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## Articles 104 and 105

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## Text of 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.

## Text of Article 105

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

## Introductory note

1. The present *Supplement* maintains the general structure, format and headings used in earlier studies of Articles 104 and 105 in the *Repertory* and its *Supplements Nos. 1 to 7*.
2. In the general survey, a list of new parties who acceded or succeeded to the 1946 Convention on the Privileges and Immunities of the United Nations (hereinafter the “General Convention”) is presented, as well as a review of the agreements concluded by the United Nations with parties and non-parties to the General Convention. Increasing concern with the safety of international civil servants was also the subject of action by the organs of the United Nations, culminating in the adoption of the Convention on the Safety of United Nations and Associated Personnel by the General Assembly on 9 December 1994.
3. In the analytical summary, practice regarding the privileges and immunities of the Organization, representatives of Member States, non-Member States maintaining permanent observer missions, observers of non-Member States, officials, experts on mission and members of United Nations peacekeeping operations or observer missions is presented and analysed.

## I. General survey

### A. Implementation of Articles 104 and 105

#### 1. By the General Convention

4. Thirteen Member States became parties to the General Convention during the period covered by the present *Supplement*. The accession of one Member State contained reservations to certain provisions of the

General Convention (see annex I to the present study). The total number of parties was 135 by 31 December 1994.

#### 2. By agreements on privileges and immunities

5. In the period under review, the United Nations concluded around 200 agreements on privileges and immunities with parties and non-parties to the General

Convention. Of those agreements, 35 were concluded with non-parties, of which four were non-Member States at the time of conclusion. The majority of the agreements were concerned with technical cooperation and assistance, the establishment of United Nations offices, centres or institutions, arrangements for United Nations meetings, sessions, workshops or training courses held outside Headquarters and the establishment of United Nations peacekeeping operations or observer missions. A table of the agreements that the United Nations concluded during the period under review appears as annex II to the present study.

*(a) Technical cooperation and assistance*

6. The majority of the agreements concerning technical cooperation and assistance referred to, and confirmed, the application of the General Convention.

7. United Nations programmes and funds primarily concluded agreements concerning technical cooperation and assistance. These agreements were based on their standard basic assistance agreements.

8. The United Nations Children's Fund (UNICEF) concluded 21 basic cooperation agreements (BCA) during the period under review.<sup>1</sup> Until July 1992, UNICEF continued to base its agreements on its 1965 Revised Model Agreement,<sup>2</sup> which contained provisions on privileges and immunities in article VII. In July 1992, a new Standard BCA was issued.<sup>3</sup> Provisions in the 1992 BCA dealt with the privileges, immunities, rights and facilities of UNICEF, its officials,<sup>4</sup> experts on mission,<sup>5</sup> persons performing services for UNICEF,<sup>6</sup> access facilities,<sup>7</sup> locally recruited personnel assigned to hourly rates,<sup>8</sup> facilities in respect of communications<sup>9</sup> and the waiver of privileges and immunities.<sup>10</sup>

9. The two BCAs concluded before July 1992, between UNICEF and Belize<sup>11</sup> and Romania,<sup>12</sup>

departed significantly from the 1965 Revised Model Agreement's provisions on privileges and immunities. Both agreements detailed the privileges and immunities of the UNICEF office, property, funds and assets, and UNICEF officials, experts on mission, persons performing services for UNICEF and locally recruited personnel assigned to hourly rates.<sup>13</sup> The BCAs concluded after July 1992 followed the 1992 Standard BCA.

10. The United Nations Development Programme (UNDP) continued to use its Standard Basic Assistance Agreement (SBAA)<sup>14</sup> in concluding twenty-four agreements with Governments during the period under review. Provisions on privileges and immunities were contained in articles IX and X of the SBAA. A few variations were noted in the agreements concluded between UNDP and Governments. One variation in the agreement with Cameroon in 1991<sup>15</sup> was that the provision of article IX did not grant the privileges and immunities described in it to persons "who reside permanently in the country".<sup>16</sup> The agreement with Sri Lanka<sup>17</sup> in 1990 was accompanied by an exchange of letters which placed on record the understanding of the Government that the privileges and immunities envisaged in article IX, paragraph 4 (a) and paragraph 5, concerning persons performing services, would be applicable to non-governmental organizations and firms performing services on behalf of UNDP only when they were specifically performing such services. It emphasized that such privileges and immunities would not apply to Sri Lankan citizens employed locally by such firms.<sup>18</sup> The agreement with the Russian Federation contained minor variations in paragraphs 1, 3 and 4 of article IX.<sup>19</sup>

*(b) By United Nations office agreements*

11. During the period under review, 28 agreements were concluded relating to the establishment of United Nations offices, centres or institutions. The application of the General Convention to these offices, centres and

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<sup>1</sup> See annex II for the list of agreements concluded by UNICEF.

<sup>2</sup> See *United Nations Juridical Yearbook, 1965*, pp. 31-32.

<sup>3</sup> [E/ICEF/BCA](#).

<sup>4</sup> Article XIII.

<sup>5</sup> Article XIV.

<sup>6</sup> Article XV.

<sup>7</sup> Article XVI.

<sup>8</sup> Article XVII.

<sup>9</sup> Article XVIII.

<sup>10</sup> Article XX.

<sup>11</sup> *United Nations Juridical Yearbook, 1990*, pp. 59-63.

<sup>12</sup> *United Nations Juridical Yearbook, 1991*, pp. 108-111.

<sup>13</sup> See Articles X to XVII, *United Nations Juridical Yearbook, 1990*, pp. 60-63 (Belize) and *United Nations Juridical Yearbook, 1991*, pp. 108-111 (Romania).

<sup>14</sup> See *United Nations Juridical Yearbook, 1973*, pp. 24-26.

<sup>15</sup> *United Nations Juridical Yearbook, 1991*, p. 64.

<sup>16</sup> *Ibid.*

<sup>17</sup> *United Nations Juridical Yearbook, 1990*, pp. 42-43.

<sup>18</sup> *Ibid.*, p. 43.

<sup>19</sup> *United Nations Juridical Yearbook, 1993*, p. 162.

institutions was confirmed in each of the agreements. There were variations in the agreements, which will be discussed below.

12. The three agreements regarding the establishment of the United Nations information centres in Denmark,<sup>20</sup> Namibia<sup>21</sup> and Cameroon<sup>22</sup> that were concluded during the period under review contained similar provisions concerning the Centre and its officials' privileges and immunities. One variation in the agreement with Cameroon was a specific mention in article III, concerning the status of the centre, that: "The archives, assets and properties of the Centre as well as its official correspondence shall be inviolable".<sup>23</sup> In addition, the provisions of this agreement relating to the privileges and immunities of the officials of the centre did not make any distinction between the privileges and immunities granted to internationally and locally recruited personnel.<sup>24</sup> The agreements with Denmark and Namibia, on the other hand, did.<sup>25</sup>

13. Seven agreements establishing United Nations Interim Offices and two agreements establishing United Nations Integrated Offices were concluded.<sup>26</sup> The first agreement concluded with Belarus on 15 May 1992<sup>27</sup> provided the model for the other agreements concluded in 1992 and 1993. However, the agreement with Armenia concluded on 17 September 1992<sup>28</sup> principally departed from the agreement with Belarus in articles 7 and 12 concerning the privileges and immunities of officials of the office. Whereas the agreement with Belarus accorded all officials of the office the immunities under articles 7 and 12, the agreement with Armenia specified which immunities were for internationally recruited officials only.<sup>29</sup> The agreements concluded with Azerbaijan, Kazakhstan,

Ukraine, Uzbekistan<sup>30</sup> and Georgia<sup>31</sup> contained provisions similar to the agreement with Belarus, but included the changes appearing in the agreement with Armenia. However, the two later agreements establishing United Nations Integrated Offices in the Russian Federation<sup>32</sup> and Eritrea<sup>33</sup> replicated articles 7 and 12 of the agreement with Belarus without those changes.

(c) *By UNHCR Cooperation Agreements*

14. On 27 June 1989, UNHCR issued a memorandum attaching its Model UNHCR Cooperation Agreement.<sup>34</sup> The memorandum stated that the Model might need to be adjusted to specific UNHCR requirements in a given host country in the light of local legal and political systems and was also subject to the agreement of the individual government concerned. Officials were advised that deviations from the Model should be cleared with UNHCR Headquarters in advance of the signature.<sup>35</sup> Articles VII to XV of the Model UNHCR Cooperation Agreement dealt with the privileges, immunities, rights and facilities of UNHCR, its officials, locally recruited personnel, experts on mission and persons performing services on behalf of UNHCR.

15. During the period under review, UNHCR established one regional office and ten branch offices in host countries.<sup>36</sup> All the agreements were concluded following the issuance of the Model UNHCR Cooperation Agreement. The agreements concluded with South Africa,<sup>37</sup> Saudi Arabia<sup>38</sup> and Pakistan<sup>39</sup> contained major variations to the Model UNHCR Cooperation Agreement. The majority of the agreements, though, replicated the Model, with minor

<sup>20</sup> *United Nations Juridical Yearbook, 1989*, pp. 10-13.

<sup>21</sup> *United Nations Juridical Yearbook, 1991*, pp. 37-39.

<sup>22</sup> *United Nations Juridical Yearbook, 1994*, pp. 8-10.

<sup>23</sup> *Ibid.*, paragraph 3 of article III, p. 8.

<sup>24</sup> See article V, *ibid.*, pp. 9-10.

<sup>25</sup> See article V of both agreements, *United Nations Juridical Yearbook, 1989*, pp. 11-12 and *1991*, pp. 37-39.

<sup>26</sup> *United Nations Juridical Yearbook, 1992*, pp. 62-69, 86-87, 90-91 and *United Nations Juridical Yearbook, 1993*, pp. 10-18. See also annex II.

<sup>27</sup> *United Nations Juridical Yearbook, 1992*, pp. 62-69.

<sup>28</sup> *United Nations Juridical Yearbook, 1992*, pp. 86-87.

<sup>29</sup> Article VII, *United Nations Juridical Yearbook, 1992*, pp. 86-87.

<sup>30</sup> *United Nations Juridical Yearbook, 1992*, pp. 90-91 and 103.

<sup>31</sup> *United Nations Juridical Yearbook, 1993*, pp. 10-18.

<sup>32</sup> *Ibid.*, pp. 63-73.

<sup>33</sup> *Ibid.*, pp. 86-95.

<sup>34</sup> UNHCR/IOM/79/89.

<sup>35</sup> *Ibid.*, para. 3.

<sup>36</sup> See annex II.

<sup>37</sup> *United Nations Juridical Yearbook, 1991*, pp. 45-51.

<sup>38</sup> *United Nations Juridical Yearbook, 1993*, pp. 147-148.

<sup>39</sup> *Ibid.*, pp. 156-160. Article VII provided that Pakistan would apply to UNHCR property, funds, assets, officials and experts on mission the relevant provisions of the General Convention "in a manner as favourable as accorded to other United Nations organizations, and as implemented in Pakistan under the Act of 1948".

variations. The most common variations in these agreements were failure to include the provision from article VIII, paragraph 7, of the Model<sup>40</sup> that “UNHCR shall enjoy the most favourable legal rate of exchange” and the stipulations in article X, paragraph 2 (a) and article XII, paragraph 1 (b), that the immunity of UNHCR officials and experts on mission from legal process in respect of words spoken and written and all acts performed by them in their official capacity would “continue even after termination of employment with UNHCR”.<sup>41</sup> Other variations included the non-exemption of Venezuelan citizens from some of the privileges and immunities specified for UNHCR officials — specifically, immunity from military-service obligations<sup>42</sup> — and the “immunity from personal arrest or detention” that the UNHCR Representative, Deputy Representative, the Liaison Officer and officials should enjoy in Poland, which was not provided for in the Model.<sup>43</sup>

(d) *By conference agreements*

16. In accordance with paragraph 5, Part I, of the General Assembly’s resolution 40/243 of 18 December 1985, which, inter alia, decided that “United Nations bodies may hold sessions away from their established headquarters ...”,<sup>44</sup> the United Nations Secretariat issued an administrative instruction on 8 May 1987<sup>45</sup> providing guidelines to officials responsible for preparing and finalizing agreements with Governments hosting United Nations conferences. The guidelines contained model provisions for privileges and immunities to be concluded in the form of an

agreement<sup>46</sup> and in the form of an exchange of letters.<sup>47</sup> The Office of Legal Affairs (OLA) was named responsible for the legal clauses in the agreements. No modification might be made to the agreements without the approval of OLA.<sup>48</sup>

17. The United Nations concluded 102 agreements during the period under review for the purposes of making arrangements for the holding of United Nations sessions, meetings, seminars, workshops and trainings outside of Headquarters.<sup>49</sup> Five agreements were concluded with States that were not parties to the General Convention at the time of their conclusion.<sup>50</sup> The standard approach was to make the General Convention applicable between the parties for the purpose and duration of the conference. Thus, the agreements provided that the General Convention “shall be applicable in respect of the workshop [session]”.<sup>51</sup>

18. The majority of the agreements were concluded by an exchange of letters and conformed in substance to the model provisions for privileges and immunities. The main variation in the agreements concluded during the period under review concerned immunity from legal process for local personnel provided by the host country for the duration of the conference. In accordance with a long-standing and consistent practice of the Organization, all United Nations invitees and those performing functions for United Nations conferences, including local personnel provided by the host country, were entitled, as a minimum, to immunity from legal process in respect of words spoken or written and acts performed by them in connection with their participation in the conference. Such local personnel were entitled to enjoy this limited functional immunity for the duration and purposes of the conference only. This practice was reflected in the model provisions for agreements concluded in the form

<sup>40</sup> See article VIII, para. 7, Agreement with Nicaragua, *United Nations Juridical Yearbook*, 1990, p. 39; and article IX, Agreement with Venezuela, *United Nations Juridical Yearbook*, 1993, p. 135.

<sup>41</sup> See Agreement with Nicaragua, *United Nations Juridical Yearbook*, 1990, pp. 40-41; article XI, para. 2 (a) and article XII, para. 1 (b), Agreement with Venezuela, *United Nations Juridical Yearbook*, 1991, p. 136; article X, para. 2 (a), Agreement with the Russian Federation, *United Nations Juridical Yearbook*, 1993, p. 95 (officials only).

<sup>42</sup> Article XI, para. 3, *United Nations Juridical Yearbook*, 1993, p. 136.

<sup>43</sup> Articles XI and XII, *United Nations Juridical Yearbook*, 1992, pp. 34-35, art. IX, para. 1 (a) and article XII, para. 1 (a).

<sup>44</sup> General Assembly resolution 40/243, para. 5.

<sup>45</sup> ST/AI/342.

<sup>46</sup> ST/AI/342, pp. 14-15.

<sup>47</sup> ST/AI/342, pp. 17-19. See also *Repertory, Supplement No. 7, vol. VII*, under this Article, paras. 14-19 for information about the administrative instruction.

<sup>48</sup> See ST/AI/342, para. 13.

<sup>49</sup> See annex II.

<sup>50</sup> United Republic of Tanzania, *United Nations Juridical Yearbook*, 1990, pp. 14-15; Vanuatu, *United Nations Juridical Yearbook*, 1990, pp. 19-20; Republic of Korea, *United Nations Juridical Yearbook*, 1991, pp. 9-11; Portugal, *United Nations Juridical Yearbook*, 1992, pp. 77-78 and 78-81.

<sup>51</sup> Ibid.

of a treaty<sup>52</sup> or by exchange of letters.<sup>53</sup> During the period under review, some agreements did not contain any provision concerning local personnel provided by the host Government for the duration of the conference<sup>54</sup> and some agreements contained variations on the model provisions.

19. Agreements concluded with Colombia and Canada in 1991 and Germany in 1992, did not specifically grant local personnel provided by the government immunity from legal process for the duration of the conference. For example, Colombia undertook to “ensure that local personnel assigned to the United Nations to perform functions in connection with the Session shall be able to do so without let or hindrance and without impediment to the exercise of their functions under the authority of the United Nations”;<sup>55</sup> while the agreement with Canada provided that locally employed personnel would “enjoy all facilities necessary for the independent exercise of their functions in connection with the Symposium”;<sup>56</sup> and the agreement with Germany provided that “all persons performing functions in connection with the Meeting shall enjoy such privileges and immunities, facilities and courtesies as are necessary for the independent exercise of their functions in connection with the Meeting”.<sup>57</sup>

20. In two agreements concluded with Austria — one by an exchange of letters in 1991<sup>58</sup> and the other in the form of an agreement in 1993<sup>59</sup> — the variation, highlighted in italics, was: “*Local personnel provided by the Government pursuant to this Agreement with the exception of those who are assigned to hourly rates, shall enjoy immunity from legal process in respect of words spoken or written and any act performed by them*

in their official capacity in connection with the meeting of the Committee. *Such immunity shall, however, not apply in case of an accident caused by vehicle, vessel or aircraft*”.

21. An agreement concluded with Mexico in 1991, by an exchange of letters, specifically did not grant immunity from legal process to its nationals employed for the purposes of the Workshop.<sup>60</sup> This proviso was not contained in other agreements concluded with Mexico during the period under review. In addition, the same agreement contained a variation to model provision (a) (iii),<sup>61</sup> thereby excluding Mexican nationals from functional immunities in connection with the Workshop.<sup>62</sup> By 1993, agreements concluded with Mexico no longer included this variation.

*(e) By peacekeeping and other mission agreements*

22. In paragraph 11 of its resolution 44/49 of 8 December 1989, the General Assembly requested the Secretary-General to prepare a model status-of-forces agreement (SOFA) for peacekeeping operations between the United Nations and host countries. Further to this request, the Secretary-General prepared a model SOFA, which he annexed to his report dated 9 October 1990.<sup>63</sup> The model SOFA was intended to serve as a basis for the drafting of individual agreements to be concluded between the United Nations and countries on whose territory peacekeeping operations with troops were deployed pursuant to a mandate from the Security Council. As such it was subject to modifications agreed upon between the parties in each case.<sup>64</sup> The model SOFA contained a number of provisions relating to privileges and immunities of the United Nations peacekeeping operation and its members.<sup>65</sup>

23. During the period under review, seventeen agreements and two protocols were concluded between

<sup>52</sup> Article XI, para. 3, [ST/AI/342](#), p. 14.

