United States granted the United Nations a vendor's guarantee, had to be amended for the same reason. Section 3, by which it is replaced in the agreement of 26 June, provides that the United States shall take whatever action may be necessary to assure that the United Nations shall not be dispossessed of its property in the headquarters district.

Section 6 of the original draft which referred to the subsoil of the headquarters district no longer applied since the site chosen is in an urban centre served by sewers running through the subsoil of the United Nations property.

In order to reconcile the requirements of the new site with the special character of the district, Section 6 had to be replaced by Annex 2, which states that the Secretary-General agrees to provide passes to duly authorized employees of the City of New York or of the State of New York for the purpose of enabling them to inspect, repair or reconstruct existing mains and sewers. It also states that no underground construction may be undertaken except after consultation with the Secretary-General and under conditions which shall not disturb the carrying out of the functions of the United Nations.

By Section 4 of the agreement the scope of the facilities granted to the United Nations in the field of telecommunications has been expanded. Henceforth, the United Nations may use its radio broadcasting facilities for radiotelegraph, radiotelephone and similar services without being subject to the requirement of exceptional circumstances. It has also been provided that the United Nations may establish a point-to-point circuit between the headquarters district and the Geneva office.

/Lastly,

Lastly, it is provided that the facilities referred to in Section 4 may be established outside the present limits of the headquarters district and that in such cases the appropriate American authorities shall make arrangements for the acquisition or use by the United Nations, on such terms and in such manner as may be agreed upon by supplemental agreement, of appropriate premises for such purposes and the inclusion of such premises in the headquarters district.

Section 6 of the agreement provides that the United Nations may organize its own postal service.

Article III. Law and Authority in the Headquarters District

The redraft of Article III shows only small changes from the provisions of the draft contained in document A/67. The order of the sections has been varied slightly for reasons of clarity and style.

At the request of the American negotiators, Section 16 of the draft concerning the power of the United Nations to make regulations (Section 8 of the signed agreement) has been very slightly modified so that its provisions shall not conflict with reasonable application of the fire regulations established by the American authorities.

Article IV. Communications and Transit

It seems desirable to point out first of all that whereas Sections 11 and 18 of the Convention on the Privileges and the Immunities of the United Nations provide for exemption from "immigration restrictions", the agreement on the headquarters district relates only to the right of communication and transit to and from the headquarters district.

Article IV of the agreement, which contains the relevant provisions, departs considerably from the original draft.

Thus the list of persons entitled to privileges of communication and transit was happily supplemented by the inclusion of any persons invited to the headquarters district by the United Nations or by a specialized agency on official business (Section II).

Section 13 is completely new.

From the very outset of the negotiations undertaken by the Secretary-General in pursuance of the resolution of 14 December 1946, the representatives of the

State Department had been at pains to point out that the immunities provided for in Article IV should be accompanied by a reservation covering cases where persons enjoying such immunities engaged, outside their official duties, in acts which would normally come within the scope of the American deportation laws.

The American negotiators observed in this connexion that the General Assembly had, in Sections 14, 20 and 23 of the Convention on the Privileges and Immunities of the United Nations, stressed the principle that privileges and immunities are granted to officials solely in the interests of the United Nations and not for their own personal benefit and that, consequently, there was a duty to waive claims to immunity in any case of abuse.

The same difficulty had arisen in drafting the modus vivendi regulating relations between the League of Nations and the Swiss Federal Government on whose territory the League's headquarters was situated. The question was settled definitively, as regards members of the Secretariat, by an exchange of letters.

The quest for a more general solution acceptable both to the United Nations and to the United States of America led to an exhaustive exchange of views. After lengthy negotiations, the Secretary-General felt that, in view of the attitude of the American negotiators, the present wording of Section 13 was an acceptable compromise.

Section 13 (b) of the agreement provides that, in case of abuse of privileges, enjoyed by any person under Article IV, in activities in the United States outside his official capacity, such person shall be subject to the application of the laws and regulations of the United States regarding the residence of aliens.

No proceedings may be instituted, however, without the consent of the Secretary of State after consultation with the appropriate Member in the case of a representative of such Member (or a member of his family), or with the Secretary-General or the principal executive officer of the appropriate specialized agency, as the case may be.

This procedure is in line with that followed in diplomatic relations in the case of a serious offence committed by a diplomatic representative in the country to which he is accredited, but can only apply within very narrow limits, since the United States is the host country and not the country to which beneficiaries of Article IV are accredited.

/The procedure

The procedure laid down in Section 13 cannot, for example, be applied in the case of a persona non grata: there must have been some activity outside his official capacity coming within the scope of specific laws or regulations.

If, after consultation as provided in Section 13 (b)(1), the parties cannot agree on an amicable solution, then, and then only, the matter may be referred to the appropriate American authorities; representatives of the Members concerned, or the Secretary-General, will be entitled to appear in any proceedings instituted.

Lastly, persons enjoying diplomatic immunity by virtue of the agreement or of the General Convention shall not be required to leave the United States otherwise than in accordance with the customary procedure applicable to diplomatic envoys accredited to the United States of America.

To turn to another aspect, Section 13 (c) of the agreement provides that grant of the right of transit and free movement may be subject to the production of reasonable evidence that the persons claiming such right come under the accepted description. Similarly, it is laid down that Section 11 shall not exclude non-discriminatory application of quarantine and health regulations.

Article V. Resident Representatives to the United Nations

This Article refers to the principal resident representatives accredited to the United Nations and grants them and certain members of their staff the same privileges and immunities as those accorded by the United States to diplomatic envoys accredited to it. At the request of the representatives of the State Department, it was expressly provided in the agreement that the grant of such privileges is made subject to the corresponding conditions and obligations.

Furthermore, in deference to a request by certain specialized agencies which propose to establish their headquarters in the United States, the benefit of the provisions of Article V has been extended to certain representatives of Members accredited to specialized agencies and to their assistants.

Article VI. Police Protection of the Headquarters District

Sections 28 and 29 of the draft (document A/67) have been merged into the single Section 16 of the agreement; no other change has been made.

/Article VII.

Article VII. Public Services and Protection of the Headquarters District

The first paragraph of Section 31 of the original draft (document A/67), referring to the layout of the zone, was omitted in view of the novel character of the headquarters district.

Article VIII. Matters Relating to the Operation of This Agreement

Sections 38 and 39 of the draft, referring to disputes between the United Nations and the United States and which were included under the Article entitled "Final Provisions", have been grouped in Article VIII, which seems the more logical place for them.

Article IX. Miscellaneous Provisions

The provisions of this article refer to alienation by the United Nations of all or part of the land in its ownership in the headquarters district. Section 22 (b) provides that the State of New York or a sub-division thereof may at its request acquire all or part of the land of the United Nations if the seat of the organization is removed from the headquarters district. In this connexion it should be remembered that substantial areas now included in the district were assigned to the United Nations by the City of New York gratis and the contract for the transfer of ownership expressly provides that such areas shall revert to the City of New York in the event of their ceasing to be part of the headquarters district.

At the request of the representatives of the State Department, a special section - Section 24 - was included providing that the agreement shall no longer remain in force should the seat of the United Nations be removed from the territory of the United States of America. The section makes provision, however, for the maintenance of such clauses of the agreement as may be necessary for the orderly termination of the operations of the United Nations at its seat in the United States and for the disposition of its property therein.

Section 26 of the agreement reproduces in toto the provisions of Section 34 of the draft where it appeared under the special heading of "Relations Between this Convention and the General Convention". It lays down that the provisions of this agreement shall be complementary to those of the General Convention.

/In accordance

In accordance with the resolution of the General Assembly dated 14 December last, and with the provisions of Section 28 aforesaid, the agreement regarding the headquarters of the United Nations is submitted for the approval of the General Assembly.

Report of the Sixth Committee on the agreement between the United Nations and the United States of America regarding the headquarters of the United Nations [A/427, 29 October 1947]

Rapporteur: Mr. G. Kaeckenbeeck (Belgium).

The implementation of Articles 104 and 105 of the Charter has been studied successively by the Executive Committee, the Preparatory Commission and the General Assembly of the United Nations.

From the outset it had been felt that, in addition to a General Convention defining the Privileges and Immunities of the United Nations within the territory of each of its Members, a special agreement would have to be concluded with the country in which the United Nations established its headquarters. A special draft agreement prepared by the Preparatory Commission was, therefore, submitted to the General Assembly. The latter, according to resolution 22 (I) of 13 February 1946, after adopting the text of a General Convention on the Privileges and Immunities of the United Nations, which is submitted to all Members for their accession, authorized the Secretary-General (with the assistance of a committee of ten members) to negotiate with the competent authorities of the United States of America the arrangements required as a result of the establishment of the seat of the United Nations in the United States of America.

The final choice of the United Nations headquarters' site was bound, however, to affect the working of the proposed Agreement. Thus, it was not until after the decision of the General Assembly, resolution 100 (I) of 14 December 1946, establishing the headquarters of the United Nations in the City of New York that the Secretary-General was able to complete his negotiations and sign the Agreement on the United Nations Headquarters with the Secretary of State of the United States of America on 26 June 1947. It is that Agreement which is now being submitted to the General Assembly.

/In order

In order to assist the General Assembly, the Sixth Committee asked its Sub-Committee on Privileges and Immunities to make a close study of the text of the Agreement.

Mr. Beckett, Rapporteur of the Sub-Committee, has drafted a detailed report which clarifies a number of points of interpretation. His report reads as follows:

"1. By resolution 99 (I) adopted by the General Assembly on 14 December 1946, the General Assembly, in view of its decision that the permanent headquarters of the United Nations should be located in the City of New York, recognized that the draft Agreement regarding the headquarters of the United Nations which had resulted from discussions between the Secretary-General and the Negotiating Committee on the one hand and the authorities of the United States of America on the other hand (document A/67) needed to be adapted to the circumstances of the new site. It accordingly authorized the Secretary-General to negotiate and conclude with the appropriate authorities of the United States of America an agreement concerning the arrangements required as a result of the establishment of permanent headquarters of the United Nations in New York, and further laid it down that, in negotiating this Agreement, the Secretary-General should be guided by the provisions of the draft Agreement (document A/67) and that the new Agreement negotiated by the Secretary-General should not come into force until approved by the General Assembly.

"2. The same resolution provided that, pending the coming into force of this Headquarters Agreement, the Secretary-General was authorized to conclude arrangements with the appropriate authorities of the United States of America to determine on a provisional basis the privileges and immunities and facilities needed in connexion with the temporary headquarters of the United Nations which are also situated in the State of New York.*

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* It is true that the official printed copy of paragraph 4 of the resolution actually uses the words "permanent headquarters of the United Nations", but the Committee is satisfied that there has been a simple clerical error and that paragraph 4 of the resolution intended to refer to the temporary headquarters at Lake Success and at Flushing.

The Sub-Committee was informed that negotiations had been initiated between the Secretary-General and the United States authorities and that an early and successful conclusion could be anticipated.

"3. In accordance with the authority given to him by paragraph 1 of the resolution of 14 December 1946, the Secretary-General, after negotiations, signed an agreement on 26 June 1947 with the Secretary of State of the United States of America and, in accordance with paragraph 3 of the resolution, this Agreement provided (in section 28) that it should be brought into effect by an exchange of notes between the Secretary-General, duly authorized pursuant to the resolution of the General Assembly of the United Nations, and the appropriate executive officer of the United States, duly authorized pursuant to appropriate action of Congress. Accordingly, the Secretary-General has now presented this Agreement to the General Assembly for approval, and the question is whether the Secretary-General should be authorized to proceed to an exchange of notes bringing the Agreement into force.

"4. In submitting the text of the Agreement the Secretary-General also submitted a covering report (document A/371) which, amongst other things, showed that the Congress of the United States had taken the action necessary to authorize the President of the United States to bring the Agreement into force.

"5. The Sub-Committee confined its study to the text of the Agreement and compared it with the draft Agreement (document A/67) referred to in the Assembly's resolution of last year.* This examination showed that, though there were a considerable number of changes, all the changes which resulted, with certain exceptions to be mentioned later, were either simple adaptations rendered necessary by the fact that the headquarters district now chosen is a small area in the middle of the City of New York, whereas the previous draft Agreement had in mind a much larger area in rural surroundings, or else mere changes of arrangements and drafting involving no difference in meaning.

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* Second part of the first session.

/"6. Of the

"6. Of the changes which do not fall into these categories, certain constituted improvements on the position from the point of view of the United Nations, in particular in the matter of telecommunications (section 4), the establishment of a postal service (section 6), persons invited to the headquarters district but not covered by the original draft (section 11).

"7. The provisions of section 13 (b) and (c) fall, however, into a different category. They deal with a matter which had not been dealt with in detail either in the draft Agreement (document A/67) or in the General Convention on the Privileges and Immunities of the United Nations.

"The Sub-Committee considers that section 13 (b) of the Agreement, providing for the application by the United States of America of the laws and regulations in force in its territory regarding the residence of aliens in the United States of America, should be construed to mean that before any person can be required to leave the country on charges of having abused his privileges, there must be really serious grounds, which would preclude the possibility of unwarranted accusations against such a person.

"The Sub-Committee also emphasized the importance of section 13(b) (1), which provides that before any demand is made for the departure of a particular person on the grounds stated in section 13 (b) there shall be consultations between the United States authorities and the appropriate Government, in the case of a representative of such a Government, or between the United States authorities and the Secretary-General of the United Nations or the principal executive officer of the appropriate specialized agency, in the case of any other person referred to in section 11.

"8. The Sub-Committee was of the opinion that these provisions referring to a case which would only be expected to arise very rarely, if ever, in practice, were acceptable.

"9. In the course of the discussion of the provisions of the Agreement, certain points arose which it was agreed should be mentioned in the report. These points are as follows:

/"(a) In

"(a) In connexion with section 11 it was pointed out that the expression "representatives of Members", which is not defined in the Headquarters Agreement itself, finds an appropriate definition in section 16 of the General Convention, the two instruments being complementary to each other;

"(b) In connexion with section 12, the Sub-Committee was of the opinion that though this provision is by its own terms only applicable to section 11, no inference could be drawn, in the basis of the a contrario principle of interpretation, affecting the meaning of any other sections of the Agreement;

"(c) Section 15 was particularly discussed in connexion with the proposal of the Argentine delegation (document A/378). It was, indeed, felt that sub-section (2) should be interpreted liberally and that section 16 of the General Convention might afford a convenient guide in considering what classes of persons on the staff of delegations might be included in the lists to be drawn up by agreement between the Secretary-General, the Government of the United States of America and the Government of the Member State concerned. As a result of a full discussion and after these explanations with regard to 15 (2) were given, the Argentine delegation declared itself satisfied and withdrew its proposal;

"(d) In view of the fact that in sub-section (1) of section 15 the words "principal resident representative to the United Nations" are not qualified by, but are alternative to the words "resident representative with the rank of ambassador or minister plenipotentiary", the sub-committee was of the opinion that the position of a person who was designated by a Member as chargé d'affaires ad interim of its permanent delegation to the United Nations was satisfactorily covered by sub-section (1) if he is not a person on the list under sub-section (2);

"The Sub-Committee also considers that, pending the conclusion, between the Secretary-General, the Government of the United States of America and the Governments of the Member States concerned, of agreements laying down what categories of persons on the staffs of delegations could

/be included

be included in the lists of persons enjoying privileges, these privileges should be granted to all the persons specified in section 16 of the General Convention on the Privileges and Immunities of the United Nations;

"(e) In connexion with section 16 (a), the Sub-Committee was of the opinion that the expression "on the boundaries of the headquarters district" meant just outside those boundaries;

"(f) Section 20 provides for the conclusion between the Secretary-General and appropriate United States authorities of any supplemental agreements that may be necessary to fulfil the purposes of the Headquarters Agreement. The Sub-Committee was of the opinion that the Secretary-General should have authority to conclude such supplemental agreements and that the General Assembly should in all cases be informed of their contents. However, wherever, in the judgment of the Secretary-General, the proposed supplemental agreement involved any question of importance for which he had not already received authority, the Secretary-General should obtain the approval of the General Assembly before the supplemental agreement could become operative;

"(g) With regard to section 28, the Sub-Committee was of the opinion that the notes exchanged for the purpose of bringing the Headquarters Agreement into force should be limited to effecting this purpose.