<sup>53</sup> Para. (a) (iii), [ST/AI/342](#), p. 18.

<sup>54</sup> See for example, *United Nations Juridical Yearbook, 1990*, pp. 36-37; *United Nations Juridical Yearbook, 1991*, pp. 23-25, 43-45, 57-59; *United Nations Juridical Yearbook, 1992*, pp. 45-46; *United Nations Juridical Yearbook, 1993*, pp. 95-97; and *United Nations Juridical Yearbook, 1994*, pp. 42-44.

<sup>55</sup> Article XI, para. 7, *United Nations Juridical Yearbook, 1989*, p. 29.

<sup>56</sup> Para. (iii), *United Nations Juridical Yearbook, 1991*, p. 13.

<sup>57</sup> Article 5 (c), *United Nations Juridical Yearbook, 1992*, p. 70.

<sup>58</sup> *United Nations Juridical Yearbook, 1991*, pp. 21-23.

<sup>59</sup> *United Nations Juridical Yearbook, 1993*, pp. 57-59.

<sup>60</sup> Para. (a) (iii), *United Nations Juridical Yearbook, 1991*, p. 30.

<sup>61</sup> [ST/AI/342](#), p. 18 (exchange of letters).

<sup>62</sup> *United Nations Juridical Yearbook, 1991*, p. 30.

<sup>63</sup> [A/45/594](#).

<sup>64</sup> [A/45/594](#), para. 1.

<sup>65</sup> There are a number of provisions relating to the privileges and immunities of the operation. For example, part III is entitled “Application of the Convention”, paras. 16 and 17 refer to the facilities for the operation, para. 22 refers to the recruitment of local personnel and paras. 24-31 are under part VI, entitled “Status of the members of the United Nations peacekeeping operation”.



the United Nations and host countries where peacekeeping or other United Nations missions were deployed.<sup>66</sup> The model SOFA was replicated, with minor variations, in the five agreements concluded following its issuance: namely, the agreements with The former Yugoslav Republic of Macedonia<sup>67</sup> and with Bosnia and Herzegovina concerning the United Nations Protection Force (UNPROFOR);<sup>68</sup> the agreement with Rwanda concerning the United Nations Assistance Mission for Rwanda (UNAMIR);<sup>69</sup> the agreement with Mozambique concerning the United Nations Operation in Mozambique (ONUMOZ);<sup>70</sup> and the agreement with Cambodia concerning the United Nations Transitional Authority in Cambodia (UNTAC).<sup>71</sup>

### 3. By other decisions and actions of United Nations organs

24. During the period under review, the safety of international civil servants became an issue of increasing concern due to the increase in the number of United Nations officials arrested and detained, missing or abducted and killed. This development reflected the political and institutional developments during this period, when the Security Council entrusted to the United Nations and to the organizations of the United Nations system an increased number of assignments related to the maintenance of international peace and security.

25. The General Assembly, in its resolutions adopted during the period under review,<sup>72</sup> continued to call upon the Secretary-General, as chief administrative

officer of the United Nations, to continue personally to act as the focal point in promoting and ensuring observance of the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations by using all such means as were available to him. The Secretary-General and the respective executive heads of the organizations concerned intervened with the competent authorities of Member States regarding cases of arrest, detention, abduction/disappearance or fatalities throughout the period under review.

26. When staff members of the United Nations and the specialized agencies and related organizations were arrested and detained, both legal and humanitarian considerations were taken into account by the Secretary-General or the executive head concerned in seeking access to them. The legal considerations derived from the relevant international instruments on privileges and immunities and related principally to the determination of whether or not a staff member was arrested or detained because of his or her official activities. This determination was made by the Secretary-General following visits made by the relevant organization to the detained or arrested staff members. If it was determined as a result of such visits that the arrest or detention was related to official functions, then immunity was asserted. If not, there was no legal basis for asserting immunity. Where there was no basis for asserting immunity, the Secretary-General or the executive head concerned sought to ensure that any staff member who was arrested and detained was treated fairly, properly charged and promptly brought to trial.<sup>73</sup>

27. A consolidated list of staff members under arrest and detention or missing at the end of each reporting period with respect to whom the United Nations and the specialized agencies and related organizations were unable to exercise fully their right to protection, was set out in annex I to the Secretary-General's annual report on the respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations.<sup>74</sup> Annex II to each annual report during each reporting period (except for the reporting period from 1 July 1993 to 30 June 1994) outlined the information submitted by the United

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<sup>66</sup> See annex II.

<sup>67</sup> *United Nations Juridical Yearbook, 1994*, pp. 23-34.

<sup>68</sup> *United Nations Juridical Yearbook, 1993*, pp. 47-53.

<sup>69</sup> *Ibid.*, pp. 102-112.

<sup>70</sup> *Ibid.*, pp. 36-47.

<sup>71</sup> *United Nations Juridical Yearbook, 1992*, pp. 52-60.

Although the Agreement establishing the United Nations Transition Assistance Group in Namibia was concluded before the Model SOFA was issued, it was very similar to the Model. See *Yearbook of the United Nations, 1989*, pp. 14-24.

<sup>72</sup> [A/44/186](#), [A/45/240](#), [A/47/28](#). At the forty-sixth session of the General Assembly no resolution was approved on the issue of respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations, because by resolution 46/220, on rationalization of work of the Fifth Committee, the Assembly decided to adopt a biennial approach for consideration of matters related to personnel questions.

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<sup>73</sup> [A/C.5/44/11](#), paras. 6-7.

<sup>74</sup> [A/C.5/44/11](#); [A/C.5/45/10](#); [A/C.5/46/4](#); [A/C.5/47/14](#); [A/C.5/48/5](#); and [A/C.5/49/6](#).

Nations, its specialized agencies and related organizations for inclusion in the annual report.<sup>75</sup>

28. During the period from 1 July 1988 to 30 June 1989, the Middle East continued to be an area of prime concern with the highest number of arrests, detentions and abductions of officials.<sup>76</sup> At the same time, some staff members previously reported as being under arrest or detention from UNHCR, the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) and the World Food Programme (WFP) were released.<sup>77</sup> There were, however, negative developments in respect of some previously reported cases. For example, Lieutenant-Colonel William Richard Higgins, a United States officer serving as the chief of a group of military observers assigned to the United Nations Interim Force in Lebanon (UNIFIL) who had been abducted on 17 February 1988, was killed by his captors on 31 July 1989.<sup>78</sup> A locally recruited UNRWA staff member detained in Lebanon by Syrian armed forces since 27 May 1987<sup>79</sup> died in prison on 17 December 1988.<sup>80</sup> There was no further progress in the case of a staff member of the United Nations Economic Commission for Africa (ECA) who was arrested in Ethiopia on 2 March 1982 and sentenced in March 1987 to life imprisonment, despite the personal intervention of the Secretary-General of the United Nations and several interventions by the administration of ECA.<sup>81</sup>

29. During the reporting period from 1 July 1989 to 30 June 1990, despite efforts undertaken to reverse the current trend, the number of cases of arrest and detention of officials remained very high. The Middle East continued to be the region with the greatest number of cases of arrest, detention or abduction of officials,<sup>82</sup> although there were cases in other regions. For example, FAO reported several incidents in Africa:

a staff member in Uganda was killed during an attempted robbery in March 1990; two staff members were arrested and detained by national security police in Senegal; a light plane was shot down above southern Sudan in December 1989, killing a staff member; and a staff member was arrested and detained in May 1990 by the Somali National Security Service for no apparent reason.<sup>83</sup>

30. There were positive developments with regard to some cases during the reporting period.<sup>84</sup> A locally recruited staff member of FAO, who had been detained without trial by the Syrian Security Services since 29 December 1982, was released from custody on 20 January 1990.<sup>85</sup> A staff member of the United Nations Disengagement Observer Force (UNDOF), detained in the Syrian Arab Republic since 6 October 1985, was released on 16 June 1990.<sup>86</sup> Five UNRWA staff members arrested in 1986 and 1987 were released in the second half of 1989.<sup>87</sup>

31. However, in a number of previously reported cases there was either a lack of progress or negative developments. For example, a WHO staff member arrested by Ethiopian Security Services on 8 June 1989 continued to be held in custody without any explanation.<sup>88</sup>

32. By resolution 45/240 of 21 December 1990, the General Assembly once again called upon all Member States to scrupulously respect the privileges and immunities enjoyed by officials of the United Nations and the specialized agencies and related organizations and to refrain from any acts that would impede such officials in the performance of their duties, thereby seriously affecting the proper functioning of the organizations. The Assembly also urged the Secretary-General to give priority to the prompt follow-up of cases of arrest, detention and other possible matters relating to the security and proper functioning of officials of the United Nations and the specialized agencies and related organizations.

<sup>75</sup> Ibid. Information for the reporting period from 1 July 1993 to 30 June 1994 was provided in annex III of [A/C.5/49/6](#).

<sup>76</sup> [A/C.5/44/11](#), para. 4.

<sup>77</sup> Ibid., para. 11.

<sup>78</sup> [A/C.5/44/11](#), para. 3. See also [S/20758](#).

<sup>79</sup> See [A/C.5/43/18](#), annex I.

<sup>80</sup> [A/C.5/44/11](#), at para. 12.

<sup>81</sup> Ibid., annex II, para. 3; also see annex II for information submitted by other individual organizations and United Nations subsidiary organs and offices or joint subsidiary organs.

<sup>82</sup> Ibid., para. 4; see also paras. 8-11, annex I and annex II, at paras. 1-2.

<sup>83</sup> Ibid., annex II, paras. 23-27; also see annex II for information submitted by other individual organizations and United Nations subsidiary organs and offices or joint subsidiary organs.

<sup>84</sup> Ibid., para. 12.

<sup>85</sup> Ibid., para. 12 and annex II, paras. 13-14.

<sup>86</sup> Ibid., para. 12.

<sup>87</sup> Ibid.

<sup>88</sup> Ibid., para. 13.

33. The reporting period from 1 July 1990 to 30 June 1991 was characterized by complex political and institutional developments, where the role of the United Nations as a centre for joint efforts directed at strengthening international peace and security acquired greater significance. During that period, the United Nations and related organizations were entrusted by Member States to undertake urgent, unprecedented and important assignments. Staff members of the United Nations system came to operate increasingly under difficult and dangerous conditions, making respect for the privileges and immunities of officials even more important.<sup>89</sup>

34. During the reporting period, the number of new cases of arrest and detention of officials remained very high.<sup>90</sup> However, there were positive developments in several long-standing cases. The staff member of ECA who had been in detention in Ethiopia since March 1982 was released, as were a number of UNRWA staff members.<sup>91</sup> There was a lack of progress in respect of some of the long-standing cases. For example, the United Nations was not successful in obtaining the release of three staff members from UNRWA who had been under detention for more than a decade.<sup>92</sup>

35. At the forty-sixth session of the General Assembly no resolution was approved on the issue of respect for the privileges and immunities of United Nations officials and the specialized agencies and related organizations. By resolution 46/220 of 20 December 1991, on rationalization of work of the Fifth Committee, the Assembly decided to adopt a biennial approach for consideration of matters related to personnel questions.

36. The reporting period 1 July 1991 to 30 June 1992 was again marked by complex developments. During the period, as never before, the community of States addressed its hopes to the United Nations as an organization established under the Charter to maintain international peace and security and to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character. The United Nations system was asked to undertake peacekeeping and humanitarian missions, often in areas of military confrontation. As a

consequence, staff members were increasingly asked to serve in areas where the security situation was unstable. Questions relating to respect for the privileges and immunities of officials of the organizations of the United Nations system assumed even greater importance.<sup>93</sup> Despite the number of new cases of arrest and detention of officials being lower than in previous years,<sup>94</sup> by the end of the reporting period there had been 11 fatalities among staff members belonging to different organizations.<sup>95</sup>

37. There were positive developments during the reporting period with the release of staff members in two long-standing cases. The two staff members from UNRWA who had been detained in the Syrian Arab Republic since March 1982 and December 1988 were released in December 1991 and April 1991, respectively.<sup>96</sup> However, there was a lack of progress in respect of other long-standing cases.<sup>97</sup>

38. At its forty-seventh session, the General Assembly adopted resolution 47/28 of 25 November 1992 in which it took note with grave concern of the report submitted by the Secretary-General. It strongly deplored the unprecedented, and still increasing, number of fatalities that had occurred among United Nations personnel, including those engaged in peacekeeping operations, and strongly affirmed that disregard for the privileges and immunities of officials had always constituted one of the main obstacles to the implementation of the missions and programmes assigned to the organizations of the United Nations system by Member States. It reminded host countries of their responsibility for the safety of peacekeeping and all United Nations personnel on their territory. It also requested the Secretary-General to take all necessary measures to ensure the safety of United Nations personnel, as well as those engaged in peacekeeping and humanitarian operations, and to continue to submit, on behalf of the Administrative Committee on Coordination, reports concerning respect for the privileges and immunities of officials of the United

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<sup>89</sup> A/C.5/46/4, para. 4.

<sup>90</sup> Ibid., para. 6.

<sup>91</sup> Ibid., para. 9.

<sup>92</sup> Ibid., para. 10.

<sup>93</sup> A/C.5/47/14, para. 4.

<sup>94</sup> Ibid., para. 9.

<sup>95</sup> Ibid., paras. 6-7; see also annex II for information submitted by other individual organizations and United Nations subsidiary organs and offices or joint subsidiary organs.

<sup>96</sup> Ibid., para. 11.

<sup>97</sup> Ibid., para. 12.

Nations and specialized agencies and related organizations.

39. The General Assembly also decided that, despite its previous resolution providing that personnel questions should be considered on a biennial basis,<sup>98</sup> the Secretary-General should be requested to submit to it at its forty-eighth session updated information on the situation of United Nations staff members with special regard to violations of privileges and immunities, taking into account its resolutions 45/240 of 21 December 1990 and 47/28 of 25 November 1992.

40. The Secretary-General stated in his note of September 1993 on respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations for the reporting period from 1 July 1992 to 30 June 1993,<sup>99</sup> that developments in the previous year had pushed the acceptable safety threshold for personnel of the United Nations system to a level inconceivable in the past. Throughout the reporting period, from 1 July 1992 to 30 June 1993, staff members had been attacked, injured, kidnapped, abused and harassed in the performance of their duties. The emblem of the Organization no longer provided staff with safe passage and an unwritten guarantee of protection, and staff were often at risk simply by virtue of their employment with organizations of the United Nations system.<sup>100</sup> To illustrate that development, since 1 July 1992, there had been 19 fatalities among staff members belonging to different organizations, bringing to 30 the number of fatalities since the beginning of 1992.<sup>101</sup> As at 30 June 1993, there were 45 officials under detention or missing, including 28 staff members of UNRWA who were arrested during the reporting period.<sup>102</sup>

41. In his last annual report during the period under review, the Secretary-General noted that developments during the reporting period from 1 July 1993 to 30 June

1994 clearly demonstrated that international civil servants continued to be exposed to a degree of risk that would have been unacceptable in the past. Staff members were regularly exposed to violence and intimidation to a degree which undermined efforts to guarantee even minimum security. Throughout the reporting period, staff members were attacked and at times killed, injured, kidnapped, abused or harassed.<sup>103</sup> The Secretary-General highlighted that, of the 42 staff members killed since 1 January 1992 (excluding those killed in Rwanda, as information on them was not available at the time of reporting), not a single case had been resolved and no one had been arrested or brought to justice in respect of those fatalities.<sup>104</sup>

42. During the reporting period, 57 staff members belonging to different organizations of the United Nations system had lost their lives.<sup>105</sup> As at 30 June 1994, 52 officials were under detention or missing, including 42 staff members of UNRWA.<sup>106</sup> In his concluding observations, the Secretary-General emphasized the critical importance of a new convention dealing with the safety and security of United Nations and associated personnel, which was being discussed by the Sixth (Legal) Committee of the General Assembly.<sup>107</sup>

*Convention on the Safety of United Nations and Associated Personnel*

43. On 31 March 1993, the President of the Security Council issued a statement<sup>108</sup> on behalf of Security Council members in the context of its examination of the Secretary-General's report "An Agenda for

<sup>98</sup> A/46/220.

<sup>99</sup> A/C.5/48/5.

<sup>100</sup> Ibid., paras. 5-6. See also annex II for details regarding some of those incidents. This was partly attributed to use by the Security Council of its enforcement powers under Chapter VII of the Charter of the United Nations, which led to the establishment of United Nations operations which were not based on consent and cooperation of the parties concerned, in particular, the United Nations Operation in Somalia II (UNOSOM II).

<sup>101</sup> Ibid., para. 6.

<sup>102</sup> Ibid., annex I.

<sup>103</sup> See A/C.5/49/6, at para. 5 and annex III for information submitted by United Nations programmes, funds, offices and missions, specialized agencies and related organizations.

<sup>104</sup> Ibid., para. 6.

<sup>105</sup> It was initially reported in A/C.5/49/6, para. 6, that 18 staff members had lost their lives during this period. This was before staff members in Rwanda had been accounted for. In A/C.5/49/6/Add.1, it was reported that preliminary information received from a number of agencies regarding national staff in Rwanda indicated that 39 had reportedly been killed during the events of April 1994. See also annex II for the list of staff members who lost their lives during the reporting period.

<sup>106</sup> See A/C.5/49/6, annex I.

<sup>107</sup> Ibid., para. 16.

<sup>108</sup> S/25493.

Peace”,<sup>109</sup> which had identified the problem of the safety of United Nations forces and personnel deployed in conditions of strife in connection with a Security Council mandate.<sup>110</sup> Through that statement, the members of the Security Council demanded that States and other parties to various conflicts act promptly to deter, prosecute and punish all those responsible for attacks and other acts of violence against United Nations forces and personnel. The Council requested the Secretary-General to report on existing arrangements for their protection, taking into account, inter alia, relevant multilateral instruments and status of forces agreements concluded between the United Nations and host countries, and to make recommendations for enhancing the safety and security of United Nations forces and personnel.<sup>111</sup>

44. In response to the Security Council’s request, the Secretary-General in his report dated 27 August 1993 outlined the various international legal instruments under which United Nations personnel and forces were protected.<sup>112</sup> The Secretary-General proposed that, in the long term, “a new international instrument could be elaborated in order to codify and further develop international law relating to the security and safety of United Nations forces and personnel”.<sup>113</sup> The Security Council, by resolution 868 (1993) of 29 September 1993, noted the Secretary-General’s proposal.

45. At the request of New Zealand,<sup>114</sup> the General Assembly considered the Secretary-General’s proposal to elaborate a new international legal instrument to codify and develop further international law relating to United Nations personnel security. The Assembly’s Sixth (Legal) Committee established a Working Group to examine the issue, including proposals by New Zealand<sup>115</sup> and Ukraine<sup>116</sup> outlining a framework of a draft convention on responsibility for attacks on United Nations personnel.

46. In his oral report to the Committee on 15 November 1993, the Chairman of the Working Group stated that the Group had considered several possibilities for meeting the new challenges and agreed

with the Secretary-General’s proposal that a new binding legal instrument be elaborated.<sup>117</sup>

47. On 9 December 1993, the General Assembly, on the recommendation of the Sixth Committee, adopted resolution 48/37, without a vote, establishing an “Ad Hoc Committee open to all Member States to elaborate an international convention dealing with the safety and security of United Nations and associated personnel, with particular reference to responsibility for attacks on such personnel”.<sup>118</sup> Under paragraph 2, the Ad Hoc Committee was asked to prepare the text of a draft convention, taking into account any suggestions from States, as well as comments and suggestions that the Secretary-General may wish to provide on the subject.

48. Pursuant to resolution 48/37 of 9 December 1993, the Ad Hoc Committee held two sessions in 1994 (New York, 28 March-8 April and 1-12 August).<sup>119</sup> The Committee had before it a March note by the Secretary-General,<sup>120</sup> containing his comments and suggestions on the safety and security of United Nations personnel, the elaboration of an international convention on the subject and responsibility for attacks on United Nations and associated personnel.

49. The Ad Hoc Committee drew up a revised negotiating text. However, the Chairman of the Committee noted that certain important differences remained and, in accordance with paragraph 5 of General Assembly resolution 48/37 of 9 December 1993, recommended that the Assembly re-establish a working group under the Sixth Committee to continue consideration of the text and proposals relating to it.<sup>121</sup>

50. The Sixth Committee re-established the Working Group on 26 September, which reviewed the text from 3 to 14 October 1994. The Chairman of the Working Group, on 8 November, introduced in the Sixth Committee the report of the Working Group containing the text of a draft convention.<sup>122</sup> On 9 December 1994, the General Assembly, by resolution 49/59, adopted the Convention on the Safety of United Nations and Associated Personnel and opened it for signature in

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<sup>109</sup> [A/47/277-S/24111](#).

<sup>110</sup> *Ibid.*, paras. 66-68.

<sup>111</sup> [S/25493](#), p. 2.

<sup>112</sup> [S/48/349-S/26358](#).

<sup>113</sup> *Ibid.*, para. 34.

<sup>114</sup> [A/48/144](#).

<sup>115</sup> [A/C.6/48/L.2](#).

<sup>116</sup> [A/C.6/48/L.3](#).

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<sup>117</sup> See *Yearbook of the United Nations, 1993*, p. 1145.

<sup>118</sup> [A/48/37](#), operative paragraph 1.

<sup>119</sup> [A/49/22](#).

<sup>120</sup> [A/AC.242/1](#).

<sup>121</sup> *Yearbook of the United Nations, 1994*, p. 1288. The Working Group was first established in 1993. See *Yearbook of the United Nations, 1993*, p. 1145.

<sup>122</sup> [A/C.6/49/L.4](#).



New York from 15 December 1994 until 31 December 1995. As at 31 December 1994, there were fifteen signatories to the Convention.<sup>123</sup>

*General overview of the Convention on the Safety of United Nations and Associated Personnel*

51. The *Preamble* to the Convention recalls the increasing number of attacks on United Nations and associated personnel. It stresses the inadequacy of the measures then in force and the urgent need to adopt appropriate and effective supplementary measures.

52. Article 1 contains certain definitions necessary to an understanding of the Convention. It defines “United Nations personnel” as persons directly engaged by the United Nations or its specialized agencies. “Associated personnel” means persons assigned by a Government or by an intergovernmental or non-governmental organization under an agreement with the Secretary-General of the United Nations to carry out activities in support of the fulfilment of the mandate of a United Nations operation. The term “United Nations operation” means an operation established by the competent organ of the United Nations and conducted under United Nations authority and control. This covers operations for the purpose of maintaining or restoring international peace and security, and those involving “an exceptional risk to the safety of the personnel”.

53. Article 1 also defines the notions of “host State”, meaning States in whose territory an operation is conducted, and “transit States”, that is, States in whose territory United Nations and associated personnel or their equipment are in transit or temporarily present in connection with a United Nations operation.

54. Article 2 defines the actual scope of application of the Convention — those situations in which the Convention is or is not applicable. In particular, it specifies that the Convention shall not apply to operations “authorized by the Security Council as an enforcement action under Chapter VII of the Charter of the United Nations in which any of the personnel are engaged as combatants against organized armed forces and to which the law of international armed conflict applies”.

55. Article 3 stipulates that personnel and means of transport involved in a United Nations operation shall bear distinctive identification.

56. Article 4 calls for the conclusion of an agreement on the status of each operation, including provisions on privileges and immunities for military and police components of the operation.

57. Article 5 requires transit States to facilitate the unimpeded transit of United Nations and associated personnel and their equipment to and from the host State.

58. Article 6 obliges United Nations and associated personnel to respect the laws and regulations of the host State and the transit State, without prejudice to such privileges and immunities as they may enjoy.

59. Articles 7 and 8 define the obligations incumbent upon States hosting an operation. Article 7 requires them to guarantee the inviolability of personnel, premises and equipment assigned to an operation. Article 8 lays down the duty to release United Nations personnel captured or detained. It further provides that, pending their release, such personnel must be treated in accordance with the principles and spirit of the Geneva Conventions of 1949.

60. Article 9 lists a series of acts regarded as breaches of the Convention, including the murder and kidnapping of personnel. It prohibits not only the Commission of such offences but also any attempts to commit them and participation as an accomplice. Those offences must be regarded by the States Parties as a crime under their own national law.

61. Article 10 obliges each State Party to take such measures as may be necessary to establish its jurisdiction over the crimes set out in Article 9.

62. Articles 11, 12, 13 and 16 provide for measures, under criminal law, for the prevention of offences, the exchange of information, the prosecution or extradition of offenders and lay down the principle of mutual assistance in criminal matters.

63. Articles 14 and 15 stipulate the applicability of the *aut judicare aut dedere* principle to the Convention.<sup>124</sup> Article 14 requires the State Party in whose territory an offence has been committed to prosecute the alleged offender without delay. Article 15

<sup>123</sup> See *Yearbook of the United Nations, 1994*, pp. 1288-1293 for text of the resolution and the adopted Convention.

<sup>124</sup> This principle obliges States to prosecute or extradite alleged offenders.

imposes the obligation to extradite alleged offenders who have not been prosecuted under Article 14.

64. Article 17 defines the fair treatment to be guaranteed to alleged offenders against Article 9. Article 18 makes notification of the outcome of proceedings instituted in response to violations of Article 9 mandatory.

65. Article 19, inviting States to disseminate the Convention as widely as possible, is intended to serve a general preventive purpose.

66. Article 20 contains a number of saving clauses. In particular, it stipulates that nothing in the Convention shall affect: the applicability of international humanitarian law and human rights standards; the rights of States regarding the entry of persons into their territories; the obligation of United Nations personnel to act in accordance with the terms of the mandate of a United Nations operation; the right of States that voluntarily contribute personnel to

withdraw them from an operation, and the entitlement to appropriate compensation payable in the event of death, disability, injury or illness attributable to service during a United Nations operation.

67. Article 21 stipulates that the Convention shall not be so construed as to derogate from the right to act in self-defence.

68. Article 22 invites States to submit any dispute concerning the interpretation or application of the Convention to negotiation or arbitration.

69. Article 23 provides for review meetings, at the request of one or more States Parties, to study problems relating to the implementation of the Convention.

70. Articles 24 to 27 deal with the signature, ratification, accession and entry into force of the Convention. Article 28 provides for a denunciation procedure and Article 29 settles the question of authenticity of texts.

## II. Analytical summary of practice

### A. Article 104

71. The Office of Legal Affairs advised UNDP that it had the capacity to acquire real property in a Member State pursuant to Article 104 of the Charter of the United Nations and article 1, section 1 (b), of the General Convention.<sup>125</sup> The Office recalled that 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 fulfilment of its purposes”. UNDP was a subsidiary body of the United Nations, charged by the General Assembly to provide “systematic and sustained assistance in fields essential to the integrated technical, economic and social development of the less developed countries” and authorized, to this end, to establish field offices under the charge of a Resident Representative exercising authority over the programme activities in the country in receipt of assistance. Furthermore, article I, section 1 (b), of the General Convention, provides that the Organization shall possess juridical personality and shall have the capacity to acquire and dispose of immovable and movable property. This being so, the

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<sup>125</sup> *United Nations Juridical Yearbook, 1990*, pp. 276-277.

resident representative in the country concerned had the authority to conclude contractual arrangements to acquire real property there on behalf of UNDP.<sup>126</sup>

### B. Article 105 (1)

#### 1. Privileges and immunities of the Organization

72. Paragraph 1 of Article 105 grants the United Nations, as an organization, such privileges and immunities within the territory of Member States as are necessary for the fulfilment of its purposes. In practice, during the period under review, while all the agreements concluded between the United Nations and host Governments referred to the general application of the General Convention, the majority of the agreements specifically referred to some of the privileges and immunities which applied. Additionally, the United Nations Legal Counsel and the Office of Legal Affairs rendered opinions which provided assistance in determining the proper application of Article 105.

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<sup>126</sup> *Ibid.*

*(a) Property, funds and assets*

73. In a note to the Permanent Representative of a Member State, the Legal Counsel referred to the matter of the blocking of the UNICEF bank account by a bank in the Member State. Following an accident involving a UNICEF-operated vehicle and in which one person lost their life, the High Court of the Member State ordered, on 27 July 1992, that “the amount of ... be withdrawn from the account of UNICEF with the Commercial Bank of [Member State]”. The account was subsequently blocked for the amount in question. The Legal Counsel pointed out that the actions taken with respect to the UNICEF account were in direct violation of the host country’s international obligations under the General Convention. According to section 2 of the General Convention, funds and assets of the United Nations, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process. Furthermore, section 3 stipulates that they “shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action”. The Legal Counsel stated he trusted that the Government of the Member State would ensure that the order blocking the account was vacated.<sup>127</sup>

74. The Office of Legal Affairs, in a memorandum to the Executive Director of UNICEF, gave advice in a situation where an Industrial Court in a Member State had refused to grant UNICEF immunity in a case brought by a former UNICEF employee and had entered a judgement in that person’s favour.<sup>128</sup> The Ministry of External Affairs of the Member State agreed with the United Nations’ position that UNICEF should neither submit to the jurisdiction of the Court nor contest the merits of the case, absent a waiver of immunity. However, the Ministry suggested that UNICEF engage counsel to plead immunity on appeal in any procedure to review the decision and bring to the attention of the Court the certificate prepared by the Ministry affirming UNICEF’s immunity. The Office of Legal Affairs disagreed with the Ministry’s advice and advised that the representative of UNICEF in the Member State should inform the Ministry at the highest possible level that the United Nations Secretariat was confident that the Government intended to honour its commitments to the United

Nations and UNICEF contained both in the Agreement it entered into with UNICEF in 1978 and in the General Convention, specifically sections 2 and 3 regarding the immunity of the United Nations, its property and assets. “The Minister should be requested to take whatever measures are necessary to ensure implementation of the above-mentioned treaty obligations ... It is for the Ministry of External Affairs to communicate with other branches of the Government, including the judiciary, with regard to the Government’s international legal obligations, not the United Nations”.<sup>129</sup>

75. The Office of Legal Affairs also addressed the issue of the United Nations’ ability to waive its immunity in article II, section 2, of the General Convention.

76. In a memorandum to UNHCR,<sup>130</sup> on whether the Organization’s immunities could be waived in advance by a lease agreement on a property UNCHR was interested in, the Office of Legal Affairs recalled that, under article II, section 2, of the General Convention, the immunity of the United Nations from any form of legal process is said to hold “except *insofar as in any particular case, it has expressly waived its immunity*”. The Office noted that this phrase in the General Convention had been interpreted restrictively: “(a) the power to waive is vested only in the Secretary-General and such power has not been delegated; and (b) the waiver may only be made at the time a court is considering a particular case and the Secretary-General determines that waiver of immunity is desirable in the interests of justice. Such waiver is not possible in advance by agreement, because this would be tantamount to a waiver *in futuro*”.<sup>131</sup> The Office of Legal Affairs therefore advised UNHCR that the immunities of the Organization under Articles 104 and 105 of the Charter and the General Convention could not be waived in advance by a lease agreement.<sup>132</sup>

77. In a letter to a judge of the host State court, the Office of Legal Affairs referred to the Notice of Motion for Default Judgement dated 26 July 1993, with attachments, addressed to the United Nations and certain senior officers of the Organization with respect

<sup>127</sup> *United Nations Juridical Yearbook, 1992*, pp. 473-474.

<sup>128</sup> *United Nations Juridical Yearbook, 1991*, p. 319.

<sup>129</sup> *Ibid.*, para. 5, p. 320.

<sup>130</sup> *United Nations Juridical Yearbook, 1989*, pp. 354-355.

<sup>131</sup> *Ibid.*

<sup>132</sup> *Ibid.*, p. 354.



to a claim submitted against them.<sup>133</sup> The Office of Legal Affairs advised the judge that the United Nations itself and its officials were immune from legal process under section 2 and section 18 (a) of the General Convention. The United Nations maintained its immunity and the immunity of the officials in question in the case and returned to the court the said Notice of Motion for Default Judgement. The Office of Legal Affairs further noted that pursuant to article III, section 9 (a), of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, service of legal process within the Headquarters district may only take place with the consent of the Secretary-General. Such consent had not been given in the present case. The Office of Legal Affairs also referred to an earlier letter from the Legal Counsel to the judge on this matter, in which he had stated that the complainant should have adjudicated his claim through the appeal process available within the United Nations.<sup>134</sup>

78. In an advice to the Department of Peacekeeping Operations concerning a legal action initiated against the United Nations Truce Supervision Organization (UNTSO) by an individual contractor employed under a special service agreement, who alleged UNTSO had not complied with local Israel labour laws, the Office of Legal Affairs advised that the United Nations and its officials were immune from legal process in accordance with section 2 and section 18 of the General Convention. The legal action taken against UNTSO in an Israeli Court could not be taken unless the Secretary-General waived the immunity for this purpose, which he had not.<sup>135</sup> On the question of the applicability of local national laws to special service agreement contractors, the Office of Legal Affairs noted that since the United Nations is accorded privileges and immunities necessary to discharge its functions, such privileges and immunities extend also to the ability to set conditions for service of independent contractors. "Furthermore, by entering into such agreements with the United Nations, individual contractors agree to those terms and conditions and are therefore stopped from invoking local labour laws which would be otherwise applicable to matters explicitly covered in [special service

agreements] SSAs".<sup>136</sup> The Office of Legal Affairs also pointed out that paragraph 8 of the special service agreement provided a procedure for settlement of disputes between the parties. The contractor was contractually bound to follow that procedure, rather than seeking resolution of his claims against the Organization through an Israeli court.<sup>137</sup>

79. In a facsimile to the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991, the Office of Legal Affairs advised that the legal basis for not explicitly accepting in United Nations contracts a reference to national law as the proper law in the settlement of disputes stemmed from the immunity of the United Nations from every form of legal process under section 2 of the General Convention. Section 29 (a) of the General Convention further provides that the United Nations shall nevertheless make provisions for appropriate modes of settlement of disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party. Pursuant to this obligation, the United Nations as "a matter of policy, and absent any practical alternative to judicial proceedings ... offers arbitration to its contractors, normally under the auspices of the International Chamber of Commerce or the American Arbitration Association".<sup>138</sup> Since the General Assembly adopted resolution 31/98, on 15 December 1976, it had been the consistent policy of the Organization to propose the UNCITRAL arbitration rules for insertion into contractual instruments to govern arbitration of claims with contractors. "Under article 33 (1) of the UNCITRAL rules, in the absence of an agreed choice of law by the parties, the arbitral tribunal is to apply 'the law determined by the conflict of laws rules which it considers applicable'".<sup>139</sup> The Organization had consistently refused to include a choice of law clause in its contracts "because agreement on such a choice is often difficult to achieve and even where this is possible, the choice of the applicable law could be construed as a waiver of the immunity of the United Nations from the jurisdiction of the courts, since national laws regulate, inter alia, arbitral proceedings and provide for interim measures

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<sup>133</sup> *United Nations Juridical Yearbook, 1993*, pp. 408-409.

<sup>134</sup> *Ibid.*

<sup>135</sup> *United Nations Juridical Yearbook, 1994*, pp. 457-458.

<sup>136</sup> *Ibid.*, para. 5, p. 458.