"10. The most complicated question which the Sub-Committee had to consider arose in connexion with section 26, which provides that the provisions of the Headquarters Agreement are complementary to the provisions of the General Convention, and section 1 (1) (c), which states that the expression "General Convention" means the Convention on the Privileges and Immunities of the United Nations "as acceded to by the United States". It had not been contemplated that the Headquarters Agreement would be submitted to the General Assembly for approval before the United States Government had deposited its instrument of accession to the General Convention. In fact, though the United States Government submitted both instruments to Congress promptly after the signature of the Headquarters Agreement, the legislative process has not yet been completed

/in the case

in the case of the General Convention. In order that the United Nations may be satisfied that its position, with regard to its headquarters, will be assured in a satisfactory manner, it should be in a position to know that the United States is or will shortly be a party to the General Convention and on what terms.

"11. Correspondence, which was brought to the attention of the Sub-Committee, disclosed that it was probable that the United States Government would be obliged to make reservations to paragraphs (b) and (c) of section 18 of the General Convention, in so far as those sections apply to United States nationals employed by the United Nations, and further, that the United States Government was disposed to put upon the provisions of article VII, relating to the United Nations laissez-passer, an interpretation which would greatly diminish the value of the laisser-passer and might in a purely hypothetical case mean that movements of officials in and out of the United States might be impeded, even though they were being sent abroad on official duties and United Nations business.

"12. The Sub-Committee was, however, of the opinion that none of these three points affected the provisions of the special agreement in such a manner that the General Assembly need hesitate to approve it and that, consequently, it should authorize the Secretary-General to bring it into force. On the other hand, in the improbable event of other reservations to the General Convention being made on the part of the United States, a new situation would be created which should entitle the United Nations to re-examine the matter.

"13. On the substance of these reservations the Sub-Committee did not feel entitled to make any observations with regard to section 18 (b) of the General Convention (exemption from taxation of the salaries and emoluments paid to officials by the United Nations) because this is a matter which lies within the scope of another committee. With regard to section 18 (c) (immunity of officials from national service obligations), the Sub-Committee was of opinion that, if the complete exemption of all officials of United States nationality from such obligations could not be accepted, it was most desirable that there should be no possibility of the work of the United Nations being hampered by the calling up of such officials, and commended this point for further discussion between the Secretary-General and the proper authorities of the United States.

"14. With regard to the laissez-passer, the Sub-Committee noted that, from the point of view of the United States, this was not a matter of legislation but one of administration, and expressed the hope that further discussions on this point between the Secretary-General and the appropriate authorities of the United States might lead to a modification of the views of the United States Government as hitherto expressed to the Secretary-General, with the result that the provisions of Article VII relating to the laissez-passer should produce the full effects which they were designed to secure."

I

The Sixth Committee has approved this report unanimously. And being of opinion, for the reasons set out in this report, that the Headquarters Agreement should be approved and put into effect as soon as possible, it has also unanimously approved the draft resolution contained in the present report and recommends its adoption to the Assembly.

Note. For the text of this resolution see General Assembly Resolution 169 (II) A.

II

During the discussion of the report of the Sub-Committee on Privileges and Immunities, the Sixth Committee had before it a separate draft resolution submitted by the Polish delegation (document A/C.6/175).

This resolution dealt with section 15 of the Agreement and more particularly with the designation of the members of the staffs of permanent delegations entitled to the privileges and immunities of diplomatic envoys in the United States.

The report adopted by the Sixth Committee refers expressly, in section 9 (c), to the interpretation to be given to section 15 of the Agreement.

However, the text of the Polish proposal contained, in the form of a separate resolution, a formal recommendation that the Secretary-General and the competent United States authorities should be guided, in considering that designation, by the provisions of section 16 of the General Convention which contains a definition of the expression "representatives of Members".

/This draft

This draft resolution contained in the present report has been adopted unanimously by the Sixth Committee which recommends its adoption to the General Assembly.

Note. For the text of this resolution see General Assembly Resolution 169 (II) B.

Report of the Secretary-General to the Fifth Committee on tax equalization [A/C.5/155, 1 October 1947].

1. The Advisory Committee on Administrative and Budgetary Questions requested the Secretary-General to present to the General Assembly a report on action taken under the first part of Resolution 78(1) (document A/396). The report is presented herewith.

2. General Assembly Resolutions

The General Assembly on 13 February 1946, concurring in the conclusion reached by the Fifth Committee, authorized the Secretary-General to "reimburse staff members who are required to pay taxation on salaries and wages received from the Organization", directed him to explore with their national governments "methods of insuring as soon as possible the application of the principle of equity amongst all Members", and requested him to submit recommendations respecting staff contributions plans (document A/64, page 15).

A report on these matters (documents A/82 and A/82/Add.1) was submitted to the second part of the first session of the General Assembly, which resolved (on the basis of the Fifth Committee's Report in document A/211 that:

(i) "In order to achieve full application of the principle of equity among Members and equality among personnel of the United Nations, Members which have not yet completely exempted from taxation salaries and allowances paid out of the budget of the Organization are requested to take early action in the matter.

(ii) "The question of a staff contributions plan in lieu of national taxation is referred to the Advisory Committee on Administrative and Budgetary Questions, which may request the Secretary-General to submit new proposals to the next regular session of the General Assembly."

3. Tax Reimbursement

Practically all staff members, with the exception of locally-recruited hourly-rate personnel (who are not covered by Article V, Section 18 (b) of the Convention on privileges and immunities, and who are therefore paid gross rates of pay without the right to tax reimbursement by the United Nations) are paid under terms of appointment which specify a "basic" salary and provide, "Any taxation levied on your salary by your national government will be refunded to you by the United Nations".

Nationals of only three Members so far have applied to the Comptroller for tax reimbursement under the tax refund provision: United States; United Kingdom; and Canada. If nationals of any other Member have been required to pay taxation on their salaries and allowances from the United Nations, at least they have not as yet reported such information to the Comptroller. The largest disbursement has been on account of United States income tax, approximately $265,000 to date; United Kingdom tax reimbursement has been mainly through the London Office; and only about twelve Canadians so far have requested tax refunds, although more applications are expected.

4. Status of Income Tax Exemption by Member States

Aside from additional accessions to the Convention on privileges and immunities, the status of income tax exemption for salaries and allowances paid by the United Nations has changed little since the Secretary-General's previous report to the General Assembly in Part 3 of document A/82 and Addendum 1 thereto. The practical problem still is to obtain such exemption for staff members maintaining residence or serving in their home countries - particularly the United States, since a large proportion of the staff of United States citizenship is employed in the United States.

The position of staff members residing or serving outside their home countries is generally satisfactory, as indicated below:

(a) Members of the United Nations which have income tax systems customarily provide reciprocal immunity from taxation of salaries received by diplomatic representatives and officials of foreign governments if such representatives or officials are not nationals of the taxing government. This immunity generally is extended to salaries and allowances received by officials and employees of the United Nations. In the United States, this is provided under the International Organizations Immunities Act (document A/141/Add.1).

(b) Members which have income tax systems generally exempt compensation received by their own nationals for personal services rendered while resident in another country. However, there are various definitions, degrees, and consequences of foreign residence. To qualify for such exemption, a United States citizen, for example, must be a bona fide resident of another country throughout an entire taxation year.

/Until only

Until only recently, it is understood, a British subject whose usual place of abode was in the United Kingdom still was taxable on foreign earnings remitted or brought back to the United Kingdom. An individual who ceases being or becomes resident or ordinarily resident in Canada during the taxation year pays such part of the whole tax as is proportionate to the resident period.

The Convention on the Privileges and Immunities of the United Nations, in Section 18(b) of Article V, provides exemption from taxation for salaries and emoluments paid to officials of the United Nations (except locally-recruited hourly-rate workers, as previously explained). The Secretary-General repeatedly has called attention to the need for general accession to the Convention and has urged all Members which have not yet acceded to do so with all possible speed. Nevertheless, only fourteen Members so far have deposited with him their instruments of accession, as shown hereunder:

United Kingdom	17 September 1946	El Salvador	9 July 1947
Dominican Republic	7 March 1947	Ethiopia	22 July 1947
Liberia	14 March 1947	Haiti	6 August 1947
Iran	8 May 1947	France	26 August 1947
Honduras	16 May 1947	Norway	18 August 1947
Panama	27 May 1947	Sweden	28 August 1947
Guatemala	7 July 1947	Afghanistan	5 September 1947

It is reported that the Governments of Greece and the Philippine Republic recently have agreed to the Convention and that their instruments of accession will be deposited soon.

As regards action by the United States, although the House of Representatives of the Congress has not taken final action on the Convention, the Senate has approved the Convention with a reservation in respect of Section 18(b) in so far as that Section might apply to United States nationals. In view of this, and with the object of ensuring as soon as possible the application of the principle of equity amongst all Members, the Secretary-General on 5 September 1947 addressed a communication to the United States Permanent Representative proposing for the consideration of his Government that, should the Convention be acceded to by the United States with the reservation mentioned above, the United States agree to have its contribution to the budget of the United Nations increased by

/the expense

the expense incurred by the United Nations through the reimbursement of United States income tax. In his reply of 13 September 1947, the United States Permanent Representative referred to the discussion of a similar proposal during the first part of the first session of the General Assembly at which time the United States representative on the Fifth Committee made it clear that the United States delegation could not accept a procedure which would accomplish indirectly an exemption from taxation which only the United States Congress itself could authorize.

5. Staff Contributions Plan

The question of a staff contributions plan in lieu of national taxation has been discussed with the Advisory Committee on Administrative and Budgetary Questions, which has not requested the Secretary-General to submit new proposals to the second session of the General Assembly.

Third session:

Memorandum by the Secretary-General on the Reparation for Injuries Incurred in the Service of the United Nations /A/674, 7 October 1948/

PART I

History of Particular Cases

In his statement at the opening meeting of the third session of the General Assembly, the Secretary-General gave the tragic list of the servants of the United Nations who had been killed while performing official duties in Palestine. Referring to the death of Count Bernadotte and Colonel Sérot, he stated: "The death of these two brave and honourable men must demand full satisfaction from those who were responsible. It raises again, and more urgently than ever before, the question of what the United Nations shall do to make certain, so far as is humanly possible, that its representatives will enjoy a maximum amount of protection in the future while performing their duties in areas of physical danger."

The series of incidents began with the killing of Thomas Wasson, American Consul-General in Jerusalem, and a member of the United Nations Truce Commission, who was shot by a sniper on 23 May 1948 while returning to his home after a meeting of the Commission. He died on the following morning.

On 6 July 1948, Commandant René de Labarrière and Commandant de Canchy, two United Nations observers from France, were victims of an explosion in front of a Jewish barricade in the Nazareth region. Commandant de Labarrière was killed, and Commandant de Canchy wounded. Jewish soldiers at the scene stated that the observers had been struck by exploding mines. According to Commandant de Canchy, the explosions could have been made by hand grenades rather than by mines, and, in his opinion, he and his companion appeared to have been the victims of a deliberate attack by Jewish soldiers.

On 13 July 1948, a convoy moving under United Nations auspices was made the target of rifle fire in the vicinity of Mount Scopus. A jeep in the convoy was driven by Ole Helge Bakke, a member of the United Nations Secretariat, and a

United Nations guard in Palestine. Bakke was killed instantly by a rifle bullet. Brigadier Lash of the Arab Legion informed the Mediator that the proceedings of a Court of Inquiry led to the conclusion that Bakke had been shot by an Arab soldier who was excited by enemy fire.

On 28 August 1948, two French observers, Lieutenant-Colonel Joseph Queru and Captain Pierre Jeannel, landed at the Gaza airfield in an area under the control of the Egyptian Army. On leaving the plane, the two observers were attacked by Saudi Arabian irregulars, to whom the Egyptian Army had entrusted the guarding of the airfield, and were killed and robbed.

On 17 September 1948, Count Folke Bernadotte, United Nations Mediator in Palestine, and Colonel Sérot, a United Nations observer from France, were shot and killed while proceeding in a car through Jewish-held territory in Jerusalem. The attack was made by several men dressed in Israeli army type uniform. While the assailants have not been apprehended, the circumstances of the attack have led officials of the United Nations and of Member Governments to presume that they belonged to the Stern gang, a group of Jewish irregulars operating in Jerusalem.

In addition to these cases of death and injury, cases of firing on United Nations officials have occurred in Palestine. The latest of these occurred on 22 September 1948, when a convoy under United Nations auspices, accompanied by United Nations observers, was fired on by three men dressed in Arab uniforms identified by the Chief of Staff of the Mediator as attached to the Arab forces of Transjordan. None of the United Nations personnel was hit, but four other persons in the convoy were killed.

PART II

Action taken by the Secretary-General

After several of the incidents in Palestine referred to above, the Secretary-General wrote to the authorities who had control of the territory in which the representatives of the United Nations had been killed or injured, emphasizing the immediate concern of the United Nations and stating on behalf of the United Nations, the attitude which it might adopt in the matter as regards the protection of its interests and rights as well as of the rights of the

families of the victims.

Commercial group accident insurance has been taken to cover all regular staff members of the United Nations. However, no agreement could be reached with commercial insurance companies to cover military observers and United Nations guards with the exception of ordinary accidents not resulting from acts of war.

The Secretary-General has undertaken the responsibility of paying an indemnity to the legal heirs of all persons assigned to the Palestine mission and killed or totally disabled as a result of service with the mission, to the amount of $25,000, or four times the annual salary of the person concerned, whichever is the higher. The Secretary-General has also agreed to make partial payments of the amount stated above for injuries which result in partial disability resulting from service with the Palestine mission.

The only deduction made from these payments is for any insurance which may be paid to the heirs of the deceased observers or to the disabled observers by their Governments, but not for any payments made by virtue of pension rights. These payments are also over and above any payments which may be made to members of the staff of the United Nations by reason of workmen's compensation or staff pension schemes.

In addition to the indemnity mentioned above, the Secretary-General has decided to make payments for medical and hospital bills as well as for funeral and other related expenses.

The same principles have been made applicable to all other field missions established by the United Nations, except that the maximum indemnity has been fixed at $15,000, or twice the annual salary, whichever is the higher. The indemnities are paid only to persons who receive United Nations salary or allowances.