<sup>137</sup> *Ibid.*, p. 458.

<sup>138</sup> *United Nations Juridical Yearbook, 1994*, p. 449.

<sup>139</sup> *Ibid.*

and regulate execution of awards, in addition to making provisions for the substantive rules".<sup>140</sup>

80. In a memorandum to the Office of General Services in relation to the question of commercial rent tax imposed by the City of New York on rents paid by the Travel Service to the United Nations for the office space that was provided to it by the Organization, the Office of Legal Affairs advised that, in its view, the commercial rent tax assessment was valid and applicable to the Travel Service.<sup>141</sup> The Office based its view on the fact that the assessment of tax was imposed not on the United Nations property per se, which would have been in contravention of section 7 of the General Convention, but on the rent paid by the Travel Service — an independent contractor — to the United Nations for the use of its premises. Contractors with the United Nations were not exempt from the payment of the tax.<sup>142</sup>

*(i) Exemption from taxation and customs duties*

81. During the period under review, the question of whether a tax was direct within the meaning of article II, section 7, or indirect within the meaning of article II, section 8, of the General Convention, came under increasing attention. The Office of Legal Affairs continued to take the position that it had taken during the period covered by the previous *supplement*,<sup>143</sup> namely, that direct taxes within the meaning of section 7 (a) of the General Convention are those which constitute a direct burden on the United Nations. The nature and effect of the tax were accordingly the primary considerations in determining whether the tax was direct or indirect. Where a Member State attempted to impose a tax upon the United Nations which *prima facie* would appear to fall within the meaning of section 7 (a) of the General Convention, it was for the Member State to show that the tax in question was in the nature of a charge for a public utility service in order for the exemption not to apply.

82. The Office of Legal Affairs thus advised, in a memorandum to the United Nations Institute for Training and Research (UNITAR), that the UNITAR building in New York was exempt from direct taxes

pursuant to section 7 of the General Convention.<sup>144</sup> The State of New York had taken the position that State sales and use tax was payable by the owner of real property on the payroll costs of third-party property management firms. The firm in question provided maintenance and repair services to UNITAR in relation to its building. Section 7 provides that the Organization is exempt from direct taxes on its "assets". As the United Nations was the holder of title to the UNITAR property, the Office of Legal Affairs advised the section applied. The United Nations as the purchaser of services from the management firm was therefore exempt from the tax in issue.

83. As regards value-added tax on circulation or "road taxes", the Office of Legal Affairs advised UNDP, that the United Nations had taken a consistent position<sup>145</sup> that such a tax, in so far as it was directly imposed upon the Organization, was within the meaning of section 7 of the General Convention and that the United Nations should therefore be exempted from it.<sup>146</sup>

84. In a note verbale to the Permanent Mission of a Member State concerning the State's social security legislation, the Office of Legal Affairs drew the attention of the Permanent Mission to the inapplicability to the United Nations of the provisions of that legislation which would have required it to make payment contributions to injury and pension schemes with respect to its staff members working in the State. The Office of Legal Affairs cited section 7 (a) of the General Convention, which exempts the United Nations, its assets, income and other property from all direct taxes. Mandatory employment injury contributions and contributions under the State's national pension scheme were considered by the United Nations to be a form of direct tax on the United Nations and therefore contrary to the General Convention.<sup>147</sup>

85. During the period under review, the Office of Legal Affairs provided several legal opinions interpreting the term "public utility service" contained in article II, section 7 (a), of the General Convention.

86. In a memorandum to the Office of General Services in 1989 concerning difficulties the United

<sup>140</sup> *Ibid.*

<sup>141</sup> *United Nations Juridical Yearbook, 1989*, pp. 356-357.

<sup>142</sup> *Ibid.*, p. 357.

<sup>143</sup> See *Repertory, Supplement No. 7, vol. VII*, under this Article, paras 26-29.

<sup>144</sup> *United Nations Juridical Yearbook, 1992*, pp. 470-471.

<sup>145</sup> See *United Nations Juridical Yearbook, 1964*, p. 121.

<sup>146</sup> *United Nations Juridical Yearbook, 1992*, p. 473.

<sup>147</sup> *United Nations Juridical Yearbook, 1989*, p. 353.

Nations peacekeeping operation had experienced in persuading the State authorities to grant it exemption from, or reimbursement of, the wharfage charges levied on United Nations consignments arriving through a port of that State, the Office of Legal Affairs confirmed that, as far as the meaning of the expression “public utility service” was concerned, the legal position of the United Nations was set out in studies prepared by the Secretariat in 1967 on relations between States and intergovernmental organizations<sup>148</sup> and in United Nations document [A/CN.4/L.383/Add.1](#), dated 24 May 1985,<sup>149</sup> namely:

“The term ‘public utility’ has a restricted connotation applying to particular supplies or services rendered by a Government or a corporation under government regulation for which charges are made at a fixed rate according to the amount of supplies furnished or services rendered ... As a matter of principle and as a matter of obvious practical necessity charges for actual services rendered must relate to services which can be specifically identified, described and itemized”.

Therefore, the United Nations’ approach was to pay only those charges which related to actual services rendered and which could be specifically identified, described and itemized. The arguments used by the State’s authorities in describing the wharfage charges as specific port dues levied to cover the general running expenses of the port therefore did not bring that charge within the meaning of a charge for public utility services as described above and as provided for in the General Convention. The Office of Legal Affairs advised that the claim for exemption from wharfage charges should be maintained and that a full refund should be requested for payments already made.<sup>150</sup>

87. Similarly, in 1990 the Office of Legal Affairs advised, in a memorandum to the Investment Management Service, that certain taxes imposed on the United Nations Joint Staff Pension Fund in a Member State did not represent “charges for public services”. Rather, the taxes, which were turnover taxes, stamp duty taxes and other taxes related to the securities activity of the fund, should be considered as direct

taxes pursuant to section 7 (a), since their incidence fell directly on the Organization.<sup>151</sup> The term “public utility services” had a restrictive connotation, being applicable to particular supplies or services rendered (principally gas, electricity, water and transport) which could be specifically identified, described or calculated.<sup>152</sup>

88. The Secretary-General referred once more to the study prepared in 1967 by the Secretariat on the practice of the United Nations, the specialized agencies and the International Atomic Energy Agency,<sup>153</sup> in a letter to the Minister for Foreign Affairs and International Cooperation of a Member State affirming that landing and parking fees levied on the United Nations in connection with the use of airport facilities by the United Nations Operation in Somalia (UNOSOM II) were to be considered direct taxes from which the United Nations was exempt pursuant to section 7 (a) of the General Convention.<sup>154</sup> The position taken in the 1967 study was that landing and parking fees were imposed for the mere fact of stopping or calling at an airport. That being so, there would be no charges for public utility services. Whether associated charges were levied for public utility services would depend on whether those charges were for services actually rendered, which could be specifically identified, described and itemized. The Secretary-General wrote that he trusted that the State would exempt UNOSOM II from landing and parking fees and from charges for associated services which did not constitute charges for public utility services. In order to reach a final settlement of pending claims, the Secretary-General would examine the charges presented with a view to determining which of them constituted charges for public utility services.<sup>155</sup>

89. In a memorandum to the Department of Peacekeeping Operations, the Office of Legal Affairs advised that a 15 per cent royalty payment claimed by authorities in a Member State against the total price of a contract between the United Nations and an airline

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<sup>148</sup> *Yearbook of the International Law Commission*, 1967, vol. II, the *United Nations Juridical Yearbook*, 1973.

<sup>149</sup> *United Nations Juridical Yearbook*, 1989, p. 359.

<sup>150</sup> *Ibid.*

<sup>151</sup> *United Nations Juridical Yearbook*, 1990, pp. 292-293.

<sup>152</sup> *Ibid.*, p. 293. See also, *United Nations Juridical Yearbook*, 1992, p. 475, for a similar reference by the Office of Legal Affairs to UNDP in relation to 46 buses purchased by UNDP.

<sup>153</sup> *Yearbook of the International Law Commission*, 1967, vol. II, document [A/CN.14/L.118](#) and Add.1 and 2).

<sup>154</sup> *United Nations Juridical Yearbook*, 1994, pp. 452-453.

<sup>155</sup> *Ibid.*, p. 453.

constituted a direct tax within the meaning of section 7 (a) of the General Convention. The royalty fee was to be assessed against the actual contract price and not against the fuel, handling, landing or parking charges, which would constitute charges for public utility services. Accordingly, the United Nations contract with the airline was automatically exempt from such a fee.<sup>156</sup>

90. During the period under review, the Office of Legal Affairs twice advised on restrictive measures by host States regarding the sale of official United Nations vehicles within the meaning of article II, section 7 (b) of the General Convention. In a memorandum to UNDP in 1990 concerning the sale of used UNDP vehicles in a Member State, where the Government of the State had prevented the UNDP office from disposing of its used vehicles through competitive bidding as provided for in the Financial Regulations and Rules of UNDP, the Office of Legal Affairs advised that section 7 (b) of the General Convention makes it clear that the sale of United Nations imported articles requires the agreement of the Government of the host country. At the same time, in any agreement that UNDP might conclude with the Government of a Member State, the sale of UNDP used vehicles must take into consideration the provisions of the UNDP Financial Regulations and Rules. As such, every effort should be made to persuade the authorities of the State that, while UNDP respected the obligation to agree with the Government on conditions for the resale of imported vehicles, for its part the Government must give proper consideration to the Financial Regulations and Rules which called for competitive bidding.<sup>157</sup>

91. The Office of Legal Affairs advised in a memorandum to a UNDP resident representative in 1992<sup>158</sup> that, pursuant to the proviso contained in section 7 (b) of the General Convention, the Government of the host State was entitled to set out conditions under which official vehicles could be sold in the country. However, the United Nations had consistently maintained the view that the right of the host country to restrain the selling of property of the United Nations must not be misused. The Office of Legal Affairs accordingly advised UNDP to clarify with the Government the modalities of the proposed restrictive measure and to report to Headquarters for

further examination and advice if the modalities appeared to constitute arbitrary and unreasonable restrictions.<sup>159</sup>

92. The Office of Legal Affairs advised, in a memorandum to the Acting Chief, Sales Section, Department of Conference Services, that the Acting Chief could not request an exemption from a new tax that was to be levied by a Member State on goods and services (GST), including imported goods and services such as United Nations publications. Since the tax fell on the purchaser of the publications and not on the United Nations itself, no claim for exemption or refund could be made on the basis of sections 7 (a) and 8 of the General Convention. Although the United Nations was exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications, the Office of Legal Affairs advised that the term "restrictions" in section 7 (c) had not been interpreted in practice as a form of control by way of government censorship or licensing. It would not be legally correct to consider tax charges levied at a national level as a restriction within the meaning of section 7 (c). The Office of Legal Affairs advised that it might nevertheless be possible to persuade the Member State to treat United Nations publications as being akin to educational services and so grant them the exemption accorded to such services under local law.<sup>160</sup>

93. During the period under review, the Office of Legal Affairs advised several times on whether UNICEF's Greeting Card Operation could be considered "publications" within the meaning of article II, section 7 (c), of the General Convention.

94. In 1989, the Office of Legal Affairs advised UNICEF, in accordance with section 7 (b) and (c) of the General Convention, that Governments in countries where UNICEF greeting cards were sold have generally recognized that it would be inappropriate, as a matter of principle as well as law, for a Member State to impose customs duties on Greeting Card Operation projects which are internationally determined and financed by contributions from Governments and from private sources.<sup>161</sup>

95. In a memorandum to the Director, Greeting Card Operation, UNICEF, the Office of Legal Affairs advised

<sup>156</sup> *Ibid.*, p. 454.

<sup>157</sup> *United Nations Juridical Yearbook*, 1990, pp. 294-295.

<sup>158</sup> *United Nations Juridical Yearbook*, 1992, pp. 475-476.

<sup>159</sup> *Ibid.*, p. 476.

<sup>160</sup> *United Nations Juridical Yearbook*, 1991, pp. 322-323.

<sup>161</sup> *United Nations Juridical Yearbook*, 1989, pp. 355-356.

in 1992 that tax-free materials imported as part of the UNICEF Greeting Card Operation could be considered “publications” within the meaning of section 7 (c) of the General Convention such that their sale would not be subject to an agreement with the host country.<sup>162</sup> Alternatively, the sale of those materials and the use of their proceeds for the fund-raising activities of UNICEF could be considered an “official use” of those materials within the meaning of section 7 (b) of the General Convention, such that their sale once more would not be dependent on any prior agreement with the host State pursuant to the second sentence of section 7 (b) on the terms and conditions of their sale. In addition, the Basic Cooperation Agreement between UNICEF and Governments included an express provision exempting articles designed for sale in UNICEF Greeting Card Operation from taxes, customs duties and any import restrictions. Article XVII provided: “Any materials imported or exported by UNICEF or by national bodies duly authorized by UNICEF to act on its behalf, in connection with the established purposes and objectives of the UNICEF Greeting Card Operation, shall be exempt from all customs duties, prohibitions and restrictions, and the sale of such materials for the benefit of UNICEF shall be exempt from all national and local taxes”.<sup>163</sup>

96. The Office of Legal Affairs provided advice several times, during the period under review, as to whether the purchase was “important” within the meaning of article II, section 8, of the General Convention.

97. On the question of what falls within the meaning of “important” purchases in section 8 of the General Convention, which obligates Members “whenever possible” to remit or return the amount of duty or tax, the Office of Legal Affairs advised that purchases were

to be regarded as “important” when “(a) the amount of tax and the proportion that amount bears to the total purchase price is sufficient to consider the tax as an undue burden upon the Organization, or (b) the purchases occur on a recurring basis”.<sup>164</sup> Based on that interpretation, the Office of Legal Affairs advised UNDP that its purchase of 46 buses was to be considered as “important”. Accordingly, UNDP was entitled to seek the remission of any tax on the purchase which might be levied.<sup>165</sup>

98. On the other hand, in a memorandum to the Department of Public Information concerning the sales tax exemption in a State, the Office of Legal Affairs advised that the procedure set forth by the Government of the State in question specifying that the exemption was not available in respect of purchases from retailers did not violate its obligations under section 8 of the General Convention.<sup>166</sup> United Nations institutions in the State, when making important purchases from retailers, could claim a tax exemption from the governmental authorities. However, if the authorities decided that tax exemption was not possible, which apparently was the case, there was no legal way to avoid the taxation in question.<sup>167</sup>

99. During the period under review, the Legal Counsel and the Office of Legal Affairs interpreted the purchase of aviation gas or petrol as “important purchases” within the meaning of article II, section 8, of the General Convention.

100. In a letter to the Permanent Representative of a Member State, referring to the question of the exemption from or reimbursement of taxes relating to the purchase of aviation gas by the United Nations peacekeeping operation for the official use of a Cessna aircraft, the Legal Counsel advised that the taxes paid on aviation gas by the peacekeeping operation would normally be considered as indirect taxes such that they would fall within the meaning of section 8 of the General Convention.<sup>168</sup> However, the purchase of aviation gas constituted an “important purchase” for the official use of the Organization as the use of aircraft was a normal operational necessity for the peacekeeping operation. The Legal Counsel did not

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<sup>162</sup> *United Nations Juridical Yearbook, 1991*, pp. 325-326.

<sup>163</sup> *Ibid.*, p. 326; see also *United Nations Juridical Yearbook, 1990*, pp. 290-291, in relation to an advice by the Office of Legal Affairs concerning a Member State who had refused, since 1987, to grant the National Committee for UNICEF the exemption from or refund of the VAT the latter used to enjoy on the sale of UNICEF cards and related materials in that country. The Office advised that such action was in contravention of article II, sect. 7 and 8, of the General Convention. Therefore UNICEF may request the Government concerned for an exemption from or refund of VAT on the sales of the greeting cards and related UNICEF products; and *United Nations Juridical Yearbook, 1990*, pp. 293-294.

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<sup>164</sup> *United Nations Juridical Yearbook, 1994*, pp. 451-452.

<sup>165</sup> *United Nations Juridical Yearbook, 1992*, pp. 474-475.

<sup>166</sup> *United Nations Juridical Yearbook, 1989*, p. 352.

<sup>167</sup> *Ibid.*

<sup>168</sup> *United Nations Juridical Yearbook, 1989*, pp. 360-361.

accept the argument by the State that the exemption from or reimbursement of these taxes could not be granted because of conflicting laws or regulations of the State. He pointed out that, by virtue of section 34 of the General Convention, the Government of the State had undertaken to be “in a position under its own law to give effect to the terms of this Convention”. Therefore, in the event of a conflict between domestic law and the General Convention, the Convention prevailed.<sup>169</sup>

101. The Office of Legal Affairs advised, in a memorandum to the Director of the Office of Administrative Management, UNICEF, that the United Nations regarded taxes levied on purchases of petrol as an indirect tax within the meaning of section 8 of the General Convention.<sup>170</sup> According to a supplementary study on relations between States and international organizations prepared by the United Nations Secretariat in 1985, “a petrol tax forming part of the price to be paid is to be considered as falling under the terms of article II, section 8, of the [General] Convention” providing for the remission or refund of the amount of tax imposed on “important purchases for official use” by the United Nations.<sup>171</sup> The amounts involved in a recurring purchase of petrol normally qualify as “important”. The study concluded that the United Nations was in principle exempted from excise duty on petrol required for its operations in the territories of Member States. Such an exemption should be applicable to UNICEF as an integral organ of the Organization. A similar approach was laid down in the new Standard Basic Cooperation Agreement between UNICEF and Governments. Article VII, paragraph 6, expressly stipulated that “no direct taxes, value-added tax, fees, tolls or duties shall be levied on the supplies, equipment and other materials intended for programmes of cooperation in accordance with the master plan of operations. In respect of supplies and equipment purchased locally for programmes of cooperation, the Government shall, in accordance with section 8 of the Convention, make appropriate administrative arrangements for the remission or return of any excise duty or tax payable as part of the price”.<sup>172</sup>

102. In a similar situation, the Office of Legal Affairs advised UNDP to request the Government of the State in question to review its decision no longer to exempt UNDP from value-added tax on the purchase of gasoline. The United Nations regarded value-added taxes and sales tax in general as indirect taxes within the meaning of section 8 of the General Convention. As such UNDP was entitled to a remission or return, rather than exemption, of the amount of duty or tax when purchasing gasoline (such a purchase being an important purchase within the meaning of section 8).<sup>173</sup>

103. The Office of Legal Affairs advised, in a memorandum to the Purchase and Transportation Unit, that the federal vaccine compensation tax imposed by the United States — an excise tax levied on the manufacturer of vaccines but passed on to the customer upon sale and individually shown in the sales invoice — was an excise tax which was subject to the provisions of section 8 of the General Convention. Accordingly, the Purchase and Transportation Unit should seek to implement section 8 either by use of an appropriately drafted federal excise tax exemption certificate or by appropriate representations to the United States.<sup>174</sup>

104. In relation to a request for advice as to whether the United Nations should be accorded exemption from an excise tax on the sale of chemicals which deplete the ozone layer imposed by a domestic law, the Office of Legal Affairs advised the Chief of the Office of General Services that the Organization “in the exercise of its discretion and judgement should not claim exemption from the excise duty in question”.<sup>175</sup> The Office of Legal Affairs noted the consistent position of the Organization for determining whether a purchase constituted an “important purchase” within the meaning of section 8 of the General Convention, and advised that, although the tax imposed on the price of the chemical — Freon #12 — amounted to nearly half of the actual product price, seeking remission or return of the tax would be unwarranted. The purpose of the 1998 Montreal Protocol on Substances that Deplete the Ozone Layer was to ensure the control of the production and use of ozone-depleting chemicals by the parties to the Protocol, and taxation of the

<sup>169</sup> *Ibid.*

<sup>170</sup> *United Nations Juridical Yearbook, 1992*, pp. 471-472.

<sup>171</sup> [A/CN.4/L.383](#) and Add.1-3, para. 44.

<sup>172</sup> *United Nations Juridical Yearbook, 1992*, p. 472.

<sup>173</sup> *United Nations Juridical Yearbook, 1992*, pp. 472-473; see also *United Nations Juridical Yearbook, 1990*, pp. 288-289.

<sup>174</sup> *United Nations Juridical Yearbook, 1994*, pp. 451-452.

<sup>175</sup> *United Nations Juridical Yearbook, 1990*, p. 292.

manufacture and consumption of such chemicals was a means to bring about the desired objective. A request by the United Nations seeking an exemption would be anomalous inasmuch as the Organization, which, through the Convention and the Protocol, had sought reduction in the use of ozone-depleting chemicals, would be attempting to exempt itself from a control measure imposed to secure such a reduction.<sup>176</sup>

(ii) *Most favourable legal rate of exchange*

105. During the period under review, UNHCR issued a memorandum attaching its Model UNHCR Cooperation Agreement.<sup>177</sup> Article VIII, paragraph 7, provided that “UNHCR shall enjoy the most favourable legal rate of exchange”. Of the eleven agreements concluded between UNHCR and host countries, five either had variations on this provision or did not contain it at all.<sup>178</sup>

106. The model status-of-forces agreement for peacekeeping operations<sup>179</sup> provided in part V, section 23, that the Government “undertakes to make available to the United Nations peacekeeping operation, against reimbursement in mutually acceptable currency, [local] currency required for the use of the United Nations peacekeeping operation, including the pay of its members, at the rate of exchange most favourable to the United Nations peacekeeping operation”. Of the seventeen status-of-forces agreements establishing observer or peacekeeping missions during the period under review, only five contained this provision.<sup>180</sup> Two status-of-forces agreements contained variations.

<sup>176</sup> Ibid.

<sup>177</sup> UNHCR/IOM/79/89.

<sup>178</sup> Article VIII, para. 7, Agreement with Nicaragua, *United Nations Juridical Yearbook*, 1990, p. 39; article VII, sect. 22, Agreement with South Africa, *United Nations Juridical Yearbook*, 1991, p. 47; article IX, para. 7, Agreement with Venezuela, *United Nations Juridical Yearbook*, 1993, p. 135; Memorandum of understanding with Saudi Arabia, *United Nations Juridical Yearbook*, 1993, pp. 147-148; Agreement with Pakistan, *United Nations Juridical Yearbook*, 1993, pp. 156-160.

<sup>179</sup> A/45/594.

<sup>180</sup> Part V, sect. 22, UNPROFOR (Bosnia and Herzegovina), *United Nations Juridical Yearbook*, 1993, p. 52; Part V, sect. 23, UNAMIR, *United Nations Juridical Yearbook*, 1993, p. 107; Part V, sect. 22, ONUMOZ, *United Nations Juridical Yearbook*, 1993, p. 42; Part V, sect. 23, UNPROFOR (the former Yugoslav Republic of Macedonia), *United Nations Juridical Yearbook*, 1994, p. 29.

The agreement with Namibia concerning the status of the United Nations Transition Assistance Group (UNTAG) (concluded before the Model was issued) contained a proviso that the pay of its members would be at the “rate of exchange most favourable to UNTAG that is officially recognized by the Government”;<sup>181</sup> while the agreement with South Africa concerning the United Nations Observer Mission and its Personnel in South Africa (UNOMSA) provided that “UNOMSA may freely exchange foreign currency through any South African authorized dealer in exchange at the market rate of exchange, for its use in South Africa including the remuneration of its personnel”.<sup>182</sup>

(iii) *Exemption from inspection of property*

107. The Office of Legal Affairs, in a memorandum to the Legal Adviser of UNRWA, advised that the demand of a Member State that UNRWA pouches be submitted to its domestic security personnel 24 hours in advance of intended departure from that State would be in contravention of article III, section 10, of the General Convention and article 27, paragraph 2, of the 1961 Vienna Convention on Diplomatic Relations. According to section 10 of the General Convention, the Organization has the right to dispatch and receive its correspondence in bags, which shall have the same immunities and privileges as diplomatic bags. Article 27, paragraph 2, of the Vienna Convention on Diplomatic Relations provides for the inviolability of official correspondence while paragraph 3 unequivocally stipulates that the diplomatic bag shall not be opened or detained.<sup>183</sup>

\*\**(iv) Control and authority of the United Nations over its premises*

(v) *Police protection of United Nations premises*

108. The Office of Legal Affairs advised, in a memorandum to the Legal Counsel of the United Nations University, against the United Nations University providing security for its premises by way of a commercial arrangement with a security protection company, rather than employing security personnel as

<sup>181</sup> Part V, sect. 30, *United Nations Juridical Yearbook*, 1989, p. 18.

<sup>182</sup> Article VIII, sect. 21, *United Nations Juridical Yearbook*, 1993, p. 118.

<sup>183</sup> *United Nations Juridical Yearbook*, 1992, pp. 469-470.



staff members.<sup>184</sup> The advice was based on policy rather than legal considerations: security personnel of a commercial company would not enjoy the functional immunity that members of the United Nations security service do as United Nations officials; and there would be no assurance that security personnel obtained through a commercial agency would meet the highest standards of integrity, competence or efficiency required under the Charter of the United Nations of all staff members.<sup>185</sup>

109. During the period under review, the agreements concluded by the United Nations establishing interim or integrated offices in host States included a section on the security and protection of the office. The seven agreements establishing United Nations interim offices in Belarus, Armenia, Azerbaijan, Kazakhstan, Ukraine, Uzbekistan and Georgia, and the two agreements establishing integrated offices in the Russian Federation and Eritrea provided that the appropriate government authorities “shall exercise due diligence to ensure the security and protection of the Office, and to ensure that the tranquillity of the Office is not disturbed by the unauthorized entry of persons or groups of persons from outside or by disturbances in its immediate vicinity”.<sup>186</sup> The UNICEF Model BCA had the same provision in article X, paragraph 3.<sup>187</sup>

110. Similarly, the agreement establishing the headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, provided in Article VII:

“1. The competent authorities shall exercise due diligence to ensure the security and protection of the Tribunal and to ensure that the tranquillity of the Tribunal is not disturbed by the intrusion of persons or groups of persons from outside the premises of the Tribunal or by disturbances in their immediate vicinity and shall

provide to the premises of the Tribunal the appropriate protection as may be required.

“2. If so requested by the President or the Registrar of the Tribunal, the competent authorities shall provide adequate police force necessary for the preservation of law and order on the premises of the Tribunal or in the immediate vicinity thereof, and for the removal of persons therefrom”.<sup>188</sup>

In addition, Article XXV provided:

“The competent authorities shall take effective and adequate action which may be required to ensure the appropriate security, safety and protection of persons referred to in this Agreement, indispensable for the proper functioning of the Tribunal, free from interference of any kind”.<sup>189</sup>

111. Agreements establishing United Nations Information Centres in Denmark, Namibia and Cameroon provided for the security and protection of not only the centre but also its staff: “The Government shall exercise due diligence to ensure the security and protection of the premises of the Centre and its staff”.<sup>190</sup>

112. Similarly, the agreements establishing UNHCR’s regional office in Venezuela for Northern South America and the Caribbean and branch offices in Poland, the Russian Federation, Romania, Bulgaria, Pakistan, Slovakia and Albania provided that “[t]he Government shall take necessary measures, when required, to ensure the security and protection of the premises of the UNHCR office and its personnel”.<sup>191</sup>

113. The agreement between UNDP and Denmark relating to the headquarters of the Inter-Agency

<sup>184</sup> *United Nations Juridical Yearbook*, 1992, pp. 478-479.

<sup>185</sup> *Ibid.*

<sup>186</sup> Article 5, para. 4, *United Nations Juridical Yearbook*, 1992, p. 64 (Belarus), p. 86 (Armenia), p. 90 (Azerbaijan and Kazakhstan), p. 91 (Ukraine), p. 103 (Uzbekistan) and *United Nations Juridical Yearbook*, 1993, p. 13 (Georgia), p. 66 (Russian Federation) and p. 89 (Eritrea).

<sup>187</sup> *E/ICEF/BCA*, July 1992, p. 10. Agreements concluded after the revised Basic Cooperation Agreement contained this provision. See annex II.

<sup>188</sup> Article VII, para. 1, *United Nations Juridical Yearbook*, 1994, p. 14.

<sup>189</sup> *Ibid.*, p. 21.

<sup>190</sup> Article III, para. 2, *United Nations Juridical Yearbook*, 1989, p. 11 (Denmark), *United Nations Juridical Yearbook*, 1991, p. 37 (Namibia), and *United Nations Juridical Yearbook*, 1994, p. 8 (Cameroon).

<sup>191</sup> Article VII, para. 5, *United Nations Juridical Yearbook*, 1993, p. 134 (Venezuela), *United Nations Juridical Yearbook*, 1992, p. 32 (Poland), p. 94 (Russian Federation), and article VI, para. 5, *United Nations Juridical Yearbook*, 1993, p. 142 (Romania), p. 151 (Bulgaria), article VI, para. 2, p. 158 (Pakistan), and *United Nations Juridical Yearbook*, 1994, article VI, para. 5, p. 81 (Slovakia) and p. 86 (Albania).



Procurement Services Unit (IAPSU) in Copenhagen contained two sections on the security and protection of the unit, in Article III, section 8 (a) and (b). Section 8 (a) provided: “The appropriate Danish authorities shall exercise due diligence to ensure that the tranquillity of the headquarters is not disturbed by any person or groups of persons from attempting unauthorized entry into or creating disturbances in the immediate vicinity of the headquarters seat”. Section 8 (b) provided: “If so requested by the Director of IAPSU, Copenhagen, the appropriate Danish authorities shall provide necessary assistance for the preservation of law and order in the headquarters and for the removal therefrom of persons as requested by the Director of IAPSU, Copenhagen”.<sup>192</sup>

(vi) *Immunity from censorship of United Nations public information material*

114. During the period under review, the agreements concluded by the United Nations establishing interim offices, information centres and UNHCR offices in host States specifically mentioned immunity from censorship of United Nations materials. For example, the agreements establishing United Nations interim offices in Belarus, Armenia, Azerbaijan, Kazakhstan, the Ukraine, Uzbekistan and Georgia provided in Article 14, section 2, that

“[N]o official correspondence or other communication of the United Nations shall be subject to censorship. Such immunity shall extend to printed matter, photographic and electronic data communications and other forms of communications as may be agreed upon between the Parties ...”.<sup>193</sup>

115. This provision was replicated in article XVIII, section 2, of the UNICEF model Basic Cooperation Agreement.

116. Similarly, the agreement between UNDP and Denmark relating to the headquarters of the Inter-Agency Procurement Services Unit (IAPSU) in Copenhagen provided in article V, section 2, that

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<sup>192</sup> *United Nations Juridical Yearbook, 1989*, p. 57.

<sup>193</sup> *United Nations Juridical Yearbook, 1992*, p. 67 (Belarus), p. 86 (Armenia), p. 90 (Azerbaijan and Kazakhstan), p. 91 (the Ukraine), p. 103 (Uzbekistan) and *United Nations Juridical Yearbook, 1993*, p. 16 (Georgia).

“[t]he Government shall secure the inviolability of the official correspondence of IAPSU, Copenhagen, and shall not apply any censorship to such correspondence. Such inviolability shall extend, without limitation by reason of this enumeration, to publication, still and moving pictures, films and sound recording dispatched to or by IAPSU, Copenhagen”.<sup>194</sup>

117. The model UNHCR Cooperation Agreement<sup>195</sup> provided for immunity from censorship of United Nations publications in article IX, paragraph 2:

“The Government shall ... not apply any censorship to its communications and correspondence. Such inviolability, without limitation by reason of this enumeration, shall extend to publications, photographs, slides, films and sound recordings”.<sup>196</sup>

118. The majority of agreements establishing UNHCR offices contained this provision.

(b) *Facilities in respect of communications*

119. During the period under review, the Office of Legal Affairs advised the chief of the UNDP Field Security Section on the legal basis of the authority of the United Nations to establish and operate telecommunications facilities on the territory of a State.<sup>197</sup> The Office noted that the General Convention does not contain anything entitling the United Nations to install communications facilities without the approval of a Government. That authority comes from the International Telecommunication Convention and the Agreement between the United Nations and the International Telecommunication Union (ITU). Under article XVI of the Agreement, ITU “recognizes that it

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<sup>194</sup> *United Nations Juridical Yearbook, 1989*, p. 58.

<sup>195</sup> UNHCR/IOM/79/89.

<sup>196</sup> Article X, para. 30, *United Nations Juridical Yearbook, 1991*, p. 48 (South Africa); article IX, para. 2, *United Nations Juridical Yearbook, 1990*, p. 39 (Nicaragua); article IX, para. 2, *United Nations Juridical Yearbook, 1992*, p. 95 (Russian Federation) and article X, para. 2, p. 34 (Poland); article X, para. 2, *United Nations Juridical Yearbook, 1993*, p. 135 (Venezuela) and article IX, para. 2, p. 143 (Romania); article IX, para. 2, *United Nations Juridical Yearbook, 1994*, p. 83 (Slovakia) and p. 88 (Albania). The agreements with Saudi Arabia, Bulgaria and Pakistan did not contain this provision.

<sup>197</sup> *United Nations Juridical Yearbook, 1991*, pp. 333-334.

is important that the United Nations shall benefit by the same rights as the members of the Union for operating telecommunications services". As far as ITU was concerned, the United Nations had the rights of a member Administration, including, as to radio, that of registering frequencies. However, the United Nations could only operate as an Administration on the territory of a given State by virtue of an arrangement reached with its Government. In seeking an arrangement with a particular Government, the United Nations usually emphasized various factors and sometimes made reference to Article 105, paragraph 1, of the Charter of the United Nations providing 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. The United Nations also frequently brought to the attention of the Government that, in order to exercise its functions efficiently, it should have direct point-to-point contacts with its duty stations, which could not be effectively done through ordinary communication channels. In a number of cases, the United Nations had stressed the importance of radio communication facilities for ensuring the security and safety of its personnel and had asked Governments to give quick and favourable consideration to a request to install communications facilities for those purposes.<sup>198</sup>

*\*\*(c) Immunity from legal process of persons appearing as witnesses before United Nations organs*

*\*\*(d) Right of transit and freedom of access to the United Nations headquarters district or conference area*

## C. Article 105 (2)

### 1. Privileges and immunities of Representatives of Members

*\*\*(a) The expression "resident representative of the United Nations", as used in the Headquarters Agreement*

*(b) Nationality of representatives and the grant of privileges and immunities*

120. During the period covered by *Supplement No. 7*, the United States imposed travel restrictions on the staff of certain Missions to the United Nations and

their dependants.<sup>199</sup> During the period under review, the United States continued to impose those restrictions, imposed travel restrictions on staff of other Missions to the United Nations and their dependants and lifted the travel restrictions on others. There was also a compulsory reduction in the number of staff at the Libyan Mission pursuant to Security Council resolution 748 (1992) of 31 March 1992.<sup>200</sup>

121. The Committee on Relations with the Host Country (hereinafter "the Committee") continued its deliberations on the travel regulations issued by the host country in respect of the personnel of certain missions, in pursuance of General Assembly resolutions 44/38 of 4 December 1989, 45/46 of 28 November 1990 and 46/60 of 9 December 1991, which urged the host country to continue to bear in mind its obligations to facilitate the functioning of the United Nations and the missions accredited to it.