PART III

Questions presented for consideration

The Secretary-General, in placing this item on the agenda of the General Assembly, assumes that the General Assembly will not desire to consider itself

as a fact-finding body or judicial tribunal for determining the facts in these matters, or for the assessment of responsibility in individual cases. He considers that these must be determined elsewhere, as far as individual cases are concerned, that is to say, either by direct negotiations between the appropriate organ of the United Nations and the State or authority concerned, or by an arbitral tribunal. However, before appropriate action can be taken to advance claims for reparation in these cases, it would appear that a number of questions of law, policy and procedure should be determined by the General Assembly. In the view of the Secretary-General, the following questions need consideration by the Assembly:

1. Whether, in the view of the General Assembly, a State may have a responsibility as against the United Nations for injury to or death of an agent of the United Nations;

2. What should be the general policy with respect to the reparations or measure of damages which should be claimed;

3. What should be the procedure for the presentation and settlement of claims.

1. Whether, in the view of the General Assembly, a State may have a responsibility as against the United Nations for injury to or death of an agent of the United Nations

The Secretariat is not aware of any situation which has previously presented itself and which is precisely analagous to the cases now under consideration. No case has been found in which an international organization has presented a claim against a State for injury to or death of one of its officials or agents.

On the other hand, there is a large body of legal precedent relating to the responsibility of a State for injury to the nationals of other States. A classic statement of the legal doctrine underlying these precedents was made by Vattel in 1758: "Whoever ill-treats a citizen indirectly injures the State, which must protect that citizen. The sovereign of the injured citizen must avenge the deed and, if possible, force the aggressor to give full satisfaction or punish him, since otherwise the citizen will not obtain the chief end of the civil society, which is protection." (Vattel, The Law of Nations (text of 1758, 3rd ed., 1916, page 136)).

/An authoritative

An authoritative judicial statement of this principle is to be found in the opinion of the Permanent Court of International Justice in the case of Mavrommatis Palestine Concessions: "It is an elementary principle of international law that a State is entitled to protect its subjects, when injured by acts contrary to international law committed by another State, from whom they have been unable to obtain satisfaction through the ordinary channels. By taking up the case of one of its subjects and by resorting to diplomatic action or international judicial proceedings on his behalf, a State is in reality asserting its own rights - its right to ensure, in the person of its subjects, respect for the rules of international law." (Mavrommatis Palestine Concessions, Publications of the Permanent Court of International Justics, Series A, No. 2, page 12).

It can be said to be an established principle of international law that an injury to an alien, committed by a State in violation of international law, is an injury to the State of which he is a national. It is the view of the Secretary-General that the same principles on which this legal doctrine is based lead to the conclusion that an injury to an agent of the United Nations in the course of his official mission, committed by a State in violation of international law, is an injury to the United Nations, and that the United Nations is entitled to claim reparations for such an injury.

The Secretary-General emphasizes again that he is not, at this point, requesting a decision or advice as to whether there is any responsibility on any given State or authority with respect to any particular instance mentioned in the first part of this document. This would depend, in the first place, on the facts regarding the injury, and, in the second place, on whether such injury was committed in violation of international law under circumstances entailing the responsibility of the State. In the latter connexion, it may be observed that it is generally recognized in international law that a higher degree of diligence is required of a State with regard to the protection of foreign diplomatic and consular agents exercising their functions in its territory. The Secretary-General believes that the same principle applies here, and that a State owes a special duty of vigilance with respect to an agent of the United Nations engaged in the exercise of official functions, particularly when in connexion

with the maintenance of peace and security in a disturbed area.

The Secretary-General has no doubt that the United Nations, which has capacity to enter into international agreements with States, possesses the legal capacity to present a claim under international law against a State, whether a Member or non-member of the United Nations.

2. What should be the general policy with respect to the reparations or measure of damages which should be claimed

It is clear that the United Nations should be entitled to claim as the first item of reparations, prompt and adequate punishment of the offenders, and the taking of such measures as will protect agents of the United Nations against future injuries. This element of reparation appears in numerous claims dealt with in diplomatic correspondence and in the decisions of international tribunals.

The next item which it would appear that the United Nations is clearly entitled to claim, is reparation for the direct costs incurred by the United Nations, such as medical services, funeral expenses, and payments to the injured official or his family. Again, there are precedents which would support such a claim. The most important item of damages which appears in the precedents is the payment of damages by the responsible State to the injured individual or his family as compensation for the loss suffered by them. In the words of the Permanent Court of International Justice: "It is a principle of international law that the reparation of a wrong may consist in an indemnity corresponding to the damage which the nationals of the injured State have suffered as a result of the act which is contrary to international law. This is even the most usual form of reparation." (Case of the Factory at Chorzow, Publications of the Permanent Court of International Justice, Series A, No. 17, page 27.)

The Secretary-General believes that it would be desirable for the General Assembly to give consideration as to whether the United Nations should advance claims for such compensatory damages in appropriate cases. In his view, the analogy of the payment of compensatory damages to nationals on presentation of a claim by a State, may appropriately be applied to these situations.

The question of the measure of compensatory damages would necessarily vary from case to case.

/Lastly,

Lastly, there is the question whether the United Nations should, in appropriate cases, make a claim for exemplary (or, as they are sometimes called, punitive) damages.

International tribunals have generally not looked with favour on the award of exemplary damages. (See opinion of Umpire Parker in Lusitania, United States - German Mixed Claims Commission, Consolidated Edition of Decisions and Opinions, pages 17, 24-31.)

There is, however, one outstanding case in which damages were assessed against a State for injury to the rights of the claimant State as distinct from compensation for injury to the nationals of the claimant State. In the case of the I'm Alone, an arbitral tribunal awarded the Canadian Government $25,000 as against the United States of America for the wrong done to Canada by the United States in intentionally sinking a vessel.

It is to be noted that there have been a number of instances in which exemplary damages have been claimed and paid in diplomatic settlement.

In view of the uncertain state of international law with respect to the awarding of exemplary damages by international tribunals, the Secretary-General makes no recommendation with regard to the inclusion of such an item in a claim for reparations, although he believes that the question deserves consideration by the General Assembly.

3. What should be the procedure for the presentation and settlement of claims

The General Assembly will need to consider which would be the appropriate organ for the presentation of claims. Under Article 97 of the Charter, the Secretary-General is the Chief Administrative Officer of the Organization. In this capacity he enters into contracts and settles claims of a private law character on behalf of the Organization. By the same token, he would appear to be the appropriate organ for the prosecution and settlement of claims of the character here discussed. Should the General Assembly agree with this view, the Secretary-General could proceed to present claims to the States or authorities concerned. It is conceivable that in the discussion which would follow the presentation of such claims, the State or authority concerned might suggest resort to arbitration. It would assist the Secretary-General in such cases to know the wishes of the General Assembly as to whether he should agree to submit particular claims to arbitration.

Report of the Sixth Committee on the Reparation for Injuries Incurred in the Service of the United Nations [A/749 and Corr.2, 2 December 1948]

Rapporteur: Mr. J. Spiropoulos (Greece)

1. At its 142nd meeting, held on 24 September 1948, the General Assembly referred to the Sixth Committee the question of reparation for injury suffered in the service of the United Nations, which had been placed on the agenda of its third session by the Secretary-General.

2. In his report on this question (A/674) the Secretary-General drew the General Assembly's attention to the statement made by him at the opening meeting of the General Assembly, in which he stressed the need for the United Nations to take steps to make certain, so far as was humanly possible, that its representatives would, in future, enjoy a maximum amount of protection while performing their duties in areas of physical danger.

3. Though having no doubt, according to his report, that the United Nations had the legal capacity to present a claim for reparation under international law against a State, the Secretary-General nevertheless felt that, before the necessary action could be taken for presenting claims for reparation, a number of questions of law, policy and procedure should be determined by the General Assembly, and he accordingly put forward the three following questions for consideration by the General Assembly:

(1) Whether, in the view of the General Assembly, a State may have a responsibility as against the United Nations for injury to or death of an agent of the United Nations?

(2) What should be the general policy with respect to the reparation or measure of damages which should be claimed?

(3) What should be the procedure for the presentation and settlement of claims?

4. The Sixth Committee began examination of the Secretary-General's report at its 112th meeting, after hearing statements by the Assistant Secretary-General in charge of the Department of Legal Affairs and the Chief Director of the Department.

5. Differing opinions were expressed in the Committee, particularly as regards the answer to the first question in the Secretary-General's report.

/6. A number

6. A number of proposals and amendments were submitted to the Committee (A/C.6/275/Rev.1/Corr.1, A/C.6/276, A/C.6/277, AC.6/278, A/C.6/279, A/C.6/280, A/C.6/281, A/C.6/281/Rev.1, A/C.6/281/Rev.2, A/C.6/282, A/C.6/283, A/C.6/284, A/C.6/285, A/C.6/286, A/C.6/287, A/C.6/291, A/C.6/292 and A/C.6/293) and dealt with at its 115th to 120th meetings.

7. At its 120th meeting the Committee proceeded to examine a proposal originally submitted by the Belgian representative (A/C.6/275) and later, after amendment by the United Kingdom (A/C.6/280) as a joint draft resolution by Belgium and the United Kingdom (A/C.6/291). The purpose of this draft was to submit the question of international responsibility towards the United Nations to the International Court of Justice for an advisory opinion.

8. At its 122nd meeting the Committee set up a Working Party composed of the representatives of Belgium, Colombia, France, Greece, Iran, Syria, United Kingdom, Uruguay and Venezuela with instructions to submit a single draft incorporating the proposals and amendments submitted by their delegations.

9. The draft prepared by the Working Party (A/C.6/294), which was submitted to the Committee at its 124th meeting, was adopted by 34 votes to 5 with one abstention.

10. The Sixth Committee therefore recommends to the General Assembly the adoption of the following resolution.*

Report of the Secretary-General on the privileges and immunities of the United Nations [A/626, 7 September 1948]

1. The present report is submitted in order to bring to the attention of the General Assembly relevant information concerning the implementation of Articles 104 and 105 of the Charter, which deal with the privileges and immunities of the United Nations, and more particularly with the developments in this field since the last session of the General Assembly. The annual report of the Secretary-General on the work of the Organization (document A/565) contains in pages 109 to 112 a digest of the information available at the time of preparation of the report relating to this subject. However, it would appear useful to present to the General Assembly a special document incorporating both this

*For text of this resolution, see General Assembly Resolution 258 (III).

information and the most recent developments.

2. This report is divided into two parts, corresponding to the two essential instruments which were adopted by the General Assembly in order to implement the above-mentioned Articles of the Charter: the Convention on the Privileges and Immunities of the United Nations and the Agreement between the United Nations and the United States of America regarding the headquarters of the United Nations.

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I. HEADQUARTERS AGREEMENT

3. By resolution 169 (II) the General Assembly of the United Nations approved on 31 October 1947, the "Agreement between the United Nations and the United States of America regarding the headquarters of the United Nations", which had been signed by the Secretary-General of the United Nations and the Secretary of State of the United States of America on 26 June 1947 and approved by a joint resolution of the 80th Congress of the United States on 26 July 1947.

4. In accordance with section 26 of the Agreement, the Headquarters Agreement was brought into effect by an exchange of notes between the Secretary-General and Mr. Warren R. Austin, the duly authorized representative of the United States of America, on 21 November 1947.

5. On 1 December 1947, an Interim Headquarters Agreement was signed, extending the appropriate provisions of the Headquarters Agreement to the interim headquarters of the United Nations at Lake Success, such interim headquarters to include the land and buildings occupied by the United Nations for its official activities at Lake Success, Long Island, New York, and at Flushing Meadow, Long Island, New York, and such other land and buildings occupied by the United Nations as might be defined from time to time by agreement with the United Nations and the United States of America, after consultation with the proper state and local authorities.

6. Copies of this interim agreement were communicated to Member Governments.

Implementation of the Headquarters Agreements

7. On 2 December 1947, a letter was sent by the Secretary-General to all States Members of the United Nations, informing them that the Headquarters Agreement had come into effect and drawing their attention to the provisions of

section 15, which grants full diplomatic privileges and immunities to resident representatives of members in certain categories, and requesting the transmission of lists of persons covered by sub-section 1 and sub-section 2 of section 15. After transmission of these lists, the United States Government was informed as to the names of those persons entitled to full diplomatic privileges and immunities under sub-section 1 of section 15. A list was also established for resident members of staff entitled to full diplomatic privileges and immunities under sub-section 2 of section 15 by tripartite agreement between the Secretary-General of the United Nations, the Government of the United States of America, and the Government of the Member concerned. It is to be noted in this connection that the criterion recommended by the General Assembly concerning the classes of persons on the personnel of the delegations to be included in the above-mentioned lists (resolution 169 (II) B) has been observed.

8. Implementation of section 15 of the Headquarters Agreement, in order to carry out the material application of the diplomatic privileges to the persons concerned, was arranged in a series of negotiations with the United States Department of State, as well as with the state and city authorities. Arrangements were made for such representatives to enjoy exemption from federal retailer's excise taxes, taxes on telegraph, telephone, radio, cable, transportation, issuance and transfer of shares of stock and corporate securities foreign insurance policies, conveyance of realty, and certain manufacturers' excise taxes. Arrangements were also made for exemption from taxation on imported liquor, gasoline, hotel tax and sales tax, and exemption from customs duties on goods imported for personal use.

9. Arrangements were made for the issuance of automobile operator's permits for the above-mentioned persons, stamped "diplomatic", and also for United Nations license plates.

10. In accordance with section 11 of the Headquarters Agreement, an understanding was reached with the appropriate United States authorities in connection with the procedure of consultation for accreditation of representatives of the press, or of radio, film or other information agencies. It was established under section 11, paragraph 3, of the Headquarters Agreement that final decision in accreditation would rest with the United Nations. However, all names of persons

proposed would be forwarded to the United States Government for comment, final accreditation to take place within a period of two weeks.

11. In order to facilitate the speedy granting of visas to representatives of non-governmental organizations who are entitled to freedom of transit to and from the Headquarters district under Section 11, paragraph 4, a procedure has been established by which a panel of names of potential representatives is set up by these organizations and forwarded to the United States authorities through the Secretariat of the United Nations. It has also been established that persons invited to the headquarters district by the United Nations would be considered as duly entitled to the privileges of section 11, paragraph 5 of the Agreement, when notice has been received by the appropriate Unites States authorities from the Secretary-General that such invitation has been issued.

12. In the course of these negotiations, the United Nations received from the United States authorities the fullest co-operation.

II. GENERAL CONVENTION

13. By resolution 93 (I), adopted on 11 December 1946, the General Assembly laid particular stress on the necessity for adherence to the General Convention of all Member States of the United Nations, and in particular of the country in which the headquarters of the United Nations was located, and invited the Members of the United Nations to accede at as early a date as possible.

14. In his last annual report dated 4 July 1947 (document A/315), the Secretary-General drew attention to the fact that the number of accessions to the Convention had not been satisfactory. The Secretary-General in consequence, on 12 March 1948, addressed to all Members a letter calling their attention to the decision of the Assembly and requesting them to accede to the Convention at as early a date as possible. The Secretary-General re-emphasized the fact that it was essential for the efficient exercise of the functions of the Organization and the fulfilment of its purposes that the provisions of the Convention be brought into force by all Member States, stating that it was his intention to present to the third regular session of the General Assembly a general report on the question of privileges and immunities of the United Nations, which would also indicate the current status at that time of the accessions to the Convention and would include statements on the steps which had been taken by the governments preparatory to such accessions.

/15. At the

15. At the present time, the following States have deposited their instruments of accession to the General Convention with the United Nations:

United Kingdom	17 September 1946
Dominican Republic	7 March 1947
Liberia	14 March 1947
Iran	8 May 1947
Honduras	16 May 1947
Panama	27 May 1947
Guatemala	7 July 1947
El Salvador	9 July 1947
Ethiopia	22 July 1947
Haiti	6 August 1947
France	18 August 1947
Norway	18 August 1947
Sweden	28 August 1947
Afghanistan	5 September 1947
Philippines	28 October 1947
Nicaragua	29 November 1947
*New Zealand	10 December 1947
Greece	29 December 1947
Poland	8 January 1948
*Canada	22 January 1948
Iceland	10 March 1948
Netherlands	19 April 1948
India	13 May 1948
Denmark	10 June 1948

16. The following States have indicated the steps taken by their governments preparatory to accession:

25 June 1948 - Bolivia	- The Secretary-General has received notice that the instrument of accession will be transmitted.
8 April 1948 - Brazil	- Accession has been authorized but as yet the instrument of accession has not been deposited with the United Nations.
10 April 1948 - Venezuela	- Will submit to the regular Congress for approval the instrument of accession.
27 April 1948 - Egypt	- Law authorizing accession has been presented to Parliament
23 March 1948 - Lebanon	- About to introduce law authorizing adherence of Government.

*With a reservation as to section 18 (b) of the General Convention.

/7 April 1948 - Pakistan

7 April 1948 - Pakistan	- Expresses expectation that instrument of accession will be deposited before third regular session of General Assembly.
9 April 1948 - Turkey	- Draft act providing for accession has been drawn up and is under consideration by difference Committees of the Grand National Assembly and will be submitted to the Assembly for approval in immediate future.
12 May 1948 - Union of South Africa	- Will have to defer its accession to the Convention pending approval by Parliament of bill which has been drafted to replace the existing Diplomatic Immunities Act of 1932.

Accession by the United States of America

17. The General Assembly has attached special importance to the accession by the United States of America to the General Convention. In fact it considered that the General Convention and the Headquarters Agreement together formed an organic whole defining the status of the Organization in the country where its headquarters were located.

18. In its report to the second regular session of the General Assembly on the Headquarters Agreement (document A/427) the Sixth Committee stated:

> "In fact, although the United States Government submitted both instruments to Congress promptly after the signature of the Headquarters Agreement, the legislative process has not yet been completed in the case of the General Convention. In order that the United Nations can be satisfied that its position with regard to its headquarters is satisfactorily assured, it should be in a position to know that the United States is or will shortly be a party to the General Convention and upon what terms."

Accordingly, the Secretary-General wrote to the Secretary of State of the United States of America on 4 March 1948, drawing attention to the resolutions adopted by the General Assembly and laying particular stress on the importance of the United States accession to the General Convention.

19. It will be remembered that the United States Senate had on 17 July 1947, (80th Congress of the United States) passed a joint resolution authorizing the acceptance by the United States of the General Convention. This resolution was forwarded to the United States House of Representatives which referred it to its Committee on Foreign Affairs. That Committee considered the

Convention between 18 May and 3 June 1948 and recommended that the Senate resolution on the General Convention be considered by the House of Representatives together with certain other proposals relating to the United Nations (the strengthening of the United Nations, the strengthening of United States participation in the United Nations, and the United Nations Headquarters Loan). These proposals were included in one bill (the United Nations Participation Act) and the House Committee on Foreign Affairs unanimously recommended the approval of this bill which would have authorized accession by the United States to the General Convention. However, on 19 June 1948, the United States Congress adjourned without taking action on this bill or on the General Convention.

20. A special session of the United States Congress was called by the President for August 1948, but during that session only that part of the United Nations Participation Act dealing with the United Nations Headquarters Loan was passed, and no action was taken on the General Convention.

21. In a statement issued on 3 August 1948, at the opening of the special session, by Joseph W. Martin, Speaker of the House of Representatives and Majority Leader Charles A. Halleck, it was stated that in view of the fact that only matters of an emergency nature could be considered at this special session of Congress, the provisions of the bill other than the loan for the building of the Headquarters would be deferred until the regular opening of the 81st Congress, which will convene in January 1949. However, as Speaker and Leader respectively, they have assured the members of the Committee on Foreign Affairs that these other provisions of the bill would be brought before the House of Representatives for debate at that time.

RESERVATIONS

22. In the course of discussions on the General Convention on Privileges and Immunities at the first part of the first session of the General Assembly, certain States indicated that they wished to reserve the attitude of their Governments concerning certain sections of the Convention on Privileges and Immunities, especially in so far as the taxation of their own resident nationals was concerned, and also in relation to obligations of their nationals relating to military service.

/23. During the

23. During the second regular session of the General Assembly, the question of reservations to the General Convention was again raised. The Secretary-General indicated in his annual report (A/315) that the United States Senate had decided that accession by the United States to the General Convention should be subject to reservations as to taxation and national service, and to a special interpretation of the clauses of the Convention dealing with the laissez-passer.

24. The Sixth Committee, to which the matter was referred by the General Assembly, though it made no special comment on the question of taxation, which it considered a matter for another committee, did deal in its report (A/427) with the question of national service and the laissez-passer.

(a) National service

25. With regard to the reservation proposed to be made by the United States of America to section 18 (c) concerning "immunity of officials from national service obligations" the Sixth Committee was of the opinion that, if the complete exemption of all officials of United States nationality from such obligations could not be obtained, it was most desirable that there should be no possibility of the work of the United Nations being hampered by the calling up of such officials, and this point was commended for further discussion between the Secretary-General and the appropriate authorities of the United States. In this connexion, certain meetings were held between representatives of the United States and of the Secretary-General to discuss the question of military service. Assurances were obtained that in any military service law or act which might be approved by the United States, consideration would be given to the matter of exempting from such national service essential officials of the United Nations who were United States nationals. It was felt that, as an administrative procedure, such officials could receive the same type of exemption as United States Government officials.

26. On 28 August 1948 the President of the United States issued an Executive Order exempting from registration and service under the United States Selective Service Law of 1948 all persons not citizens of the United States (provided they have not declared their intention of becoming United States citizens), who are employees of international organizations designated under the United States International Organizations Immunities Act, or who are covered by the provisions of section 11 of the Headquarters Agreement. This Executive Order thus covers not only representatives of Members and employees of the United Nations and specialized agencies but also press representatives accredited by the United

Nations, representatives of non-governmental organizations, and persons invited to the headquarters district by the United Nations.

(b) Laissez-passer

27. In its report to the second regular session of the General Assembly, (A/427), the Sixth Committee also noted that the United States Government was disposed to put upon the provisions of article VII relating to the United Nations laissez-passer an interpretation which would greatly diminish the value of the laissez-passer and might in a purely hypothetical case mean that movements of officials in and out of the United States might be impeded although they were being sent abroad on official duties and United Nations business. In this connexion, the Committee noted that from the point of view of the United States of America this was not a matter of legislation but administration and expressed the hope that further discussions on this point between the Secretary-General and the appropriate authorities of the United States might lead to a modification of the views of the United States Government as hitherto expressed to the Secretary-General, with the result that the provisions of Article VII relating to the laissez-passer might produce the full effects which they were designed to secure. Accordingly, the Secretary-General communicated at length with the Government of the United States of America, expressing the view that it was essential for the efficient fulfilment of the functions of the officials of the United Nations that they should be as independent from the State in which the Organization has its site as they are from the State of which they are nationals. In meetings held between the representatives of the Secretary-General and of the United States of America, the general view has been expressed that, under the interpretation given to article VII by the United States, it might be possible that administrative arrangements could be arrived at by which the laissez-passer could be recognized by the United States as a valid travel document and a document of nationality.

(c) Taxation

28. The instruments of accession to the General Convention deposited by the Governments of Canada and New Zealand both contain a reservation as to section 18 (b) of the Convention. The reservation of Canada reads as follows:

> "The exemption from taxes imposed by any law in Canada on salaries and emoluments shall not extend to a Canadian citizen residing or ordinarily resident in Canada."

/The reservation

The reservation of New Zealand reads as follows:

"Exemption from rates imposed by any law in New Zealand or taxation imposed on salaries and emoluments by any law in New Zealand, shall not extend to a person who is a British subject and who is domiciled and employed in New Zealand".

29. The texts of these reservations were immediately communicated to Member Governments, but no comments have so far been received by the Secretary-General from any Government. In addition, letters were written to the Governments of Canada and New Zealand reminding them of the fact that the question of tax exemption was considered by the last General Assembly in connexion with tax equalization and that resolution 160 (II) of the General Assembly urged Member States to take action on this subject. The letters also drew attention to the fact that a special report on this subject would be submitted by the Secretary-General to the General Assembly.

30. As noted above, the Senate Foreign Relations Committee was of the opinion that accession by the United States of America should be subject to reservation in this respect. However, the Foreign Affairs Committee of the House of Representatives recommended that the reservation with respect to taxation of United States citizens should be omitted on the ground that this question could be better dealt with by tax equalization than by national taxation.

31. Temporary arrangements as to privileges and immunities have also been made with certain Governments when the need for such arrangements has arisen in connexion with United Nations Missions, meetings of Commissions etc.

32. An agreement complementary to the General Convention, which was acceded to by France, has been negotiated with the French Government for the period of the third regular session of the General Assembly which is to be held in Paris.

Fourth session:

Report of the Sixth Committee on the reparation for injuries incurred in the service of the United Nations [A/1101, 16 November 1949]

Rapporteur: Mr. E. FERRER VIEYRA (Argentina)

1. The General Assembly, during the first part of its third session, considered several questions with regard to injuries incurred in the service of the United Nations. These questions had been raised in a memorandum by the Secretary-General (A/674) which set forth a number of instances of death or injury of United Nations' agents in Palestine, including the assassination of Count Bernadotte and Colonel Serot.

2. By resolution 258 (III) of 3 December 1948 the General Assembly decided to submit the following legal questions to the International Court of Justice for an advisory opinion:

> "I. In the event of an agent of the United Nations in the performance of his duties suffering injury in circumstances involving the responsibility of a State, has the United Nations, as an Organization, the capacity to bring an international claim against the responsible de jure or de facto Government with a view to obtaining the reparation due in respect of the damage caused (a) to the United Nations, (b) to the victim or to persons entitled through him?
>
> "II. In the event of an affirmative reply on point I (b), how is action by the United Nations to be reconciled with such rights as may be possessed by the State of which the victim is a national?"

3. On 11 April 1949 the International Court of Justice gave its advisory opinion.* It answered question I (a) in the affirmative, by a unanimous vote, and question I (b) in the affirmative, by 11 votes to 4. The Court added that the United Nations had the capacity to bring an international claim against the Government of either a Member or a non-Member state. In reply to question II, the Court, by 10 votes to 5, stated:

> "When the United Nations as an Organization is bringing a claim for reparation of damage caused to its agent, it can only do so by basing its claim upon a breach of obligations due to itself; respect

* "Reparation for injuries suffered in the service of the United Nations, Advisory Opinion: I.C.J. Reports 1949".

/for this rule

for this rule will usually prevent a conflict between the action of the United Nations and such rights as the agent's national State may possess, and thus bring about a reconciliation between their claims; moreover, this reconciliation must depend upon considerations applicable to each particular case, and upon agreements to be made between the Organization and individual States, either generally or in each case."

4. By resolution 258 (III) referred to above the General Assembly instructed the Secretary-General to prepare proposals in the light of the opinion of the Court to be submitted to the next regular session of the General Assembly. In pursuance of this instruction the Secretary-General duly submitted a report (A.955) to the General Assembly together with his proposals for action.

5. The General Assembly, at its 224th plenary meeting on 22 September 1949, referred this item to the Sixth Committee for consideration.

6. The Sixth Committee considered the item at its 183rd to 187th meetings from 3 to 9 November 1949. It had before it a draft resolution submitted jointly by Brazil, India, Iran and the United States of America (A/C.6/L.51) and amendments to that draft resolution submitted by Belgium (A/C.6/L.57), Australia (A/C.6/L.62), France (A/C.6/L.68) and the United Kingdom (A/C.6/L.70). At the 184th meeting the French amendment was withdrawn and a draft resolution (A/C.6/L.71) incorporating the views expressed in the Belgian and Australian amendments was submitted in its place by the representative of France. This draft resolution was accepted by the sponsors of the joint draft resolution.

7. With regard to the draft resolution proposed by France it was stated that, in omitting the paragraph reading "Resolves that it accepts the advisory opinion of the International Court of Justice, delivered on 11 April 1949, as an authoritative expression of International law on the questions considered" which had appeared in the joint draft resolution, it was not intended to cast doubt upon the authority of the Court's opinion; it was, however, considered that a statement to that effect in the resolution was unnecessary. It was specifically requested that the report to the General Assembly should make clear that, in accepting the French resolution, those who had supported the

text of the joint draft resolution had not changed their view, but had merely considered that the authoritative nature of the advisory opinion should be taken for granted. No conclusion was reached on this issue.

8. At the 186th meeting of the Sixth Committee, the representatives of Cuba, Ecuador and Uruguay submitted an amendment (A/C.6/SR.186, page 7) to the French draft resolution recommending that the Secretary-General should study the most appropriate measures to enable the United Nations to provide its agents or persons entitled through them, full and immediate reparation. Following a statement on behalf of the Secretary-General that a study on these lines had already been included in a document submitted to the Fifth Committee (A/C.5/331), the joint amendment was withdrawn.

9. The French draft resolution, with drafting amendments suggested in the course of the 185th and 186th meetings and accepted by the French delegation, was voted on by the Sixth Committee at its 186th meeting on 8 November 1949. At the request of the representative of Chile each paragraph was voted on separately, and at the request of the representative of Mexico the first paragraph of the operative part of the draft resolution was divided into three parts, each of which was voted on separately.

The first paragraph of the preamble was adopted by 45 votes to none, with 5 abstentions.

The second paragraph of the preamble was adopted by 46 votes to 5, with no abstentions.

The third paragraph of the preamble was adopted by 53 votes to none, with no abstentions.

The fourth paragraph of the preamble was adopted by 45 votes to 4, with 1 abstention.

The first part of the first paragraph of the operative part of the draft resolution, which would authorize the Secretary-General to bring an international claim for reparation due in respect of damage caused to the United Nations, was adopted by 50 votes to none, with 1 abstention.

The second part of the first paragraph, authorizing the Secretary-General to bring international claims for reparation due in respect of damage caused to the victim or persons entitled through him, was adopted by 42 votes to 7, with 2 abstentions.

/The last

The last part of the paragraph, which would authorize the Secretary-General if necessary to submit claims to arbitration, was adopted by 45 votes to 5, with 1 abstention.

The second paragraph of the operative part was adopted by 41 votes to 6, with 3 abstentions.

The third paragraph of the operative part was adopted by 45 votes to none, with 5 abstentions.

The draft resolution as a whole was adopted by 45 votes to 5, with 1 abstention.

10. The Sixth Committee accordingly recommends to the General Assembly the adoption of the following resolution: [see General Assembly Resolution 365 (IV)]

Report of the Sixth Committee on the privileges and immunities of the United Nations [A/1171, 1 December 1949]

Rapporteur: Mr. E. Ferrer Vieyra (Argentina)

1. The Secretary-General's report on the Privileges and Immunities of the United Nations was referred to the Sixth Committee by the General Assembly at its 224th plenary meeting on 22 September 1949.

2. On 29 November 1949, at its 211th meeting, the Sixth Committee examined this report (A/940, A/940/Add.1 and A/940/Add.2).