122. At the 147th meeting of the Committee, on 10 October 1990, Iraq informed the Committee that the United States had imposed, effective 21 September 1990, restrictions on travel undertaken by Iraqi Mission personnel outside a 25-mile radius of Columbus Circle in New York City requiring the use of common carriers or rental automobiles or public overnight accommodation. A travel authorization form had to be submitted to the United States Mission a full two days prior to the date of departure.<sup>201</sup>

123. By a note verbale of 7 May 1990, the United States advised the Polish Mission that members of the Mission and their dependants "will enjoy unrestricted travel within the United States" effective immediately.<sup>202</sup>

124. During 1991 and 1992 the travel restrictions were lifted on the following: the official personnel assigned to the Mongolian Mission and their dependants, as of 11 March 1991;<sup>203</sup> officials of the Government of Nicaragua not permanently accredited to the Nicaraguan Mission, as of 8 March 1991;<sup>204</sup> the staff of the Bulgarian Mission and their dependants, effective 1 August 1991;<sup>205</sup> the staff of the Albanian Mission

<sup>199</sup> See *Repertory, Supplement No. 7, vol. VII*, under this Article, paras. 50-53.

<sup>200</sup> Para. 6 (a).

<sup>201</sup> A/45/26, para. 28.

<sup>202</sup> A/45/26, para. 20.

<sup>203</sup> A/46/26, para. 18.

<sup>204</sup> *Ibid.*

<sup>205</sup> *Ibid.*, para. 20.

<sup>198</sup> *Ibid.*

and their dependants, effective 13 November 1991;<sup>206</sup> and the members of the Belarus and Ukraine Missions, as of 24 April 1992.<sup>207</sup> In addition, it was confirmed that there were no travel restrictions in force in respect of members of the Permanent Missions of Armenia, Azerbaijan, Estonia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Tajikistan, Turkmenistan, Uzbekistan<sup>208</sup> and Georgia.<sup>209</sup> All restrictions on travel to closed areas in the United States which applied to Russian Federation Mission personnel with the rank of Ambassador, Minister and Counsellor and their dependants were lifted, effective 13 July 1992. Other personnel from the Russian Federation Mission were still required to submit travel notifications to the United States Mission.<sup>210</sup> The United States also lifted the numerical ceilings imposed on staff levels of the Permanent Missions of Belarus, the Russian Federation and Ukraine.<sup>211</sup>

125. The General Assembly reflected this development in paragraph 4 of its resolution 47/35 of 25 November 1992, by welcoming the “recent lifting of travel controls by the host country with regard to certain missions ... and urges the host country to continue to abide by its obligations to the United Nations and the missions accredited to it”.

126. During the period under review, Libya referred the problems faced by the Mission to the Committee. In addition to the travel restrictions imposed by the host country in 1988, concerns were raised relating to the issuance of entry visas to officials to enable them to attend United Nations meetings, difficulties in obtaining multiple entry visas for members of the Mission, a ceiling on the Libyan Mission’s liquid assets and a reduction of Mission personnel.<sup>212</sup> In relation to the last of these issues, Libya informed the Committee at its 155th meeting on 22 April 1992, that the United States had reduced the Libyan Mission personnel in New York by twenty-five per cent. The United States replied that Security Council resolution 748 (1992) of 31 March 1992, paragraph 6, required all

States to reduce significantly the number and the level of the staff at Libyan diplomatic Missions and consular posts throughout the world. In compliance with that resolution, the United States Mission had requested the Libyan Mission to reduce the size of its mission by three persons by 25 April 1992.<sup>213</sup>

127. The Committee also considered the complaints expressed by Iraq during the period under review.<sup>214</sup> Iraq raised problems that arose from the withdrawal of multiple entry visas for Iraqi Mission personnel and the freezing of the Mission’s bank accounts to the Chairman of the Committee on 11 September 1990.<sup>215</sup>

128. At the 147th meeting of the Committee, on 10 October 1990, Iraq stated that the United States authorities had refused to allow a special Iraqi aircraft bearing the Iraqi Foreign Minister and the members of the Iraqi delegation to the forty-fifth session of the General Assembly to land in New York. Subsequently, Iraq decided not to participate in the work of the General Assembly at the ministerial level. The United States stated that, when informed of the Foreign Minister’s plans, the United States had suggested that the Foreign Minister travel by commercial means to New York. The Headquarters Agreement provided that the United States shall not impose any impediment on travel to or from the Headquarters district, but did not oblige the United States to allow special flights. Ninety foreign ministers had travelled by commercial flights to the current session of the General Assembly. Therefore, the decision by the United States did not restrict the Iraqi Foreign Minister’s participation in the deliberations of the General Assembly.<sup>216</sup>

129. At the 149th meeting of the Committee, on 26 March 1991, Iraq referred to the problems faced by its Mission and, in particular, to those resulting from the freezing of the Mission’s assets, which had occurred pursuant to Security Council resolutions 661 (1990) of 6 August 1990 and 670 (1990) of 25 September 1990.<sup>217</sup> The United States informed the Committee that the United States Mission had recently delivered a note to the Iraqi Mission clarifying the key

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<sup>206</sup> *Ibid.*, para. 23.

<sup>207</sup> *A/47/26*, para. 17.

<sup>208</sup> *Ibid.*

<sup>209</sup> *Ibid.*, para. 19. Effective 24 September 1992.

<sup>210</sup> *Ibid.*, para. 18.

<sup>211</sup> *Yearbook of the United Nations, 1992*, p. 1006.

<sup>212</sup> See *A/44/26*, paras. 43-44; *A/45/26*, paras. 60-64; *A/46/26*, para. 66; and *A/47/26*, paras. 14, 21-22, and 46-49.

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<sup>213</sup> *A/47/26*, paras. 46-49.

<sup>214</sup> *A/45/26*, paras. 26-31; *A/46/26*, at paras. 24-30; *A/47/26*, at para. 20.

<sup>215</sup> *A/45/26*, para. 26. The Permanent Representative also raised problems which arose from the delay in delivery of mail to the Mission. However, this had been resolved.

<sup>216</sup> *A/45/26*, paras. 27 and 30.

<sup>217</sup> *A/46/26*, para. 25.

items mentioned by Iraq and expressed the view that the matter had been resolved.<sup>218</sup> However, at the 151st meeting of the Committee, on 8 July 1991, Iraq observed that the Mission continued to encounter a number of problems as a result of the freezing of the Mission's assets. The Iraqi Mission had sent a note verbale to the United States Mission requesting that the funds necessary for the administrative and similar expenses relating to the functioning of the Mission be unfrozen. Those funds would not be used for the purpose covered by the Security Council resolutions.<sup>219</sup> The United States responded that a checking account had been licensed for the Iraqi Mission to permit it to carry out its official functions within the United States. The checking account was not frozen. Replenishments to the account were to be from funds brought in from outside the United States. The United States regarded this requirement as reasonable and consistent with its obligations under paragraph 4 of Security Council resolution 661 (1990) of 6 August 1990 and paragraph 9 of Security Council resolution 670 (1990) of 25 September 1990, which required States to freeze Iraqi assets.<sup>220</sup> Iraq continued to protest the freezing of the Mission's bank accounts throughout the rest of the period under review.<sup>221</sup>

130. The Office of Legal Affairs, in a memorandum to the Chief of Protocol, advised on whether it would be legally proper "for a Permanent Representative to the United Nations or even a government official, such as the Minister for Foreign Affairs, to bestow a diplomatic rank on an individual who is not a citizen of that country".<sup>222</sup> The General Convention does not directly address the question of the nationality of the members of the staff of a Mission. However, it does specify, in article IV, section 15, that the provisions on the privileges and immunities of representatives of members "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 a representative".

131. The Office of Legal Affairs noted that the 1961 Vienna Convention on Diplomatic Relations provides, in article 7, that the sending State may, with certain limitations, freely appoint the members of the staff of

the Mission. Article 8, paragraph 1, stipulates that "members of the diplomatic staff of the mission should, in principle, be of the same nationality as the sending State". Article 8, paragraph 2, provides that "members of the diplomatic staff of the mission may not be appointed from among persons having the nationality of the receiving State, except with the consent of that State which may be withdrawn at any time". In addition, article 8, paragraph 8, specifies that the receiving State "may reserve the same right", that is, the right to express its consent, with regard to nationals of a third State who are not also nationals of the sending State.<sup>223</sup>

132. The Office of Legal Affairs also referred to article 73 of the 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character, which was not then in force, which embodied almost analogous principles and rules on the question of composition of missions and nationality of diplomatic staff accredited to international organizations. In the light of those observations, the Office advised it was "legally permissible for Member States to appoint members of diplomatic staff of their missions accredited to the United Nations, both nationals of the host State and/or those of the third State. However, in the former case, i.e., nationals or permanent residents of the host State, the consent of such State would seem to be a necessary prerequisite for such an appointment".<sup>224</sup>

133. The Office of Legal Affairs then addressed the Chief of Protocol's second query, namely, whether it would be correct for the United Nations to grant diplomatic United Nations grounds passes to members of missions who in his/her view did not have a diplomatic background or diplomatic passports. The Office advised "it cannot be said that the bearer of a diplomatic passport is automatically entitled to diplomatic status; nor can it be said that the holder of a normal passport cannot be entitled to such status. In addition, neither the [General Convention] nor the 1947 Headquarters Agreement provides for precise characteristics of a diplomatic agent accredited to the United Nations". The Office advised that United Nations diplomatic grounds passes should be issued only to members of the permanent mission's staff "who genuinely fulfil diplomatic functions and tasks, and are

<sup>218</sup> Ibid., para. 26.

<sup>219</sup> Ibid., para. 27.

<sup>220</sup> Ibid., para. 28.

<sup>221</sup> Ibid., para. 29 and A/47/26, para. 20.

<sup>222</sup> *United Nations Juridical Yearbook*, 1993, pp. 403-405.

<sup>223</sup> Ibid., p. 403.

<sup>224</sup> Ibid., p. 404.

not involved in the administration and technical servicing of the mission".<sup>225</sup>

134. At the 161st meeting of the Committee, on 15 October 1993, the Russian Federation drew the Committee's attention to the security measures that had recently been taken by the United Nations Secretariat due to the bomb explosion at the World Trade Center in February 1993<sup>226</sup> concerning access to United Nations premises. It was noted that some of those measures hampered the work of Missions accredited to the Organization. Access to the United Nations garage by members of Missions had been impeded. Vehicles of diplomats had been inspected. The closure of large sections of the garage and the prohibition of parking on the premises by Mission personnel created substantial difficulties for Missions located far from the United Nations. Cyprus and Costa Rica also noted their concerns on this matter.<sup>227</sup> The United Nations said that measures taken by the Secretariat had been prompted by the recent events in New York and that the Secretariat's decision to limit parking in the United Nations garage had inconvenienced all Missions. The New York City Police Department had been asked to assist the United Nations with a security survey of the United Nations Headquarters complex, the results of which would allow the Secretariat to make some modifications in the control of the garage area. The United States suggested that the concerns and observations of the members of the Committee be made known to the United Nations Secretariat directly.<sup>228</sup>

*(c) Request made by the host State for the departure from its territory of a permanent representative to the United Nations*

135. In a memorandum to the United Nations Office in Vienna, the Office of Legal Affairs advised on the question of the closure of the embassy and permanent mission of a Member State in Vienna.<sup>229</sup> The Office of Legal Affairs advised that there had been no case of the closure of a permanent mission at the request of the host country in New York and none of the existing legal instruments — the General Convention, the 1967

United Nations Industrial Development Organization (UNIDO) Headquarters Agreement or the 1961 Vienna Convention on Diplomatic Relations — regulated in detail the procedures to be followed in the case of a closure of a mission on the initiative of the host country. Nor was the matter regulated in the 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character, which was not then in force.

136. In the circumstances, the Office of Legal Affairs advised that the provisions of the 1967 UNIDO Headquarters Agreement concerning the procedure to be followed if Austria requested the departure from its territory of a representative of a Member State should be applied *mutatis mutandis*. The procedure required the prior approval of the Federal Minister for Foreign Affairs of the Host State, which could only be given after consultation with the Government of the Member State concerned. The Office of Legal Affairs therefore advised that the appropriate procedure would be for the United Nations Office in Vienna to inform the Government of the Member State concerned through the established channels of the intended action against its Mission in Vienna. At the same time, the Government of the Host State should also be advised that appropriate consultation should take place with the Government of the Member State concerned.<sup>230</sup>

137. The United States informed the Committee at its 159th meeting, on 27 January 1993, that it had requested five diplomats from three Permanent Missions to depart the United States in 1992, because, after an extended warning period, the debts of their respective missions remained unsatisfied. Two of the diplomats concerned had departed and the remaining three were expected to leave shortly. The United States had consulted with the United Nations on this matter.<sup>231</sup>

*(d) Privileges and immunities*

*\*\* (i) At conferences held under United Nations auspices*

*(ii) Personal inviolability and immunity from arrest*

138. At the 148th meeting of the Committee, on 14 November 1990, Cuba informed the Committee of hostile demonstrations which, it said, had been held

<sup>225</sup> Ibid., p. 405.

<sup>226</sup> On Friday 26 February 1993, a bomb exploded in the underground garage of One World Trade Center. Six people were killed and more than 1,000 were injured.

<sup>227</sup> A/48/26, paras. 29-31 and 33.

<sup>228</sup> Ibid., para. 32.

<sup>229</sup> *United Nations Juridical Yearbook, 1993*, pp. 405-406.

<sup>230</sup> Ibid., p. 406.

<sup>231</sup> A/48/26, para. 37. See also section on financial indebtedness of permanent missions and their personnel below.



regularly for the past eleven months in front of its Mission. During those demonstrations, there had been repeated incidents of verbal abuse and physical aggression against members of the Mission and their families in a pattern of harassment and intimidation. Cuba had repeatedly reported such acts to the host country and the latter had promised to contain them in the future. Cuba had also brought the issue to the attention of the Secretary-General. The United States expressed concern over the incidents and assured the Committee that its authorities were working closely to deter any illegal action by demonstrators and that it would not tolerate unlawful demonstrations.<sup>232</sup>

139. During its meetings in 1991, the Committee considered Cuba's allegation that the weekly demonstrations held in front of its Mission, which had resulted in instances of provocative acts against members of the Mission, were essentially a camouflage for a policy of intimidation of members of the Mission and their families. Cuba and the United States disagreed over whether the host country's efforts to deal with the demonstrations were adequate.<sup>233</sup> Such disagreement continued throughout 1992.<sup>234</sup>

140. In 1993, the Committee was informed of several incidents against mission personnel, including the robbery, on 13 November, of a Chinese delegate to the General Assembly's forty-seventh session,<sup>235</sup> the 1992 attack on the Iranian Mission where a member of the Mission had been taken hostage<sup>236</sup> and a case of carjacking involving an official of the German Mission.<sup>237</sup> The United States Mission and the New York City Commission for the United Nations, the Consular Corps and International Business co-hosted a seminar on "Survival in New York" which took place at United Nations Headquarters on 13 May 1993. It addressed, among other matters, issues of the security of missions and the personal safety of diplomats.<sup>238</sup>

141. The Committee continued its consideration of Cuba's allegation that demonstrations held regularly in the proximity of its Mission constituted a deliberate campaign of harassment against Mission personnel.

Cuba alleged that hostile behaviour was also directed at the children of Mission personnel and the level of such demonstrations was increasingly threatening. In response, the United States said that, after listening to Cuba's complaints and viewing a videotape of a "typical demonstration" prepared by the Cuban Mission, there was no evidence of any correlation or campaign of harassment. When crimes were committed in the presence of police, arrests were made. As such, on 4 October 1993, three demonstrators were arrested for disorderly conduct during an anti-Castro demonstration.<sup>239</sup>

142. The Russian Federation drew the Committee's attention to its Mission's concerns regarding the security of the Russian Mission housing complex in Riverdale, New York. The children in the housing complex were being subjected to harassment by other children in the neighbourhood which had turned into fights and confrontation.<sup>240</sup>

143. At the 166th meeting of the Committee, on 9 September 1994, Cuba informed the Committee of an incident which had occurred at midday on 30 August 1994. According to Cuba, demonstrators unsuccessfully attempted to storm the Mission and subsequently chained and padlocked the Mission entrance, preventing the entry and exit of persons to and from the premises of the Mission. Several diplomatic officials of the Mission investigating the demonstration were attacked by the demonstrators and, while attempting to defend themselves, four officials were arrested, handcuffed and then placed in police vehicles and cells together with demonstrators who had also been arrested by New York police officers.<sup>241</sup>

144. The United States disagreed with Cuba's account of the incident on 30 August 1994. Reports from the New York City Police Department, corroborated by a videotape of the altercation, showed the scuffle which ensued between demonstrators, Mission personnel and the police. The four members of the Cuban Mission who were apprehended were released by the New York City Police Department once the United States authorities had become aware of the situation and verified their diplomatic status.<sup>242</sup>

<sup>232</sup> A/45/26, paras. 67-68.

<sup>233</sup> A/46/26, paras. 10-17.

<sup>234</sup> A/47/26, paras. 53-54.

<sup>235</sup> A/48/26, paras. 10-12.

<sup>236</sup> *Ibid.*, para. 14. The member was freed by United States authorities.

<sup>237</sup> *Ibid.*, para. 17.

<sup>238</sup> *Ibid.*, paras. 15 and 18.

<sup>239</sup> *Ibid.*, paras. 19-21.

<sup>240</sup> *Ibid.*, paras. 23-24.

<sup>241</sup> A/49/26, para. 13.

<sup>242</sup> *Ibid.*, para. 14.