3. In the course of the discussion the following points were raised:

(a) The fact that certain Member States and, in particular, the host State, had not as yet acceded to the Convention on the Privileges and Immunities of the United Nations.

(b) The failure of Member States in certain instances to extend privileges and immunities to officials of the United Nations.

(c) The power of the United Nations to make regulations under Section 8 of the Headquarters Agreement for the purpose of establishing conditions in all respects necessary for the full execution of its functions.

(d) The attitude taken by the International Telecommunication Union in connexion with divergent provisions in the International Telecommunications Convention and the Convention on the Privileges and Immunities of the Specialized Agencies.

/4. In replying

4. In replying to these questions on behalf of the Secretary-General, the Assistant Secretary-General for Legal Affairs pointed out:

(a) That the situation in regard to the General Convention could not be considered satisfactory since the General Assembly, in resolution 93 (I) of 11 December 19[illegible] had stated that it was essential for the efficient exercise of the functions of the United Nations that the provisions of the Convention should be brought into force in all Member States.

(b) Pending the accession of the host State to the Convention, difficulties arising from time to time were dealt with in negotiations with the competent authorities of the United States of America, and in most cases a satisfactory solution had been reached. Among other things these negotiations, had related to the recognition of the laissez-passer as a valid travel document, even before the accession to the Convention by the United States.

(c) The Assistant Secretary-General further clarified the immunities of United Nations officials in the United States. He explained that the General Convention was not in force as far as the United States was concerned, but that the United States had enacted internal legislation (Public Law 291 of 1945) giving representatives of foreign Governments in or to international organizations and officers and employees of such organizations certain privileges and immunities, including immunity from suit and legal process relating to acts performed by them in their official capacities and falling within their functions as such representatives, officers and employees. Therefore, there was a legal basis for immunity, in so far as officials were concerned, in the United States but this immunity was limited to official acts.

(d) With regard to section 8 of the Headquarters Agreement, he pointed out that any regulations set up by the United Nations would have precedence over local law. Since the United Nations had not as yet moved into its permanent Headquarters, the Secretary-General had not recommended any action by the General Assembly with regard to such regulations. However, the matter was being studied, and it was planned to submit a report containing the Secretary-General's suggestions at the next regular session of the General Assembly with respect to regulations to be set up under section 8 of the Headquarters Agreement.

/5. The Committee

5. The Committee discussed the contradiction between the terms of the International Telecommunications Convention and the terms of article IV, section 11, of the Convention on the Privileges and Immunities of the Specialized Agencies. It was the sense of the Committee not to take action on the International Telecommunication Union's suggestion.

6. With reference to a request by the representative of Iran that the colour of the flag of the United Nations should be considered, it was stated on behalf of the Secretary-General that this matter would be studied.

7. Upon the proposal of the representative of Argentina, the Sixth Committee unanimously adopted the following draft resolution and recommends it for approval to the General Assembly:

PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

The General Assembly

Takes note of the Secretary-General's report presented in Documents A/940, A/940/Add.1 and A/940/Add.2. [adopted by General Assembly Resolution 370 (IV)]

Fifth session:

Report of the Secretary-General on regulations to give effect to article III, Section 8 of the Headquarters Agreement between the United Nations and the United States of America [A/1409, 29 September 1950]

1. The Headquarters Agreement between the United Nations and the United States of America, under article III on laws applicable and competent authority in the Headquarters district (see Annex)*, provides that this area shall be under the control and authority of the United Nations as provided in the Agreement. The federal, state and local law of the United States applies within the Headquarters district except as the Headquarters Agreement (or the Convention on the Privileges and Immunities of the United Nations, when acceded to by the United States) may provide otherwise.

2. Section 8 of article III specifically confers upon the United Nations "the power to make regulations, operative within the Headquarters district, for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions. No federal, state or local law or regulation of the United States which is inconsistent with a regulation of the United Nations authorized by this section shall, to the extent of such inconsistency, be applicable within the Headquarters district". Further, section 10 provides that the United Nations may expel or exclude persons from the Headquarters district for violation of its regulations adopted under section 8, but other penalties are left to the appropriate American authorities. Thus also, under section 7(d), the federal, state and local courts of the United States, when dealing with cases arising out of or relating to acts done or transactions taking place in the Headquarters district, will take into account the regulations enacted by the United Nations.

3. The General Assembly, in resolution 169 (II) A approving the Headquarters Agreement signed on 26 June 1947, authorized the Secretary-General "to perform on behalf of the United Nations such acts or functions as may be required by that Agreement". This authority, however, is of a general nature. Since the adoption of formal regulations in the name of the United Nations will

* Sections 7,8,9,10, and 21 of the Headquarters Agreement between the United Nations and the United States of America were reproduced in the Annex to this report.

/have important

have important legal consequences, the Secretary-General would therefore prefer to receive an express authorization from the General Assembly for the promulgation of such regulations as may prove necessary under the terms of section 8 of the Agreement. The Secretary-General accordingly takes this occasion to acquaint the General Assembly with the following considerations, upon the basis of which he would prepare such regulations.

4. It is clear from the terms of the Headquarters Agreement that the Headquarters regulations are to have effect within the territory comprising the Headquarters district. Being operative within the district, they may thus refer to the territory comprising the Headquarters district, or to acts that might be done within its limits, or to transactions that may be deemed in law or in fact to take place in that district. For the most part, they will concern the administration of the Headquarters itself - the maintenance of the buildings and grounds, the control of traffic within the district, dispositions for supervising the necessary services and concessions, necessary contractual arrangements to be concluded within the district, and like subjects.

5. As it is a serious matter, however, to create an inconsistency affecting the operation of the internal law of a Member State, the regulations should be designed to cause a minimum of legal conflict. To this end, regulations on any given subject should be promulgated only as practical experience in the administration and maintenance of the Headquarters demonstrates them to be in all respects necessary for the full execution of United Nations functions. It would, of course, be undesirable to attempt to set up a priori an entire code, as it were, of legislative matter with the intent of superseding the established laws on all subjects which might in due course require regulation within the Headquarters district. Nevertheless, although a regulation which might conflict with otherwise applicable law should not, on the one hand, be promulgated in advance of necessity; on the other hand a situation in which an American law might undesirably bear upon the Headquarters district ought in every case to be dealt with promptly.

6. It is important that all regulations in the sense of section 8 - that is, all regulations which are intended to govern the Headquarters district and which it is reasonably expected may, either at the time of adoption or

thereafter, involve some inconsistency with federal, state or local law - should be drafted in such form as to permit their collection and publication as a unified body of rules to which the appropriate American authorities can turn in order to know to what extent their own responsibilities may be affected by the regulations for the Headquarters district.

7. It is accordingly the suggestion of the Secretary-General that he be specifically authorized by the General Assembly to issue regulations for the Headquarters district in accordance with section 8 of the Agreement, when and as necessary. He will thus be in a position to issue regulations on relatively short notice, avoiding the necessity, for example, of waiting from one session of the General Assembly till the next for formal enactment of such regulations as prove requisite. The Secretary-General will then report to each next subsequent session of the General Assembly any such regulations adopted. In this manner, the General Assembly will in all cases be fully apprised of the policy considerations on which any given regulations are based, while at the same time their entry into force for the Headquarters district will not be delayed.

Report of the Sixth Committee on regulations to give effect to article III, section 8, of the Headquarters Agreement between the United Nations and the United States of America [A/1641, 8 December 1950]

Rapporteur: Mr. A. Kural (Turkey)

1. The question of regulations to give effect to article III, section 8, of the Headquarters Agreement between the United Nations and the United States of America was placed on the agenda of the fifth session of the General Assembly by the Secretary-General. At its 285th plenary meeting on 26 September 1950, the General Assembly referred the item to the Sixth Committee for consideration.

2. In a report of the Secretary-General on the subject (A/1409), he drew attention to the terms of section 8 of the Headquarters Agreement, which confers upon the United Nations the power to make necessary regulations operative within the Headquarters district which, to the extent of their inconsistency with the federal, state or local laws of the United States, would have the effect of superseding the latter within the Headquarters district.

3. The Secretary-General noted that the General Assembly, in resolution 169 A (II) approving the Headquarters Agreement, had authorized him to perform

on behalf of the United Nations the functions required by the Agreement. He suggested, however, that it was desirable that there should be a more specific authorization by the General Assembly for the issuance of any regulations which would cause federal, state or local laws, to the extent of their inconsistency, to be inapplicable within the Headquarters district. As any such regulations would be designed to further the good management of the Headquarters district, he noted that their content would be largely administrative in character. The Secretary-General therefore considered that they might appropriately be issued by him, and that he should then report to each subsequent session of the General Assembly any regulations adopted.

4. The Sixth Committee considered the item at its 248th and 249th meetings on 1 and 4 December 1950. During the discussions, it was emphasized that the authority of the United Nations in this respect was a limited one and that inconsistency between the Headquarters regulations and the domestic law were unlikely to be either of frequent occurrence or of any considerable scope. Moreover, it was noted that, because of the essentially administrative nature of the problem, the Secretary-General was in a position to judge what regulations would be necessary for the carrying out of the organizational functions at Headquarters.

5. At the same time it was felt that, in view of the relationship between the regulations and domestic legislation, it was preferable to have a deliberative body with the prestige of the General Assembly take cognizance of all such regulations. It was only necessary that the general principle of approval by the General Assembly should not prevent the Secretary-General from issuing regulations which, in his opinion, were needed for immediate entry into effect.

6. A joint draft resolution to this end (A/C.6/L.163) was accordingly introduced by Canada, Denmark, Syria and the United Kingdom and, after discussion by the Committee and further clarification of the text by its sponsors, was unanimously adopted.

7. In the course of the discussion, the representative of the United States of America referred to the fact that attention had been drawn by some delegations to the closure of the delegates' bar at the interim headquarters during the fourth session of the General Assembly. He offered a proposal by which the

Assembly could at once make some appropriate regulation on the matter; but as it was generally recognized that the problem could be adequately handled by regulations which the Secretary-General would in the normal course of events propose concerning all facilities in the Headquarters District, he withdrew his proposal as being unnecessary.

8. The Sixth Committee therefore recommends to the General Assembly for adoption the following resolution: [See General Assembly Resolution 481(V)].

Sixth session:

Report of the Secretary-General on regulations to give effect to article III, section 8 of the Headquarters Agreement between the United Nations and the United States of America /A/1914, 15 October 1951/

Introduction

1. Under section 8 of article III of the Headquarters Agreement between the United Nations and the United States of America, the United Nations is empowered "to make regulations, operative within the Headquarters district, for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions. No federal, state or local law or regulation of the United States which is inconsistent with a regulation of the United Nations authorized by this section shall, to the extent of such inconsistency, be applicable within the Headquarters district".

2. By resolution 481 (V) of 12 December 1950, the General Assembly has prescribed the method for giving effect to section 8 of the Headquarters Agreement. The Secretary-General was requested, by paragraph 1 of the resolution, to present "to the General Assembly for approval any draft regulation within the provisions of the Headquarters Agreement which may in his opinion be necessary for the full execution of the functions of the United Nations."

3. The Secretary-General was further authorized by paragraph 2 of the resolution to give immediate effect, when in his opinion it becomes necessary, to any regulation within the provisions of the Headquarters Agreement; and he was directed to report any such action to the General Assembly as soon as possible.

4. In accordance with resolution 481 (V), the Secretary-General herewith presents for the approval of the General Assembly two draft regulations (annexes I and II).* In addition, the Secretary-General reports that, on 26 February 1951, he promulgated and gave immediate effect to, Headquarters regulation No. 1 (annex III).*

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* See General Assembly Resolution 604 (VI) and Regulations 1,2, and 3 set forth in the annex to that Resolution.

(a) Draft regulation relating to qualifications for the performance of services at the Headquarters district (annex I)

5. The proposed regulation would enable the Secretary-General to determine the qualifications for the performance of professional or other special occupational services within the Headquarters district. Doctors and nurses would, however, be authorized only if duly qualified in their own or another country.

6. The proposed regulation would remove restrictions on doctors, nurses and persons of other professions and occupations who, at present, must be licensed under the laws of the State of New York, before practising their profession or trade within the Headquarters district.

7. The regulation would facilitate the implementation of the employment policy set forth in Article 101 of the Charter which provides that in the employment of the staff and in the determination of conditions of services, the paramount consideration should be the necessity of securing the highest standards of efficiency, competence and integrity, and that due regard should be paid "to the importance of recruiting the staff on as wide a geographical basis as possible".

8. The removal of local licence requirements (including residence and in many cases United States citizenship or declaration of intent to become a citizen as well as examinations requiring fluency in English) would afford the Secretary-General a wider choice in the selection of personnel best qualified for United Nations service.

(b) Draft regulation dealing with the operation of services and facilities within the Headquarters district (annex II)

9. The proposed regulation would require the times and hours of operation of services and facilities or retail establishments within the Headquarters district to conform to schedules fixed by the Secretary-General.

10. The main reason for the proposed regulation is that the public purpose served by a limited number of local laws or regulations is of a local or political nature. Their application to the Headquarters district in such cases may be unsuitable. The New York State requirement of the closure of given facilities, for example on election day, is illustrative. The requirement of closure is

related to a local political event, and its enforcement within the Headquarters district is, as a matter of principle, inconsistent with the area's international character and functioning. Moreover, it is logical that, when major international conferences will be meeting fairly constantly within the Headquarters district, the administrative problem of fixing the hours of retail facilities, cloakroom attendance, and numerous similar services is not one which can practicably be left to local regulation.

11. On the other hand, the proposed regulation is so drafted that, whenever the public policy involved in a particular ordinance or law is of a nature to make it properly applicable to operations within the Headquarters district, the Secretary-General will have no occasion to take any affirmative action establishing hours conflicting in any way with the enforcement of the prevailing law.

(c) Regulation relating to the United Nations Social Security System (annex III)

12. The purpose of this regulation, promulgated on 26 February 1951, was to limit the liability of the United Nations with respect to risks already covered by its own social security system.

13. A comprehensive United Nations social security system, approved by the General Assembly, is in effect. It was intended to provide exclusive coverage within the limits of its operation.

14. The enactment of the United Nations social security system, however, made it necessary to establish clearly that the federal and New York social security and workmen's compensation legislation would not be applicable concurrently with the United Nations system. The application of the local laws might result in the United Nations being liable for two payments on the same risk and might raise procedural difficulties both for the Secretary-General and the local administrations.

15. The Secretary-General considered it necessary to give immediate effect to Headquarters regulation No. 1 in order to remove any doubt that the United Nations is liable for social security payments only under the United Nations social security system and that no risk covered by that system shall give rise to additional payments.

Report of the Sixth Committee on application of the Headquarters Agreement to representatives of non-governmental organizations /A/2093, 30 January 1952/

Rapporteur: Mr. D. ABDOH (Iran)

1. The Economic and Social Council, on 20 September 1951, adopted resolution 413 C(XIII), by which it requested the General Assembly to examine, at its sixth session, the question of the attendance of non-governmental organizations having consultative status at the discussions of the General Assembly or its committees on problems which concerned non-governmental organizations and which were within the competence of the Economic and Social Council, and to make such arrangements in that connexion as it might deem advisable. The text of this resolution, together with an indication of all the relevant documentation, was transmitted to the General Assembly in a note by the Secretary-General (A/1926).

2. On 13 November 1951, the General Assembly, at its 341st plenary meeting, decided to include the question in the agenda of its sixth session, and at its 342nd plenary meeting on the same date the item was referred to the Sixth Committee for consideration and report.

3. The Committee discussed the matter at its 301st to 303rd meetings on 28 and 29 January 1952.

4. During the discussion, the Committee had before it a draft resolution submitted by France and Iran* (A/C.6/L.227), later modified by the sponsors, and an amendment of Poland thereto (A/C.6/L.229).

5. The draft resolution of France and Iran in its original form provided that the General Assembly should authorize the Secretary-General, upon the request of the Economic and Social Council or its Committee on Non-Governmental Organizations, to make arrangements to enable the representative designated by any non-governmental organization having consultative status to attend public meetings of the General Assembly whenever economic and social matters were discussed which were within the competence of the Council and to the study of which the organization had contributed in conformity with its own objects.

* At the opening of the discussion the representative of Iran withdrew a draft resolution (A/C.6/L.225) which he had previously submitted individually.

6. The amendment of Poland (A/C.6/L.229) proposed to delete the operative paragraph of the joint draft resolution and to insert two paragraphs (1) drawing the attention of the Government of the United States of America to the necessity of taking measures for the strict observance of the Headquarters Agreement concluded between the United Nations and the United States on 26 June 1947; and (2) requesting the Secretary-General to continue to give assistance to representatives of non-governmental organizations in facilitating transit to or from sessions of the General Assembly and its Committees.

7. France and Iran, the sponsors of the joint draft resolution (A/C.6/L.227), modified it (1) by replacing the words "to the study of which the organization has contributed in conformity with its own objects" at the end of the operative part by the words "of the organization concerned"; and (2) by adding to their draft resolution the second paragraph of the Polish amendment, modified by the insertion of the word "such" before the words "non-governmental organizations".

8. In the course of the debates of the Committee some delegations expressed the view that by virtue of Article 71 of the Charter and of the terms of the Headquarters Agreement, and in accordance with the decisions of the Economic and Social Council and with prior practice in the matter, non-governmental organizations having consultative status had an unlimited right to send representatives to the General Assembly and its Committees whenever they thought it appropriate. Consequently, they thought it unnecessary to do anything but ensure compliance with what in their view was the proper interpretation of the Charter and the Headquarters Agreement.

9. Others, however, believed that Article 71 of the Charter meant that the Economic and Social Council might make suitable arrangements for consultation with non-governmental organizations only where it itself was concerned, and could not do so with respect to other organs of the United Nations. In their opinion, the right of access of non-governmental organizations to the Headquarters of the United Nations was not unlimited, and it was necessary for the General Assembly to regularize the arrangements for attendance of the representatives of such organizations at its meetings.

10. Most delegations believed that the proposal in the joint draft resolution of France and Iran that the General Assembly should authorize the Secretary-General

/to make

to make suitable arrangements upon the request of the Economic and Social Council or its Committee on Non-Governmental Organizations represented a reasonable solution, and that this solution was in full harmony with the Charter and the Headquarters Agreement.

11. The Committee agreed to vote in parts on the Polish amendment (A/C.6/L.229).

The first paragraph of the Polish amendment was rejected by 24 votes to 6, with 9 abstentions.

The second paragraph was rejected by 15 votes to 12, with 13 abstentions.

12. In voting on the joint draft resolution of France and Iran (A/C.6/L.227) as modified by the sponsors, the Committee agreed to vote separately on the phrase "upon the request of the Council or its Committee on Non-Governmental Organizations".

The separate phrase was adopted by 33 votes to 6, with one abstention.

The modified joint draft resolution as a whole was adopted by 33 votes to 5, with 2 abstentions.

13. The Sixth Committee therefore recommends to the General Assembly the adoption of the following resolution: /See General Assembly Resolution 606 (VI)/

ANNEX II

RESOLUTIONS OF THE GENERAL ASSEMBLY RELATING TO
THE PRIVILEGES AND IMMUNITIES OF
THE UNITED NATIONS

13 (I) Organization of the Secretariat

. . .

V. Taxation

Having regard particularly to the administrative and budgetary arrangements of the Organization, the General Assembly concurs in the conclusion reached by the Administrative and Budgetary Committee that there is no alternative to the proposition that exemption from national taxation for salaries and allowances paid by the Organization is indispensable to the achievement of equity among its Members and equality among its personnel.

Therefore the General Assembly resolves that:

12. Pending the necessary action being taken by Members to exempt from national taxation salaries and allowances paid out of the budget of the Organization, the Secretary-General is authorized to reimburse staff members who are required to pay taxation on salaries and wages received from the Organization.

13. In the case of any Member whose nationals in the service of the Organization are required to pay taxation on salaries and allowances received from the Organization, the Secretary-General should explore with the Member concerned methods of ensuring as soon as possible the application of the principle of equity amongst all Members.

14. The records and documents of the Administrative and Budgetary Committee and of the Advisory Group of Experts respecting staff contributions plans be referred to the Secretary-General for his information, and the Secretary-General be requested to submit recommendations thereon to the second part of the first session of the General Assembly.

Thirty-first plenary meeting, 13 February 1946

22 (I) A. Resolution relating to the adoption of the general convention on Privileges and Immunities of the United Nations, and text of the convention.

The General Assembly approves the annexed convention on the privileges and immunities of the United Nations and proposes it for accession by each Member of the United Nations.

Thirty-first plenary meeting, 13 February 1946.

/For text of the convention see p. 26 supra/

22 (I) B. Resolution relating to negotiations with the competent authorities of the United States of America concerning the arrangements required as a result of the establishment of the seat of the United Nations in the United States of America, and text of a draft convention to be transmitted as a basis of discussion for these negotiations.

1. The General Assembly authorizes the Secretary-General (with the assistance of a committee composed of persons appointed by the governments of Australia, Belgium, Bolivia, China, Cuba, Egypt, France, Poland, United Kingdom, Union of Soviet Socialist Republics) to negotiate with the competent authorities of the United States of America the arrangements required as a result of the establishment of the seat of the United Nations in the United States of America.

2. The following draft convention is transmitted by the General Assembly to the Secretary-General for use in these negotiations as a basis of discussion.

3. The Secretary-General shall report to the General Assembly the results of these negotiations.

4. Any agreement apart from purely temporary agreements with the competent authorities of the United States resulting from these negotiations shall be subject to approval by the General Assembly before being signed on behalf of the United Nations.

Thirty-first plenary meeting, 13 February 1946.

/For text of draft Headquarters Agreement see Report of the Sixth Committee on Privileges and Immunities of the United Nations supra Annex I p. 397/

/22 (I) C. Resolution

22 (I) C. Resolution on the Privileges and Immunities of the International Court of Justice.

1. The General Assembly, with a view to ensuring that the International Court of Justice shall enjoy the privileges, immunities and facilities necessary for the exercise of its functions and the fulfilment of its purposes, in the country of its seat and elsewhere, invites the members of the Court at their first session to consider this question and to inform the Secretary-General of their recommendations.

2. The General Assembly decides that the question of the privileges and immunities of the Court shall be considered as soon as possible after the receipt of the recommendations of the Court.

3. The General Assembly recommends that, until further action has been taken, the rules which have been applied to the Permanent Court of International Justice should be observed by Members in relation to the International Court of Justice.

Thirty-first plenary meeting, 13 February 1946.

22 (I) E. Resolution relating to the insurance against third party risks of motor-cars of the Organization and of members of the staff.

It has been found that a frequent source of difficulty is road accidents in which motor cars, owned or driven by persons possessing immunity from legal process, are involved.

It is the intention of the United Nations to prevent the occurrence of any abuse in connexion with privileges, immunities and facilities granted to it under Articles 104 and 105 of the Charter and the general convention on privileges and immunities, which determines the details of the application of these articles.

Therefore the General Assembly instructs the Secretary-General to ensure that the drivers of all official motor cars of the United Nations and all members of the staff, who own or drive motor cars, shall be properly insured against third party risks.

Thirty-first plenary meeting, 13 February 1946.

76 (I). Privileges and Immunities of the staff of the Secretariat of the United Nations.

The General Assembly,

Having considered the proposal of the Secretary-General that, in accordance with section 17 of article V of the Convention on the Privileges and Immunities of the United Nations, the categories of officials to which the provisions of articles V and VII shall apply should include all members of the staff of the United Nations, with the exception of those who are recruited locally and are assigned to hourly rates;

Approves the granting of the privileges and immunities referred to in articles V and VII of the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946, to all members of the staff of the United Nations, with the exception of those who are recruited locally and are assigned to hourly rates.

Fiftieth plenary meeting, 7 December 1946.

78. (I). Tax Equalization

The General Assembly resolves that:

1. In order to achieve full application of the principle of equity among Members and equality among personnel of the United Nations, Members which have not yet completely exempted from taxation, salaries and allowances paid out of the budget of the Organization are requested to take early action in the matter.

2. The question of a staff contributions plan in lieu of national taxation is referred to the Advisory Committee on Administrative and Budgetary Questions, which may request the Secretary-General to submit new proposals to the next regular session of the General Assembly.

Fiftieth plenary meeting, 7 December 1946.

90. (I). Privileges and Immunities of Members of the International Court of Justice, the Registrar, Officials of the Registry, Assessors, the Agents and Counsel of the Parties and of Witnesses and Experts

By a resolution adopted on 13 February 1946, the General Assembly, with a view to ensuring that the International Court of Justice should enjoy the privileges, immunities and facilities necessary for the exercise of its functions and the fulfilment of its purposes, in the country of its seat and elsewhere, invited the Court at its first session to consider this question and to inform the Secretary-General of its recommendations.

The Court has accordingly examined the problem in its various aspects during its first session, held at The Hague from 3 April to 6 May 1946, and has transmitted to the General Assembly its conclusions.*

The General Assembly considered the recommendations of the Court during the second part of its first session, and the report of the Sixth Committee.**

The General Assembly,

1. Approves the agreements concluded between the International Court of Justice and the Netherlands Government, as recorded in the exchange of letters between the President of the Court and the Minister for Foreign Affairs of the Netherlands.

2. Recommends that if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there.

3. Recommends that judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connexion with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys.

This provision should also apply to the Registrar and to any officer of the Court acting as Registrar.

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* Document A/105, see supra Annex I at p. 429
** Document A/202, see supra Annex I at p. 434

/4. Recommends

4. Recommends that:

(a) Officials of the Court should enjoy in any country where they may be on the business of the Court, or in any country through which they may pass on such business, such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions.

The Registrar, and any officer of the Court acting as Registrar, should, while on the business of the Court, be accorded diplomatic privileges and immunities.

(b) Inasmuch as these privileges and immunities are granted to officials of the Court in the interests of the International Court of Justice, and not for the personal benefit of the individuals themselves, the Registrar of the Court with the President's approval, should have the right and the duty to waive the immunity in any case where, in his opinion, the immunity would impede the course of justice, and can be waived without prejudice to the interests of the Court. In the case of the Registrar, the Court should have the right to waive immunity.

5. Recommends that:

(a)(i) The agents, counsel and advocates before the Court should be accorded, during the period of their missions, including the time spent on journeys in connexion with their missions, the privileges and immunities provided for in article IV, sections 11, 12 and 13 of the Convention on the privileges and immunities of the United Nations under the conditions of article IV, section 15, of that Convention.

(ii) Assessors of the Court should be accorded, during the period of their missions, including the time spent on journeys in connexion with their missions, the privileges and immunities provided for in article VI, section 22, of the Convention on the privileges and immunities of the United Nations.

(iii) Witnesses, experts and persons performing missions by order of the Court should be accorded, during the period of their missions, including the time spent on journeys in connexion with their missions, the privileges and immunities provided for in article VI, section 22, of the Convention on the privileges and immunities of the United Nations.

/(b) Inasmuch

(b) Inasmuch as the privileges and immunities referred to above under (a) are granted in the interests of the good administration of justice and not for the personal benefit of the individuals themselves, the appropriate authority should have the right and the duty to waive the immunity in any case where, in its opinion, the immunity would impede, and can be waived without prejudice to, the course of justice.

For this purpose, the competent authority in the case of agents, counsel and advocates representing a State will be the State concerned. In other cases (including those of assessors of the Court, persons performing missions by order of the Court and witnesses or experts), the competent authority will be the International Court of Justice or, when the Court is not sitting, the President of the Court.

6. Recommends that:

(a) The authorities of Members should recognize and accept United Nations laissez-passer, issued by the International Court of Justice to the members of the Court, the Registrar and the officials of the Court, as valid travel documents, taking into account the provisions of sub-paragraph (b).

(b) Applications for visas (where required) from the judges of the Court and the Registrar should be dealt with as speedily as possible. All other holders of laissez-passer should receive the same facilities when the applications for visas are accompanied by a certificate that they are travelling on the business of the Court. In addition, all holders of laissez-passer should be granted facilities for speedy travel.

(c) Similar facilities to those specified in sub-paragraph (b) should be accorded to experts and other persons who, though not the holders of United Nations laissez-passer delivered by the International Court of Justice, have a certificate that they are travelling on the business of the Court.

Fifty-fifth plenary meeting, 11 December 1946

/For text of exchange of letters between the President of the International Court of Justice and the Minister for Foreign Affairs of the Netherlands, see p. 41 supra /

92. (I). Official Seal and Emblem of the United Nations

The General Assembly,

1. Recognizes that it is desirable to approve a distinctive emblem of the United Nations and to authorize its use for the official seal of the Organization,

Resolves therefore that the design reproduced below shall be the emblem and distinctive sign of the United Nations and shall be used for the official seal of the Organization;

2. Considers that it is necessary to protect the name of the Organization and its distinctive emblem and official seal;

Recommends therefore:

(a) That Members of the United Nations should take such legislative or other appropriate measures as are necessary to prevent the use, without authorization by the Secretary-General of the United Nations, and in particular for commercial purposes by means of trade marks or commercial labels, of the emblem, the official seal and the name of the United Nations, and of abbreviations of that name through the use of its initial letters;

(b) That the prohibition should take effect as soon as practicable but in any event not later than the expiration of two years from the adoption of this resolution by the General Assembly;

(c) That each Member of the United Nations, pending the putting into effect within its territory of any such prohibition should use its best endeavours to prevent any use, without authorization by the Secretary-General of the United Nations, of the emblem, name, or initials of the United Nations, and in particular for commercial purposes by means of trade marks or commercial labels.

Fiftieth plenary meeting, 7 December 1946.

93. (I). Accessions to the Convention on the Privileges and Immunities of the United Nations

The General Assembly, on 13 February 1946, approved the Convention on the Privileges and Immunities of the United Nations and proposed it for accession by all Members.

/During the

During the second part of its first session, the General Assembly considered a report by the Secretary-General on the state of accessions to this Convention.*

It is essential for the efficient exercise of the functions of the Organization and the fulfilment of its purposes that the provisions of the Convention be brought into force in all Member States. So long as the Convention is not fully in effect there is danger of confusion, of a lack of co-ordination between the rules applied in various States, and the probability of judicial decisions and administrative acts adversely affecting the position of the United Nations in the country of the headquarters and elsewhere.

The General Assembly therefore,

Invites Members of the United Nations to accede at as early a date as possible to the Convention on the Privileges and Immunities of the United Nations;

Recommends that Members, pending their accession to the Convention, should follow, so far as possible, the provisions of the Convention in their relations with the United Nations, its officials, the representatives of its Members and experts on missions for the Organization.