145. Cuba also informed the Committee of a further incident on 5 September 1994, when Cuban officials were insulted and threatened as they left the building. A bottle was hurled at the Head of the Cuban Interests Section in Washington as he entered the Mission premises. A diplomat of the Cuban Mission was also threatened with physical violence. This had all taken place in the presence of New York City Police Department officers, who had tried to prevent the Cuban officials from leaving the Mission premises, stating their safety was at risk, rather than ordering the perpetrators to disperse.<sup>243</sup>

*(iii) Immunity from legal process*

146. At the 149th meeting of the Committee on 26 March 1991, a representative of a Permanent Mission informed the Committee that she had been issued with two traffic violation tickets at the same time for alleged moving violations and had subsequently received a Court summons.<sup>244</sup>

147. The United States, with reference to its note verbale circulated on 1 February 1989 to Permanent Missions, observer offices and the Secretariat of the “proper procedures to be followed regarding citations for motor vehicle infractions”, stated that the valid issue of traffic citations was not an infringement of diplomatic privileges and immunities and that prompt payment was expected of all fines associated with such citations. The failure of diplomats to comply with traffic laws and regulations of the host country was inconsistent with article 41 of the 1961 Vienna Convention on Diplomatic Relations, which provided for the duty of all persons enjoying privileges and immunities to respect the laws and regulations of the receiving State. Therefore, the issuance of a valid traffic citation could not be considered an infringement of diplomatic privileges and immunities. However, the United States said that members of the diplomatic community, who enjoyed immunity from legal process, would not be required to appear in judicial proceedings or to submit personally to local civil or administrative jurisdiction. Nevertheless, immunity from jurisdiction did not imply that the United States was obliged to continue to grant the privilege of operating a motor vehicle to those who abused that privilege.<sup>245</sup>

148. The Legal Counsel suggested that the complaint of the representative of a Permanent Mission be discussed with the Office of Legal Affairs of the Secretariat.<sup>246</sup> There was no further reporting of this issue during the rest of the period under review.

*\*\* (iv) Currency or exchange facilities*

*(v) Legal status of premises*

149. During the period under review, the problem of financial indebtedness of Permanent Missions and representatives came under increased attention in a way that directly affected the legal status of premises.

150. The United States informed the Committee at its 155th meeting, on 22 April 1992 that a United States court had rejected the argument of the Government of the United States regarding the inviolability of premises of a permanent mission. The court had issued a decision permitting United States marshals to evict a mission from its premises for non-payment of rent. If the decision were affirmed on appeal, it would have negative consequences for the entire diplomatic community.<sup>247</sup>

151. The Legal Counsel stated at the same meeting that the problem of indebtedness risked putting into jeopardy some of the traditional privileges and immunities enjoyed by diplomats, in particular, the inviolability of the premises of missions accredited to the United Nations. He appealed to the parties concerned in the specific case mentioned to take the necessary steps in all forums, including national courts, to safeguard the important principles of diplomatic immunity and inviolability, of which the inviolability of the premises of Missions was an important part, while at the same time removing the grounds for allegations of abuse of those rights. He strongly appealed to missions to be mindful that they were expected to pay their debts in full and to ensure that diplomatic privileges and immunities were not used to avoid paying debts.<sup>248</sup>

152. The Legal Counsel, in a letter to the Counsellor of a permanent mission, dated 14 July 1992, addressed the legality of a move to evict the mission from its premises as a result of the mission’s indebtedness.<sup>249</sup> The Legal Counsel observed that, pursuant to

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<sup>243</sup> Ibid., para. 13.

<sup>244</sup> A/46/26, para. 62.

<sup>245</sup> Ibid., para. 63.

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<sup>246</sup> Ibid., para. 64.

<sup>247</sup> A/47/26, para. 34.

<sup>248</sup> Ibid., para. 35.

<sup>249</sup> *United Nations Juridical Yearbook, 1992*, pp. 491-492.

paragraph 2 of Article 105 of the Charter of the United Nations, “representatives of the Members of the United Nations ... shall ... enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization”. These provisions were developed and specified in the General Convention, specifically in article IV, section 11 (a), (b) and (g), and in the 1947 Headquarters Agreement, in article V, section 15. Article IV, section 11 (g), of the General Convention, provides that representatives of Members shall, while exercising their functions, enjoy “such other privileges, immunities and facilities ... as diplomatic envoys enjoy ...”. Article V, section 15 of the Headquarters Agreement provides that resident representatives of the United Nations shall 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 accordance with paragraph 1 of article 22 of the 1961 Vienna Convention on Diplomatic Relations, which codifies the privileges and immunities of diplomatic envoys, “the premises of the mission shall be inviolable”. Paragraph 3 of the same article further requires that “the premises of the mission, their furnishings and other property therein ... shall be immune from search, requisition, attachment or execution”.<sup>250</sup>

153. The Legal Counsel further noted that the duty of the host country to respect the inviolability of missions accredited to the United Nations was also affirmed in a statement made by the then Legal Counsel of the United Nations at the 92nd meeting of the Committee which described both the origin and the scope of the privileges and immunities of the then Permanent Observer Mission of a Member State to the United Nations. In particular, he had observed that, if inviolability “is to have any meaning, it necessarily extends to the premises of the Mission and the residences of its diplomatic staff”.<sup>251</sup> The current Legal Counsel further observed that “inviolability of mission premises is one of the most fundamental norms of the law of diplomatic relations and any disregard of it could have the most serious repercussions”.<sup>252</sup>

(vi) *Financial indebtedness of permanent missions and their personnel*

154. During the period under review, the problem of financial indebtedness of permanent missions and their personnel was considered at length by the Committee.

155. At the 149th meeting of the Committee, on 26 March 1991, the Committee focused on various aspects of the problem of financial indebtedness. The United States observed that one of the most vexing problems facing Missions to the United Nations and many staff members of Missions was the problem of what to do when, for various reasons, funds for the payment of rents, salaries and other expenses were not received by missions from the home Government.<sup>253</sup>

156. At the 150th meeting of the Committee, on 30 April 1991, the Chair informed the Committee that an open-ended Working Group would be established to deal with the problem of financial indebtedness. The Working Group decided to consider short-term as well as long-term measures, in addition to immediate practical steps of an urgent character for missions in distress. Among matters to be discussed by the Working Group would be the question of health insurance programmes for mission personnel, since medical expenses represented a great source of financial indebtedness.<sup>254</sup>

157. At its 151st meeting, on 8 July 1991, the Committee adopted by consensus the proposed text of a letter drafted by the Working Group on the matter addressed to the Secretary-General of the United Nations. The letter, forwarded to the Secretary-General the same day, drew his attention to the growing tendency of indebtedness among a number of permanent missions to the United Nations which warranted immediate and concrete action for urgent assistance. It informed the Secretary-General that the main issue discussed by the Committee was the general role of the United Nations in responding to the problem of indebtedness, raising many “legal, administrative and humanitarian questions”. The letter expressed the hope that relevant United Nations Secretariat offices and departments would provide assistance in the matter.<sup>255</sup>

<sup>250</sup> Ibid., p. 492.

<sup>251</sup> Ibid.

<sup>252</sup> Ibid.

<sup>253</sup> A/46/26, para. 39.

<sup>254</sup> Ibid., para. 44.

<sup>255</sup> Ibid., paras. 49-50. See also annex I for the complete text of the Chair’s letter.



158. In a letter dated 24 July 1991 to the Chairman of the Committee (in response to the 8 July letter), the Secretary-General expressed the view that, in order to find workable solutions to those problems, certain legal and practical difficulties would have to be overcome with the active assistance of all concerned, including the competent authorities of the host country. The interested offices and departments of the United Nations Secretariat were examining possible solutions to the problems of indebtedness.<sup>256</sup> The Chair of the Working Group informed the Committee that the Legal Counsel, on 2 October 1991, had requested the major United Nations duty stations to provide information on how the problem of indebtedness was handled in those locations and had addressed a similar request to the observer for the European Economic Community on how cases of indebtedness were handled in Brussels. The Committee commended the efforts undertaken by the Secretary-General and the Legal Counsel on the matter.<sup>257</sup>

159. At its 153rd meeting, on 15 November 1991, the Committee approved, *inter alia*, a recommendation stressing the importance of the work of its Working Group concerning problems of financial indebtedness.<sup>258</sup>

160. In 1992 the problem of indebtedness was seen by the host country as a priority issue. It was noted at the Committee's 155th meeting, on 22 April 1992 that, when a diplomat or a diplomatic mission failed to pay debts, that reflected poorly on the entire United Nations community. In the view of the United States, a failure to satisfy debts could give rise to the expulsion of members of a mission on the grounds of abuse of residence. Diplomats at two permanent missions had been advised that they would be directed to leave the United States if their debts were not satisfied.<sup>259</sup> This led to a discussion on the eviction of a mission from its premises for non-payment of rent.<sup>260</sup>

161. At its 158th meeting, on 27 October 1992, the Committee approved a recommendation reminding missions and their personnel of their financial obligations, while expressing strong support for the

continued efforts of the Working Group on Indebtedness to find a solution to the problem.<sup>261</sup>

162. The General Assembly noted in resolution 47/35, adopted on 25 November 1992, "the establishment by the Committee of the working group to consider problems of financial indebtedness and stress[e] the importance of efforts undertaken in this regard".<sup>262</sup>

163. At the 161st meeting of the Committee, on 15 October 1993, the United States reported that the chronic indebtedness of missions and individuals had risen to more than \$5 million and remained a very serious problem for the host country. Of that figure, \$4 million represented indebtedness of missions themselves: \$100,000 was owed by individual mission members; and \$1.2 million was owed by members of missions or Secretariat officials who had departed the United States over the past two years, leaving their personal debts unpaid.<sup>263</sup> It had become difficult to persuade creditors not to seek relief in the civil court system and, although the United States continued to intervene on behalf of missions and individuals with diplomatic privileges and immunities, it also had an obligation to protect the interests of its citizens and creditors who were unable to obtain legal relief. It was noted that, when a diplomat, a diplomatic mission or a staff member of the Secretariat failed to pay debts, this reflected poorly on the entire United Nations community. During the year, the Working Group on Indebtedness continued its efforts to solve the problem.<sup>264</sup>

164. At its 162nd meeting, on 9 November 1993, the Committee approved a recommendation stressing the importance and urgency of its Working Group's efforts concerning financial indebtedness and reminded permanent missions, their personnel and Secretariat personnel of their obligations.<sup>265</sup>

165. The General Assembly, in its resolution 48/35 of 9 December 1993, voiced its concern "that the amount of financial indebtedness resulting from non-compliance with contractual obligations of certain missions accredited to the United Nations has increased to alarming proportions, reminds all permanent missions to the United Nations, their personnel and Secretariat

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<sup>256</sup> *Ibid.*, see annex II for the text of the Secretary-General's letter.

<sup>257</sup> *Ibid.*, paras. 57-58.

<sup>258</sup> *Ibid.*, para. 76 (g).

<sup>259</sup> A/47/26 para. 34. See also sect. (c) above.

<sup>260</sup> *Ibid.*, paras. 34-35. See also sect. (d) (v) below.

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<sup>261</sup> *Ibid.*, para. 55 (e).

<sup>262</sup> Para. 4.

<sup>263</sup> A/48/26, dated 12 November 1993, para. 44.

<sup>264</sup> *Ibid.*

<sup>265</sup> *Ibid.*, para. 58 (e).

personnel of their responsibilities to meet such obligations, and expresses the hope that the efforts undertaken by the Committee, in consultation with all concerned, will lead to a solution of this problem”.

166. At the 165th meeting of the Committee, on 17 June 1994, the United States reported that financial indebtedness of missions and individuals had risen to \$5.3 million as at 1 June 1994. Of that sum, 41 per cent was owed to banks and other financial institutions. As a result of the poor payment record of some members of the United Nations diplomatic community, one prominent bank had decided against making any further loans to missions or diplomats and it was becoming more difficult for diplomats to obtain private leases in New York.<sup>266</sup> Switzerland also reported that the problem of financial indebtedness of diplomatic personnel in Geneva had developed to such a degree that it harmed the image of diplomatic personnel and the United Nations itself.<sup>267</sup>

167. As an essential element of the indebtedness problem lay in the costs associated with health and dental care, the Working Group on Indebtedness was requested to look into the question of acquiring health and dental insurance for diplomats. On 14 September 1994, the Working Group convened an open-ended meeting with prospective providers of health and dental services for the diplomatic community, during which various proposals were offered for decision by missions. The Committee was informed that missions had been advised to make their own choice and to contact the providers directly.<sup>268</sup>

168. At its 168th meeting, on 10 November 1994, the Committee approved a recommendation stressing the importance and urgency of its Working Group’s efforts concerning financial indebtedness and reminded Permanent Missions, their personnel and Secretariat personnel of their obligations. It further noted that the issue could require a system-wide response, as it also arose in other host cities to the United Nations, and it recommended that the Secretary-General prepare a report on the problem for review by the Committee in 1995.<sup>269</sup>

<sup>266</sup> A/49/26, dated 11 November 1994, para. 39.

<sup>267</sup> Ibid., para. 32.

<sup>268</sup> Ibid., paras. 33-34, 38 and 70-72.

<sup>269</sup> Ibid., para. 73 (e).

169. The General Assembly, in its resolution 49/56 of 9 December 1994, reiterated the concern voiced in its resolution 48/35 of 9 December 1993.

*\*\* (vii) Immovable property of missions accredited to the United Nations*

*(viii) Movable property of representatives of Members*

170. During the period under review, the United States Mission issued a note verbale dated 1 February 1989, which advised Permanent Missions, observer offices and the Secretariat of “proper procedures to be followed regarding citations for motor vehicle infractions”. According to the note, the United States Mission, as at 15 February 1989, would no longer intervene with local jurisdictions to request dismissal of valid moving violations and all other non-parking citations. The prompt payment of all fines associated with such citations was expected. The note further stated that “the privilege to drive in the United States may be suspended or revoked when accumulation of citations indicates that an individual is a dangerous driver”.<sup>270</sup> The Legal Counsel informed the Committee that the Secretariat had also received a note verbale dated 1 February 1989 from the United States Mission on this issue. In response, the Secretariat had on 13 March 1989 transmitted to the United States Mission a note verbale which in particular stated that the requirement of the payment of fines and the punitive sanction or threat of punitive sanction of suspension or revocation of licence were measures tantamount to an exercise of jurisdiction by the host country. Such a requirement was at variance with article 31 of the 1961 Vienna Convention on Diplomatic Relations, as well as with the intent of both the General Convention and the Headquarters Agreement. The Secretariat had therefore formally reserved its position with regard to the procedures set out in the note of 1 February 1989.<sup>271</sup>

171. The United States subsequently clarified that the subject of its note verbale of 1 February 1989 had been moving violations. Moving traffic violations and dangerous driving practices were inconsistent with the provisions of article 41, paragraph 1, of the Vienna Convention on Diplomatic Relations, providing for the duty of all persons enjoying privileges and immunities to respect the laws and regulations of the receiving

<sup>270</sup> A/44/26, para. 31.

<sup>271</sup> A/44/26, para. 37.

State. Therefore, the issuance of a valid traffic citation should not be considered an infringement of diplomatic privileges and immunities. While the United States Mission would no longer intervene for the dismissal of each citation, diplomatic personnel would not be required to appear in court in person to respond to such citations.<sup>272</sup>

172. On 16 June 1989, New York City officials presented a talk on “[m]atters related to use of motor vehicles, including parking problems”. Among various aspects of the use of motor vehicles, particular reference was made to the parking problems in the City of New York.<sup>273</sup>

173. At the 149th meeting of the Committee, on 26 March 1991, a representative of a permanent mission informed the Committee that she had been issued with two traffic violation tickets at the same time for alleged moving violations and had subsequently received a Court summons. The Legal Counsel reminded the Committee that the United Nations Secretariat had formally reserved its position with regard to the procedures set out in the United States Mission’s note verbale circulated on 1 February 1989.<sup>274</sup>

174. In October 1989, the Secretariat issued a circular note to United Nations Missions that parking decals listing more than one vehicle per delegate would be issued in order to allow the delegate to use his/her replacement car on an ad hoc basis when the one bearing the “D” plates could not be used. The note provided information for delegates on how to effect the changes.<sup>275</sup>

175. At the 163rd meeting of the Committee, on 7 December 1993, at the request of the Russian Federation and France, the Committee focused its deliberations on press reports in New York about a new parking programme for the diplomatic community which included, inter alia, non-renewal of parking privileges and diplomatic licence plates for violators of parking regulations.<sup>276</sup> In that regard, several States complained about the lack of parking space allotted to their missions and about other vehicles’ use of the areas reserved for diplomatic parking. It was noted that

the legal implications of proposed changes should be disclosed to Missions prior to their adoption.<sup>277</sup> Mali and the Russian Federation expressed concern about repeated thefts of their Missions’ vehicles. The Russian Federation also stated that its vehicles were being fined for not having inspection stickers which, according to the host country’s Mission, were not needed for diplomatic cars.<sup>278</sup> Switzerland, while acknowledging the right of New York authorities to implement enforcement measures, raised concern over a proposed distinction between diplomatic and consular licence plates.<sup>279</sup>

176. In response, the United States noted that the measures in question were only proposals, which would be reviewed in consultation with the Committee and regretted the inaccurate media coverage in that regard. It requested delegations to address their concerns in writing to the United States Mission or to call the Mission when parking problems required immediate action.<sup>280</sup>

## 2. Privileges and immunities of observers of non-Member States

177. At the 145th meeting of the Committee, on 30 April 1990, the observer of the Permanent Observer Mission of the Palestinian Liberation Organization to the United Nations in New York<sup>281</sup> brought to the Committee’s attention a problem that had arisen in connection with the issuance of visas for the members of the Palestinian delegation to the eighteenth special session of the General Assembly. Although most members of the delegation had been granted visas, a delay had occurred with regard to two persons, one of whom had never received a visa.<sup>282</sup> The United States said that there had been bilateral contacts with regard to the visa that had not been issued, but took note of the comments made by the observer of Palestine and promised to investigate the matter further.<sup>283</sup> The matter was not raised again during the rest of the period under review.

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<sup>272</sup> Ibid., para. 38.

<sup>273</sup> Ibid., para. 40.

<sup>274</sup> A/46/26, para. 64. See also sect. (iii), immunity from legal process, above.

<sup>275</sup> A/45/26, para. 46.

<sup>276</sup> A/49/26, paras. 40-62.

<sup>277</sup> Ibid., para. 42.