Fifty-fifth plenary meeting, 11 December 1946.

98.(I). Interim Arrangement on the Privileges and Immunities of the United Nations concluded with the Swiss Federal Council, and Agreement concerning the Ariana Site

The General Assembly,

Has taken note with satisfaction of the report** by the Secretary-General on the negotiations with the Swiss Federal Council;

Considers that the documents set out in that report, including the letter of 22 October 1946 from the Head of the Swiss Federal Political Department

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* Documents A/141 and A/141/Add.1.
** Document A/175 supra p. 465

relating to the use of the United Nations buildings in Geneva, constitute a satisfactory basis for the activities of the United Nations in Switzerland;

Approves, therefore, the arrangements concluded with the Swiss Federal Council.

Sixty-fifth plenary meeting, 14 December 1946.

99.(I). Arrangements required as a result of the establishment of the Permanent Headquarters of the United Nations in the United States of America

The General Assembly takes note of the joint report* by the Secretary-General and the Negotiating Committee on the negotiations with the authorities of the United States of America concerning the arrangements required as a result of the establishment of the seat of the United Nations in the United States of America.

The General Assembly,

Having decided that the permanent headquarters of the United Nations shall be located in the City of New York, recognizes that any agreement with the United States of America relating to the permanent headquarters will need to be adapted to the circumstances of this site,

Resolves, therefore:

1. That the Secretary-General be authorized to negotiate and conclude with the appropriate authorities of the United States of America an agreement concerning the arrangements required as a result of the establishment of the permanent headquarters of the United Nations in the City of New York;

2. That in negotiating this agreement the Secretary-General shall be guided by the provisions of the draft agreement set forth in document A/67;

3. That the agreement referred to in paragraph 1 shall not come into force until approved by the General Assembly;

4. That, pending the coming into force of the agreement referred to in paragraph 1, the Secretary-General be authorized to negotiate and conclude arrangements with the appropriate authorities of the United States of America to determine on a provisional basis the privileges, immunities and facilities needed

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* Documents A/67 and A/67/Add.1. Annex I supra p. 435.

in connexion with the permanent headquarters* of the United Nations. In negotiating these arrangements, the Secretary-General shall be guided by the provisions of the draft agreement set forth in document A/67;

5. That the Government of the United States of America be requested to take the necessary steps as soon as possible to put into effect the Convention on the Privileges and Immunities of the United Nations, and to give effect to such arrangements as may be reached in accordance with paragraph 4 of this resolution.

Sixty-fifth plenary meeting, 14 December 1946.

100.(I). Headquarters of the United Nations

I. The General Assembly,

Takes note, with a feeling of sincere gratitude of the offer made by Mr. John D. Rockefeller, Jr., in a letter dated 10 December 1946,**to give to the United Nations the sum of $8,500,000 (U.S.), on certain terms and conditions, to make possible the acquisition by the United Nations of a tract of land in New York City in the area bounded by First Avenue, East 48th Street, the East River and East 42nd Street;

Notes also the assurance given by the City of New York to fulfil the terms and conditions applicable to it on which the aforesaid offer has been made, and the assurances given by the representative of the United States of America with respect to certain other terms and conditions of the aforesaid gift;

Resolves, therefore:

1. That the offer of Mr. John D. Rockefeller, Jr., hereinabove mentioned, be accepted subject to the terms and conditions therein stated;

2. That the permanent headquarters of the United Nations shall be established in New York City in the area bounded by First Avenue, East 48th Street, the East River and East 42nd Street;

3. That the Secretary-General be authorized to take all steps necessary to acquire the land hereinabove described together with all appurtenant rights,

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* See footnote to A/427, Annex I, p. 493, supra.
** Document A/Site/50.

/and to receive

and to receive the aforesaid gift of $8,500,000 (U.S.), and to apply the said gift to the acquisition of the land as provided in the terms of the offer;

4. That the Secretary-General be authorized to lease the structures now on the site until the work of demolition is undertaken, or to undertake demolition, as appears more appropriate;

5. That nothing in this resolution shall be deemed to restrict the authority of the Secretary-General to take any action which he may otherwise be authorized to take;

6. That Part I of the resolution adopted at the thirty-third plenary meeting of the General Assembly on 14 February 1946 relating to the permanent headquarters of the United Nations, is hereby repealed.*

II. The General Assembly resolves:

1. That the Secretary-General is hereby requested to prepare recommendations with respect to the matters set forth below pertaining to the establishment of the permanent headquarters. He is further requested to prepare a report on these matters to be distributed to the Members of the United Nations on or before 1 July 1947 for consideration at the next regular session of the General Assembly:

(a) General plans and requirements for official buildings and other necessary facilities;

(b) Arrangements for accommodations, housing developments and related facilities, on or off the site, for personnel of the Secretariat, specialized agencies and national delegations and their staffs, and for the families of such personnel;

(c) Approximate costs of construction and development;

(d) Financial and other arrangements;

(e) Any other matters pertaining to the development of the site which the Secretary-General feels the General Assembly should consider at its next regular session.

2. In carrying out the responsibilities set forth in paragraph 1 of this resolution, the Secretary-General shall be assisted by:

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* Document A/64, page 37, Resolution 45 (I) That the United Nations Headquarters should be established in Westchester (New York) and/or Fairfield (Connecticut) counties.

/(a) An

(a) An advisory ommmittee consisting of representatives of the following Members:

Australia, Belgium, Brazil, Canada, China, Colombia, France, Greece, India, Norway, Poland, Syria, Union of Soviet Socialist Republics, United Kingdom, United States of America and Yugoslavia.

(b) Consultants and experts who, at the request of the Secretary-General, shall be designated by the Government of the United States of America, or by Governments of other Member States, or local authorities.

Sixty-fifth plenary meeting, 14 December 1946.

160 (II). Tax Equalization

The General Assembly,

Reaffirming the principles set forth in the Convention on the Privileges and Immunities of the United Nations and in resolutions 13 (I)* and 78 (I)** adopted at the two parts of the first session of the General Assembly with respect to taxation;

Considering that in order to achieve both equity among the Member States and equality among the staff members of the Organization, Member States should exempt from national income taxation salaries and allowances paid by the United Nations, and

Noting that certain Members have not yet established this exemption,

Resolves:

1. That Members which have not acceded to the Convention on Privileges and Immunities are requested to take the necessary legislative action to do so in order to exempt their nationals employed by the United Nations from national income taxation;

2. That the Secretary-General is requested to prepare and submit to the next regular session of the General Assembly a Staff Contributions Plan in accordance with the recommendations of the Advisory Committee (document A/396);

3. That, pending granting tax exemption, Members are requested to grant relief from double taxation to their nationals employed by the United Nations;

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* supra. This Annex at p. 540.
** supra. This Annex at p. 543.

/4. That the

4. That the Secretary-General is invited to omit from all future personnel contracts any clause which binds the Organization to refund national income taxation in the absence of annual authorization by the General Assembly;

5. That, in order to achieve equality among staff members, the Secretary-General is authorized to reimburse staff members for national taxes paid on salaries and allowances received from the United Nations during the years 1946, 1947 and 1948, and

6. That the Secretary-General is requested to submit a report to the next regular session of the General Assembly on the action taken under this resolution.

Hundred and twenty-first plenary meeting, 20 November 1947.

167 (II). United Nations Flag

The General Assembly

Recognizes that it is desirable to adopt a distinctive flag of the United Nations and to authorize its use and, therefore,

Resolves that the flag of the United Nations shall be the official emblem adopted by the General Assembly under the terms of its resolution 92 (I) of 7 December 1946,* centred on a light blue ground;

Directs the Secretary-General to draw up regulations concerning the dimensions and proportions of the flag;

Authorizes the Secretary-General to adopt a flag code, having in mind the desirability of a regulated use of the flag and the protection of its dignity.

Ninety-sixth plenary meeting, 20 October 1947.

169 (II). Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations

A

The General Assembly,

Whereas the Secretary General pursuant to resolution 99 (I)** of 14 December 1946 signed with the Secretary of State of the United States of America on 26 June 1947 an Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, and

Whereas the Secretary-General in accordance with the said resolution has submitted the said Agreement to the General Assembly:

* Supra. This Annex at p. 547.

** Supra. This Annex at p. 549.

/Having studied

Having studied the report prepared on this matter by the Sixth Committee,

Endorses the opinions expressed therein;

Approves the Agreement signed on 26 June 1947, and

Authorizes the Secretary-General to bring that Agreement into force in the manner provided in section 28 thereof, and to perform on behalf of the United Nations such acts or functions as may be required by that Agreement.

B

The General Assembly

Decides to recommend to the Secretary-General and to the appropriate authorities of the United States of America to use section 16 of the General Convention on the Privileges and Immunities of the United Nations as a guide in considering -- under sub-sections 2 and the last sentence of section 15 of the above-mentioned Agreement regarding the Headquarters -- what classes of persons on the staff of delegations might be included in the lists to be drawn up by agreement between the Secretary-General, the Government of the United States of America and the Government of the Member State concerned.

Hundred and first plenary meeting, 31 October 1947

[For text of Agreement, see Supra p. 34]

239 (III). Tax equalization -- Staff Assessment Plan

. . . .

C

The General Assembly,

Desiring to achieve both equity among the Member States and equality among members of the staff of the Organization,

Noting that certain Members have not yet taken the necessary action to that end,

Requests Members which have not acceded to the Convention on Privileges and Immunities of the United Nations or which have acceded to it with reservations as to its section 18 (b), take the necessary action, legislative or other, to exempt their nationals employed by the United Nations from national income taxation with respect to their salaries and emoluments paid to them by the

United Nations, or in any other manner to grant relief from double taxation to such nationals.

Hundred and fifty-ninth plenary meeting, 18 November 1948.

258 (III). Reparation for injuries incurred in the service of the United Nations

Whereas the series of tragic events which have lately befallen agents of the United Nations engaged in the performance of their duties raises, with greater urgency than ever, the question of the arrangements to be made by the United Nations with a view to ensuring to its agents the fullest measures of protection in the future and ensuring that reparation be made for the injuries suffered,* and

Whereas it is highly desirable that the Secretary-General should be able to act, without question, as efficaciously as possible with a view to obtaining any reparation due,

The General Assembly

Decides to submit the following legal questions to the International Court of Justice for an advisory opinion:

"I. In the event of an agent of the United Nations in the performance of his duties suffering injury in circumstances involving the responsibility of a State, has the United Nations, as an Organization, the capacity to bring an international claim against the responsible de jure or de facto Government with a view to obtaining the reparation due in respect of the damage caused (a) to the United Nations, (b) to the victim or to persons entitled through him?

"II. In the event of an affirmative reply on point I (b), how is action by the United Nations to be reconciled with such rights as may be possessed by the State of which the victim is a national?"

Instructs the Secretary-General, after the Court has given its opinion, to prepare proposals in the light of that opinion, and to submit them to the General Assembly at its next regular session.

Hundred and sixty-ninth plenary meeting, 3 December 1948.

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*See document A/674 supra Annex I at p. 505.

259 (III). Privileges and immunities of the United Nations

The General Assembly,

Having taken note of the Secretary-General's report* on the steps taken with a view to the entry into force and application of the agreements concluded between the United Nations and the United States of America regarding the headquarters of the United Nations, and on the state of accessions to the Convention on the Privileges and Immunities of the United Nations,

Considering that the agreements regarding the headquarters of the United Nations are complementary to the Convention on the Privileges and Immunities of the United Nations, since these instruments taken together are intended to define the status of the United Nations in the country where these headquarters are located,

Considering also that a number of States Members have not yet acceded to the Convention on Privileges and Immunities,

Considering that, if the United Nations is to achieve its purposes and perform its functions effectively, it is essential that the States Members should unanimously approve the provisions of the said Convention,

Notes with satisfaction the steps taken with a view to the entry into force and application of the agreements concluded between the United Nations and the United States of America regarding the headquarters of the United Nations, and

Invites those States Members which have not yet acceded to the Convention on the Privileges and Immunities of the United Nations to deposit their instruments of accession to the said Convention with the Secretary-General at the earliest possible moment.

Hundred and seventy-fifth plenary meeting, 8 December 1948

365 (IV). Reparation for injuries incurred in the service of the United Nations

The General Assembly,

Considering its request to the International Court of Justice for an advisory opinion, formulated in resolution 258 (III)** of 3 December 1948

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* See document A/626 supra Annex I at p. 513.

** See p. 555.

concerning reparation for injuries incurred in the service of the United Nations,

Having regard to the advisory opinion* rendered by the International Court of Justice on 11 April 1949,

Considering that it is highly desirable that reparation be secured for injuries incurred in the service of the United Nations,

Considering that the Secretary-General has submitted in his report** of 23 August 1949 a number of proposals relating to the aforementioned advisory opinion,

Consequently

1. Authorizes the Secretary-General, in accordance with his proposals, to bring an international claim against the Government of a State, Member or non-member of the United Nations, alleged to be responsible, with a view to obtaining the reparation due in respect of the damage caused to the United Nations and in respect of the damage caused to the victim or to persons entitled through him and, if necessary, to submit to arbitration, under appropriate procedures, such claims as cannot be settled by negotiation;

2. Authorizes the Secretary-General to take the steps and to negotiate in each particular case the agreements necessary to reconcile action by the United Nations with such rights as may be possessed by the State of which the victim is a national;

3. Requests the Secretary-General to submit an annual report to subsequent sessions of the General Assembly on the status of claims for injuries incurred in the service of the United Nations, and proceedings in connexion with them.

Two hundred sixty-second plenary meeting, 1 December 1949.

481 (V). Regulations to give effect to article III, section 8, of the Headquarters Agreement between the United Nations and the United States of America

The General Assembly,

Bearing in mind the provisions of article III, section 8, of the Agreement

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* See Official Records of the fourth session of the General Assembly, Annex to the Sixth Committee, document A/955.

** Ibid.

between the United Nations and the United States of America regarding the Headquarters of the United Nations, approved by General Assembly resolution 169 (II) of 31 October 1947,

Having considered the report* of the Secretary-General on the regulations to give effect to section 8 of the Headquarters Agreement,

1. Requests the Secretary-General to present to the General Assembly for approval any draft regulation within the provisions of the Headquarters Agreement which may in his opinion be necessary for the full execution of the functions of the United Nations;

2. Decides that, if in the opinion of the Secretary-General it is necessary to give immediate effect to any regulation within the provisions of the Headquarters Agreement, he shall have authority to make such regulation. The Secretary-General shall report any action so taken to the General Assembly as soon as possible.

Three hundred-twentieth plenary meeting, 12 December 1950.

604 (VI). Regulations to give effect to article III, section 8, of the Headquarters Agreement between the United Nations and the United States of America

The General Assembly,

Considering the provisions of article III, section 8, of the Headquarters Agreement between the United Nations and the United States of America, which came into force on 21 November 1947,

Recalling General Assembly resolution 481 (V) of 12 December 1950, which prescribed the method for giving effect to article III, section 8, of the Headquarters Agreement,

Having considered the report** of the Secretary-General containing Headquarters regulation No. 1, which was promulgated with immediate effect by the Secretary-General on 26 February 1951, and presenting draft Headquarters regulations Nos. 2 and 3 for approval by the General Assembly,

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* A/1409, supra, p. 529.

** A/1914, supra, p. 534.

/1. Confirms

1. Confirms Headquarters regulation No. 1 of 26 February 1951, on the United Nations social security system annexed to the present resolution;

2. Approves Headquarters regulation No. 2 on qualifications for professional or other special occupational services with the United Nations, and Headquarters regulation No. 3 on the operation of services within the Headquarters District, as annexed to the present resolution.

Three hundred sixty-ninth plenary meeting, 1 February 1952.

ANNEX

Headquarters Regulations

For the purpose of establishing in the Headquarters District conditions in all respects necessary for the full execution of the functions of the United Nations, and in particular for the purposes specified in each regulation, the following regulations are in effect:

REGULATION NO. 1

United Nations Social Security System

For the purpose, in the field of staff social security, of giving immediate effect to measures necessary for avoiding multiple obligations arising from the possible application of overlapping laws and regulations:

1. A comprehensive United Nations social security system having been established for the purpose of affording protection against all reasonable risks arising out of or incurred during service with the United Nations, the provisions of the United Nations social security system shall constitute the only obligations of the United Nations in respect of such risks.

2. The provisions of the United Nations social security system shall constitute the sole provisions under which persons in the service of the United Nations shall be entitled to claim against the United Nations in respect of any risks within the purview of the United Nations social security system, and any payments made under the United Nations social security system shall constitute the sole payments which any such person shall be entitled to receive from the United Nations in respect of any such risks.

3. This regulation shall take effect on the date of its promulgation, without prejudice, however, to any elements of the United Nations social security system, or any rights or obligations thereunder, already existing at the date of this regulation.

PROMULGATED by the Secretary-General on 26 February 1951, with immediate effect, in pursuance of the authority conferred on him by resolution 481 (V) of the General Assembly, and CONFIRMED by the General Assembly in resolution 604 (VI) of 1 February 1952.

/REGULATION NO. 2

REGULATION NO. 2

Qualifications for professional or other special occupational services with the United Nations

For the purpose of availing the United Nations of the professional or special occupational services of persons recruited on as wide a geographical basis as possible:

The qualifications and requirements necessary for the performance of professional or other special occupational services within the Headquarters District shall be determined by the Secretary-General; provided that, prior to authorizing medical or nursing services by any person, the Secretary-General shall ascertain that such person has been duly qualified to perform such services in his own or another country.

APPROVED by General Assembly resolution 604 (VI) of 1 February 1952.

REGULATION NO. 3

Operation of services within the Headquarters District

For the purpose of ensuring uninterrupted services necessary to the proper functioning of the principal and subsidiary organs of the United Nations:

The times and hours of operation of any services and facilities or retail establishments authorized within the Headquarters District shall be in compliance with schedules fixed by the Secretary-General; no regulations, requirements or prohibitions beyond those so prescribed shall be imposed without his approval.

APPROVED by General Assembly resolution 604 (VI) of 1 February 1952.

606 (VI). Application of the Headquarters Agreement to representatives of non-governmental organizations

The General Assembly,

Recalling the provisions of Article 71 of the Charter of the United Nations and of section 11 of the Headquarters Agreement between the United Nations and the United States of America, which came into force on 21 November 1947,

Taking note of Economic and Social Council resolution 413 C (XIII) of 20 September 1951 in which the Council stated that "it is important for the fulfilment of the purposes for which consultative status was established for non-governmental organizations that such organizations should be able to follow the discussions of the General Assembly and its Committees on those items of its agenda which concern them and which are within the competence of the Economic and Social Council",

1. Authorizes the Secretary-General, upon the request of the Economic and Social Council or its Committee on Non-Governmental Organizations, to make arrangements to enable the representative designated by any non-governmental organization having consultative status to attend public meetings of the General Assembly whenever economic and social matters are discussed which are within the competence of the Council and of the organization concerned;

2. Requests the Secretary-General to continue to give assistance to representatives of such non-governmental organizations in facilitating transit to or from sessions of the General Assembly and its Committees.

Three hundred sixty-ninth plenary meeting, 1 February 1952.

ADDENDUM

THE DIPLOMATIC PRIVILEGES (UNITED NATIONS AND INTERNATIONAL COURT OF JUSTICE) ORDER IN COUNCIL, 1947

At the Court at Buckingham Palace, the 8th day of August, 1947

PRESENT,

The King's Most Excellent Majesty in Council

Whereas, by Section I of the Diplomatic Privileges (Extension) Act, 1944 (7 and 8 Geo. 6. c. 44) as amended by the Diplomatic Privileges (Extension) Act, 1946 (9 and 10 Geo. 6. c. 66), hereinafter together referred to as "the Act", it is enacted:

That the provisions of that Section shall apply to any organization declared by Order in Council to be an organization of which His Majesty's Government in the United Kingdom and the government or governments of one or more foreign sovereign Powers are members;

That His Majesty may, by Order in Council, provide that any organization to which that Section applies shall, to the extent specified in the Order, have the immunities and privileges set out in Part I of the Schedule to the Act and shall also have the legal capacities of a body corporate;

That His Majesty may, by Order in Council, confer upon the representatives of member governments on the governing body or any committee of the organization, and upon persons employed on missions on behalf of the organization, and upon officers and servants of the organization, the immunities and privileges set out in Parts II and III of the said Schedule to the extent specified in the Order; and

That Part IV of the Schedule to the Act shall have effect for the purpose of extending to the staffs of representatives of member governments and to the families of certain high officers of the organization any immunities and privileges conferred on the representatives or officers, except in so far as the operation of the said Part IV is excluded by the Order conferring the immunities and privileges:

And whereas, by Section 2 of the Diplomatic Privileges (Extension) Act, 1946, it is enacted:

/ That in the

That in the application of the Act to the United Nations any reference to the governing body or any committee of the organization shall be construed as referring to the General Assembly or any council or other organ of the United Nations; and

That His Majesty shall have power by Order in Council to confer on the judges and registrars of the International Court of Justice, and on suitors to that Court and their agents, counsel and advocates, such immunities, privileges and facilities as may be required to give effect to any resolution of or convention approved by the General Assembly of the United Nations:

And whereas, on the 13th February, 1946, at the first General Assembly of the United Nations, the Convention on the Privileges and Immunities of the United Nations (which Convention is set forth in Annex I to the present Order)* was approved and proposed for accession by each member of the United Nations:

And whereas His Majesty's Government in the United Kingdom have acceded to the aforesaid Convention:

And whereas the General Assembly of the United Nations, on the 11th December, 1946, adopted a resolution concerning the immunities and privileges of the International Court of Justice, which resolution, together with certain relevant provisions of the Statute of the Court, are set forth in Annex 2* to the present Order:

And whereas it is expedient in the exercise of the powers aforesaid to make provision for the privileges and immunities of the United Nations and of the International Court of Justice in accordance with the aforesaid Convention and the aforesaid resolution of the Assembly of the 11th December, 1946:

Now, therefore, His Majesty, by virtue and in exercise of the powers on this behalf by the aforesaid Act or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order and it is hereby ordered as follows:

PART I

THE UNITED NATIONS

A. The Organization

1. The United Nations set up by the Charter signed at San Francisco on the 26th June, 1945, is an organization of which His Majesty's Government in the United Kingdom and the governments of foreign sovereign Powers are members.

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* Annexes 1 and 2 are omitted. See pp. 26-40 and pp. 544-546, supra.

2. The United Nations shall have the legal capacity of a body corporate and, except in so far as in any particular case it has expressly waived its immunity, immunity from suit and legal process. No waiver of immunity shall be deemed to extend to any measure of execution.

3. The United Nations shall have the like inviolability of official archives and premises occupied as offices as is accorded in respect of official archives and premises of an envoy of a foreign sovereign Power accredited to His Majesty.

4. The United Nations shall have the like exemption or relief from taxes and rates, other than taxes on the importation of goods, as is accorded to a foreign sovereign Power.

5. The United Nations shall have exemption from taxes on the importation of goods directly imported by the organization for its official use in the United Kingdom or for exportation, or on the importation of any publications of the organization directly imported by it, such exemption to be subject to compliance with such conditions as the Commissioners for Customs and Excise may prescribe for the protection of the revenue.

6. The United Nations shall have exemption from prohibitions and restrictions on importation and exportation in the case of goods directly imported or exported by the organization for its official use and in the case of any publications of the organization directly imported or exported by it.

7. The United Nations shall have the right to avail itself, for telegraphic communications sent by it and containing only matter intended for publication by the press or for broadcasting (including communications addressed to or despatched from places outside the United Kingdom), of any reduced rates applicable for the corresponding service in the case of press telegrams.

B. Representatives of Members

8. Except in so far as in any particular case any privilege or immunity is waived by the member governments whom they represent Representatives of member governments to the General Assembly or to any Council or other organ of the United Nations shall enjoy:

(a) While exercising their functions as such, and during their journey to and from the place of meeting, immunity from personal arrest or detention and from seizure of their personal baggage and inviolability for all papers and documents:

/(b) Immunity

(b) Immunity from legal process of every kind in respect of words spoken or written and all acts done by them in their capacity as representatives.

(c) While exercising their functions and during their journey to and from the place of meeting, the like exemption or relief from taxes as is accorded to an envoy of a foreign sovereign Power accredited to His Majesty, save that the relief allowed shall not include relief from customs and excise duties or purchase tax except in respect of goods imported as part of their personal baggage. They shall not, where the incidence of any form of taxation depends upon residence, be deemed to be resident in the United Kingdom during any period when they are present in the United Kingdom while exercising their functions or during their journey to and from the place of meeting. The provisions of this paragraph shall not apply to British subjects whose usual place of abode is in the United Kingdom.

9. For the purposes of the application of this Order, the expression "representatives of member governments" shall be deemed to include their official staffs, accompanying them as such representatives, as delegates, deputy delegates, advisers, technical experts or secretaries of delegations, but shall not include any person who is the representative of His Majesty's Government in the United Kingdom or any member of the staff of such representative, or any person, who is a British subject and who is not the representative of a Government of His Majesty other than His Majesty's Government in the United Kingdom or the member of the staff of and accompanying any such representative.

C. High Officials of the United Nations

10. Except in so far as in any particular case any privilege or immunity is waived by the Secretary-General or the Security Council of the United Nations, the Secretary-General and Assistant Secretaries General of the United Nations (and not exceeding at one time 6 in number) shall be accorded in respect of themselves, their spouses and children under the age of twenty-one the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from taxes as is accorded to an envoy of a foreign sovereign Power accredited to His Majesty, his spouse and children. They shall also enjoy exemption from income tax in respect of emoluments received by them as officers of the United Nations.

/D. Persons

D. Persons employed on missions on behalf of the United Nations

11. Except in so far as in any particular case any privilege or immunity is waived by the Secretary-General of the United Nations, persons employed on missions on behalf of the United Nations shall enjoy:

(a) While exercising their functions as such, as during their journey to and from the place of meeting, immunity from personal arrest or detention and from seizure of their personal baggage and inviolability for all papers and documents:

(b) Immunity from legal process of every kind in respect of words spoken or written and all acts done by them in the exercise of these functions.

E. Other officials of the United Nations

12. Except in so far as in any particular case any privilege or immunity is waived by the Secretary-General of the United Nations, officials of the United Nations (other than those referred to in Article 10 above, and officials engaged locally and remunerated by payment calculated by the number of hours worked) shall enjoy:

(a) immunity from suit and legal process in respect of words spoken or written and all acts done by them in the course of the performance of their official duties and

(b) exemption from income tax in respect of emoluments received by them as officers or servants of the United Nations.

PART II

INTERNATIONAL COURT OF JUSTICE

13. Except in so far as in any particular case any privilege or immunity is waived by the Court, the judges and Registrar of the International Court of Justice (including any officer of the Court acting as Registrar) shall, when engaged on the business of the Court and during any journey to and from the place where the Court is sitting in connexion with such business, enjoy the like immunity from suit and legal process, the like inviolability of residence and also unless they are British subjects whose usual place of abode is in the United Kingdom the like exemption or relief from taxes as is accorded to an envoy of a foreign sovereign Power accredited to His Majesty.

/14. The judges

14. The judges and Registrar of the International Court of Justice shall enjoy exemption from income tax in respect of all emoluments received by them as judges or Registrar.

15. Except in so far as in any particular case any privileges or immunity is waived by the government whom they represent before the Court, the agents, counsel and advocates of parties before the Court shall enjoy:

(a) When engaged on their missions before the Court and during their journeys to and from the place where the Court is sitting in connexion with such missions, immunity from personal arrest or detention and from seizure of their personal baggage and inviolability for all papers and documents;

(b) Immunity from legal process of every kind in respect of words spoken or written and all acts done by them in this capacity;

(c) When engaged on their missions before the Court and during their journeys to and from the place where the Court is sitting in connexion with such mission, the like exemption or relief from taxes as is accorded to an envoy of a foreign sovereign Power accredited to His Majesty, save that the relief allowed shall not include relief from customs or excise duties or purchase tax except in respect of goods imported as part of their personal baggage. They shall not, where incidence of any form of tax depends upon residence, be deemed to be resident in the United Kingdom during any period when they are present in the United Kingdom while exercising these functions or during their journey to and from the place of meeting. The provisions of this paragraph shall not apply to British subjects whose usual place of abode is in the United Kingdom.

The provisions of this Article do not apply to any agents, counsel or advocates acting on behalf of His Majesty's Government in the United Kingdom or to any British subject acting on behalf of any other Government except a Government of His Majesty other than His Majesty's Government in the United Kingdom.

PART III

GENERAL

16. The names of the persons to whom the provisions of Articles 8, 9, 10, 11, 13, 14 and 15 of this Order apply shall be set forth in a list compiled and published from time to time by the Secretary of State under Section I (3) of the

/Act and such

Act and such list shall show in regard to each person the date as from which, for the purposes of this Order, he first held the office or employment in question, and the date when he ceased to hold that office or employment.

17. The Diplomatic Privileges (United Nations Organization and Preparatory Commission) Order in Council 1945 (S.R. and O. 1945 No. 1539)(a) is hereby repealed.

18. This Order may be cited as the Diplomatic Privileges (United Nations and International Court of Justice) Order in Council 1947.

19. This Order shall be laid before Parliament. It shall enter into force as from 2 weeks after the making of the Order. The Right Honourable Ernest Bevin, His Majesty's Principal Secretary of State for Foreign Affairs to give the necessary directions herein.

E. C. E. Leadbitter

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport)

This Order in Council is made in the exercise of the powers conferred by the Diplomatic Privileges (Extension) Act, 1944, as amended by the Diplomatic Privileges (Extension) Act, 1946, to give effect to the obligations of His Majesty's Government in respect of the United Kingdom under the Convention on the Privileges and Immunities of the United Nations and under certain provisions of the Statute of International Court of Justice and a resolution of the General Assembly of the United Nations relating to the privileges and immunities of the International Court of Justice, in so far as these obligations are of the kind which require to be given the force of law in this country by Order in Council. Many of the provisions of the Convention and of the resolution relating to the International Court are provisions which can be fulfilled either by purely executive action under the prerogative or by virtue of powers exercised under Acts of Parliament not necessitating the making of any Order in Council. This Order in Council applies to the United Kingdom only and, for the purpose of fulfilling His Majesty's Government's obligations under the Convention, the Statute or resolution, in respect of colonies, overseas territories, etc., the necessary action will be taken by local legislation in the territories concerned. Both the Convention and the relevant portions of the Statute of the International Court and the resolution of the General Assembly relating thereto are set forth in the Annexes of the Order.

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