<sup>278</sup> Ibid., para. 55.

<sup>279</sup> Ibid., para. 50.

<sup>280</sup> Ibid., paras. 41, 45, 51 and 62.

<sup>281</sup> The General Assembly conferred observer status on the Mission by its resolution 3237 (XXIX) on 22 November 1974.

<sup>282</sup> A/45/26, para. 24.

<sup>283</sup> Ibid., para. 25.

### 3. Privileges and immunities of officials of the Organization

#### (a) Categories of officials

178. The Office of Legal Affairs was requested to provide advice as to the status of members of the United Nations Volunteers, in particular, whether they are considered as “officials” or as “experts on mission” for the purposes of the privileges and immunities of the United Nations.<sup>284</sup> The Office of Legal Affairs advised that United Nations Volunteers enjoyed the same privileges and immunities as those enjoyed by United Nations officials in the country of service.<sup>285</sup>

179. The United Nations Volunteers programme was established by the General Assembly in its resolution 2659 (XXV) of 7 December 1970, as an additional source for providing technical assistance to developing countries in the form of middle-level expertise under volunteer conditions of service. While volunteers are not, strictly speaking, staff members, they are assigned by the United Nations to assist in the carrying out of United Nations-assisted projects or programmes in developing countries. The volunteers have substantially the same terms of service as technical assistance experts, who are regarded as officials of the United Nations. Under the Standard Basic Assistance Agreement usually concluded between UNDP and a Government receiving UNDP assistance (which includes the services of United Nations Volunteers), the Government agrees to grant these persons the same privileges and immunities as those accorded to officials of the United Nations. Paragraph 4 (a) of article IX of the Standard Basic Assistance Agreement provides that the “Government shall grant all persons, other than Government nationals employed locally, performing services on behalf of the UNDP, ... the same privileges and immunities as officials of the United Nations, ... under section 18” of the General Convention. Therefore, in the country of service, the individual volunteer enjoys the same privileges and immunities as those enjoyed by a United Nations official.<sup>286</sup>

<sup>284</sup> *United Nations Juridical Yearbook, 1991*, pp. 305-307.

<sup>285</sup> *Ibid.*, p. 307.

<sup>286</sup> *Ibid.*, pp. 306-307.

#### (b) Privileges and immunities

##### \*\* (i) General provisions

##### (ii) Qualification or extension of specific privileges and immunities

180. The Secretary-General, in a note to the permanent representative of a Member State, raised with the permanent representative the additional criteria which had been introduced by the United States authorities with respect to the issuance of G-4 visas to the immediate family of staff members holding G-4 visa status.<sup>287</sup> Those additional criteria, which would have to be met by the close relatives in question in order to be eligible for G-4 visa status, were in contravention of section 18 (d) of the General Convention, which provides that officials of the United Nations shall “be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration”. The Secretary-General requested renewed and urgent consideration of the matter by the competent authorities with a view to reinstating the policy which prevailed prior to the changes.<sup>288</sup>

##### a. Immunity from legal process

181. In response to an inquiry by UNICEF as to whether it should waive immunity in the case of a UNICEF staff member to enable her to testify before a commission of inquiry appointed by national authorities to investigate an incident in which she was one of the victims, the Office of Legal Affairs advised that UNICEF should not waive immunity and therefore the staff member in question should not testify before the commission of inquiry.<sup>289</sup> The staff member was, at the time of the incident, travelling on official business of the Organization and thus was immune from legal process in accordance with section 18 (a) of the General Convention. The Secretary-General had the right and duty under section 20 of the General Convention to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and when it could be waived without prejudice to the interests of the Organization. The Office of Legal Affairs nevertheless advised that, taking into account all relevant circumstances of the particular incident, the official’s immunity should not be waived. At the same time, the

<sup>287</sup> *United Nations Juridical Yearbook, 1991*, pp. 331-333.

<sup>288</sup> *Ibid.*, p. 333.

<sup>289</sup> *United Nations Juridical Yearbook, 1991*, pp. 327-328.

Office of Legal Affairs was of the view that the commission of inquiry had been entrusted with the important task, among other things, of considering and recommending measures to adopt to prevent the recurrence of such incidents. Therefore UNICEF should cooperate with the commission and provide it, to the extent possible, with information that could facilitate its work.<sup>290</sup>

182. The Office of Legal Affairs, in a letter to a judge of the host State court, referred to a notice of motion for default judgement addressed to the United Nations and certain current or former senior officers of the Organization with respect to a claim submitted against them and advised that United Nations officials were immune from legal process under section 18 (a) of the General Convention and that the Organization was maintaining the immunity of the officials in question. The notices would, therefore, be returned to the court.<sup>291</sup>

183. In a memorandum to the Travel Unit, Transportation Section, the Office of Legal Affairs advised that the detention and questioning at John F. Kennedy International Airport in New York of United Nations staff members on official United Nations business was in contravention of section 18 (a) of the General Convention. Certain restrictions had been imposed by the United States on air transportation to Lebanon. Those restrictions prohibited air transportation between the United States and Lebanon and the sale in the United States by any airline or its agent of tickets for passenger air transportation with a stop in Lebanon. The in-house United Nations travel agency had arranged for official travel by United Nations officials to Lebanon by issuing tickets to Amman or Damascus with a ticket change in Europe to Beirut. The agency also issued tickets to staff members of the Organization for a Paris-Damascus flight with a stop in Beirut. Staff members on such flights had, at times, been detained at Kennedy Airport and questioned by United States authorities. Pursuant to section 18 (a) of the General Convention, United Nations staff members are immune from legal process for acts performed in their official capacity. Therefore, the Office of Legal Affairs advised that those staff should not be detained or questioned by the United

States authorities, unless such immunity had been expressly waived by the Secretary-General.<sup>292</sup>

*b. Exemption from national income taxation*

184. During the period under review, the Secretary-General reported that a number of States continued to impose taxes on the salaries of locally recruited officials.<sup>293</sup> Section 18 (b) of the General Convention provides that officials of the Organization shall be exempt from taxation on the salaries and emoluments paid to them by the United Nations. The Secretary-General recalled that the rationale for this provision is to assure equality of treatment for all staff members, irrespective of their nationality, and to guarantee that funds contributed by Members of the Organization to its budget are not diverted to individual States by means of revenue-raising measures such as an income tax.<sup>294</sup>

185. In his report to the General Assembly at its forty-fourth session,<sup>295</sup> the Secretary-General noted that Egypt had enacted legislation whereby staff members of international organizations who were Egyptian nationals were required to obtain, for a considerable fee, work permits. The United Nations stated that such a fee amounted to a direct tax on the emoluments of staff members of international organizations and as such was contrary to section 18 (b) of the General Convention and section 19 (b) of the Convention on the Privileges and Immunities of the Specialized Agencies. The Egyptian authorities were requested to bring the legislation into conformity with the two Conventions.<sup>296</sup> Egypt had not complied with this request by the end of the period under review.

186. In 1988, the tax authorities of the Republic and Canton of Geneva, Switzerland, decided to apply a global-rate system (*taux-global*) to the taxable earnings of staff members of the United Nations and the specialized agencies in Geneva holding short-term contracts, thus taking into account the exempted income earned by such officials in determining the rate

<sup>290</sup> *Ibid.*, p. 328.

<sup>291</sup> *United Nations Juridical Yearbook, 1993*, pp. 408-409.

<sup>292</sup> *United Nations Juridical Yearbook, 1993*, pp. 411-413.

<sup>293</sup> *A/C.5/44/11*, paras. 17-20; *A/C.5/45/10*, para. 22; *A/C.5/46/4*, paras. 15-16; *A/C.5/47/14*, paras. 22-24; *A/C.5/48/5*, paras. 9-11; and *A/C.5/49/6*, annex II, p. 15 (International Telecommunication Union). See also *Repertory, Supplement No. 7, vol. VII*, under this Article, para. 74.

<sup>294</sup> *A/C.5/44/11*, para. 17.

<sup>295</sup> *Ibid.*

<sup>296</sup> *Ibid.*, para. 18.



of tax on earnings derived from other sources. The decision appeared to be based on non-recognition of that category of employees as officials in the United Nations common system. The Secretary-General took action in respect of this issue by sending a letter to the President of the Swiss Confederation referring in particular to the right of the organizations freely to determine the categories of their personnel whom they considered to be officials. In May 1989, the Head of the Federal Department for Foreign Affairs informed the Secretary-General that the Federal Council had requested the State Council of the Republic and Canton of Geneva to desist from applying the global-rate system to the taxable income of officials holding short-term contracts and that the Geneva Council of State had acceded to this request.<sup>297</sup>

187. In his report to the forty-fifth session of the General Assembly,<sup>298</sup> the Secretary-General reported that Zimbabwe continued to levy taxes on salaries paid by the United Nations to locally recruited staff members and that such actions could not be considered as being in conformity with the provisions of section 18 (b) of the General Convention. Numerous demarches with the Zimbabwean Mission to the United Nations had been made on this issue.<sup>299</sup> In his report to the General Assembly at its forty-sixth session,<sup>300</sup> the Secretary-General reported that Zimbabwe had decided to discontinue the taxation of locally recruited United Nations staff.<sup>301</sup>

188. In his report to the General Assembly at its forty-sixth session,<sup>302</sup> the Secretary-General reported that in 1990 the Hungarian authorities had introduced a policy envisaging that locally recruited Hungarian nationals, in particular those recruited by the UNHCR branch office in Budapest, should pay taxes on the salaries and emoluments paid to them by the United Nations.<sup>303</sup> The United Nations informed the Hungarian authorities that their policy could not be reconciled with section 18 (b) of the General Convention to which Hungary had been a party since 30 July 1956. The United Nations expressed the hope that the policy would be reviewed by the competent authorities with a

view to reconciling Hungary's internal domestic legislation and practice with its international obligations.<sup>304</sup> In his report to the General Assembly at its forty-seventh session,<sup>305</sup> the Secretary-General reported that the competent Hungarian authorities had decided that Hungarian nationals recruited by the UNHCR branch office at Budapest would be granted an exemption from taxation on the salaries and emoluments paid to them by UNHCR. It was also decided that the exemption would be granted retroactively to those Hungarian nationals whose employment with the office had started earlier than 1 July 1992.<sup>306</sup>

189. In his report to the General Assembly at its forty-seventh session,<sup>307</sup> the Secretary-General reported that on 14 June 1992, a note verbale was received from the Mission of the Sudan to the United Nations stating that Sudan's Ministry of Finance and Economic Planning had decided, in accordance with the provisions of the General Convention, to exempt all Sudanese working with the United Nations, the specialized agencies and United Nations affiliated bodies "from payment of the national contribution payable by Sudanese expatriates".<sup>308</sup> The Sudan had enacted legislation in September 1981 imposing income tax on Sudanese nationals working abroad, including those working for the United Nations and the specialized agencies. In a note verbale dated 8 March 1982, the United Nations had drawn the attention of Sudan to section 18 (b) of the General Convention and had appealed to the Government to take the necessary measures to exempt local staff members of Sudanese nationality, whether internationally or locally recruited, from income tax and to make a refund to any staff member from whom such tax had already been collected. No response was received from the Sudanese authorities to that note verbale. The United Nations made the same appeal to Sudan on 11 July 1991, as the Sudanese authorities had continued to levy income taxes on United Nations staff members, in particular those working for UNDP, when they applied for renewal of their national passports.<sup>309</sup>

190. The Secretary-General, in his report to the General Assembly at its forty-eighth session, reported

<sup>297</sup> *Ibid.*, para. 19.

<sup>298</sup> *A/C.5/45/10/Corr.1.*

<sup>299</sup> *Ibid.*, para. 21.

<sup>300</sup> *A/C.5/46/4.*

<sup>301</sup> *Ibid.*, para. 16.

<sup>302</sup> *A/C.5/46/4.*

<sup>303</sup> *Ibid.*, para. 15.

<sup>304</sup> *Ibid.*

<sup>305</sup> *A/C.5/47/14.*

<sup>306</sup> *Ibid.*, para. 22.

<sup>307</sup> *A/C.5/47/14.*

<sup>308</sup> *Ibid.*, para. 23.

<sup>309</sup> *A/C.5/46/4/Add.1*, para. 1.

that, by a note verbale dated 1 February 1993, the Permanent Observer Mission of Switzerland had informed the United Nations Office at Geneva that the authorities of the Canton of Vaud, based on the decision of 9 August 1978 of the Swiss Federal Council which declared the application of the “taux global” incompatible with the host country agreements concluded by Switzerland with several international organizations, including the United Nations, had decided to no longer apply the “taux global” to officials of international organizations residing in the territory of that Canton.<sup>310</sup>

191. During the period under review, the Legal Counsel rendered a number of opinions on the exemption of officials from taxation.<sup>311</sup> In a note to the permanent representative of a Member State, the Legal Counsel also clarified the application of section 18 (b) of the General Convention to pensions paid to retired United Nations officials.<sup>312</sup> In that respect, he referred to a study prepared by the Secretariat in 1985 on section 18 (b) and the taxation of retirement benefits paid to United Nations personnel.<sup>313</sup>

192. In a letter to the Revenue Service in a Member State concerning the status of United Nations Volunteers,<sup>314</sup> the Office of Legal Affairs noted that, United Nations Volunteers, not being staff members, were not covered by the General Convention. At the same time, it was noted that they enjoyed substantially the same terms of service as technical assistance experts, who are regarded as officials of the United Nations for the purposes of the General Convention. It was also noted that, under the Standard Basic Assistance Agreement, they are regarded as officials of the United Nations in the country in which they serve. That being so, and in view of the nature of their employment (including their limited allowances),<sup>315</sup> it was hoped that it would be possible for the revenue service of the Member State to regard their allowances as tax-exempt.<sup>316</sup>

<sup>310</sup> A/C.5/48/5, para. 9.

<sup>311</sup> *United Nations Juridical Yearbook, 1990*, chap. VI, A, sect. 35, 36 and 37; and *United Nations Juridical Yearbook, 1991*, chap. VI, A, sect. 30.

<sup>312</sup> *United Nations Juridical Yearbook, 1991*, pp. 329-330.

<sup>313</sup> A/CN.4/L.383 and Add. 1-3, *ibid.*, p. 330.

<sup>314</sup> *United Nations Juridical Yearbook, 1991*, pp. 305-307.

<sup>315</sup> United Nations Volunteers do not receive a salary, only living expenses and certain related benefits.

<sup>316</sup> *Ibid.*, p. 307.

*c. Immunity from national service obligations*

193. During the period under review, the agreement concluded between UNHCR and Venezuela creating a Regional Office for Northern South America and the Caribbean in 1993 did not provide for immunity of Venezuelan citizens from military-service obligations or other obligatory service. Pursuant to paragraph 2 (c) and paragraph 3 of Article XI, UNHCR officials were accorded immunity from any military-service obligation or other obligatory service, except for officials who were Venezuelan citizens. Venezuelan citizens were only accorded immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity and an exemption from taxation on their salary and other remuneration received from UNHCR.<sup>317</sup>

194. The Office of Legal Affairs, in a memorandum to the Department of Administration and Management on immunity from national service obligations, advised that, since a particular Member State had lodged a formal reservation with respect to section 18 (c) when depositing its instrument of accession to the General Convention, that Member State was under no legal obligation either to cancel or to defer any national service obligation incumbent upon a United Nations official. The reservation in question stated that section 18 (c) would not apply with respect to nationals of the State concerned and aliens admitted for permanent residence. There was therefore no legal ground to oppose the proposed conscription of a staff member for reserve duty.<sup>318</sup>

*\*\*d. Exchange facilities*

*\*\*e. Exemption from customs duties*

*(iii) Cases in which full diplomatic privileges and immunities are extended to certain categories of officials of the Organization*

195. The Legal Counsel advised, in a memorandum to the Office of General Services, that under section 19 of the General Convention United Nations officials at the level of Under-Secretary-General and Assistant Secretary-General enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.<sup>319</sup> He

<sup>317</sup> *United Nations Juridical Yearbook, 1993*, p. 136.

<sup>318</sup> *United Nations Juridical Yearbook, 1990*, p. 310.

<sup>319</sup> *United Nations Juridical Yearbook, 1992*, p. 481.

noted that, in addition, most of the headquarters agreements of the regional commissions contain provisions envisaging that officials of those commissions starting from a certain level enjoy the privileges and immunities accorded to diplomats. Thus, the 1979 Agreement relating to the headquarters of the United Nations Economic and Social Commission for Western Asia (ESCWA) provided, in paragraph 3 of article 7, that officials of the Commission at the P-4 level and above, regardless of their nationality, shall enjoy during their residence in the State in question and their service with the Commission the facilities, privileges and immunities granted by the Government of that State to diplomats of comparable rank of the diplomatic mission. At the same time, the Legal Counsel noted that the 1979 Headquarters Agreement of ESCWA also provided that the immunity of officials of the Commission and its experts from seizure of their personal and official effects and baggage did not apply in cases of *in flagrante delicto*.<sup>320</sup>

196. The Statutes creating the International Criminal Tribunal for the Former Yugoslavia (ICTY)<sup>321</sup> and the International Criminal Tribunal for Rwanda (ICTR)<sup>322</sup> accorded privileges and immunities to the judges, the Prosecutor and his or her staff and the Registrar and his or her staff in articles 30 and 29, respectively. The judges, the Prosecutor and the Registrar enjoyed the privileges and immunities, exemptions and facilities accorded to diplomatic envoys.<sup>323</sup> The staff of the Prosecutor and of the Registrar enjoyed the privileges and immunities accorded to officials of the United Nations under articles V and VII of the General Convention.<sup>324</sup>

197. The Agreement with the Government of the Netherlands concerning the headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991,<sup>325</sup> conferred privileges and

immunities on the judges, the Prosecutor, the Registrar and various other persons affiliated with the Tribunal.<sup>326</sup>

198. The judges, the Prosecutor and the Registrar, together with members of their families forming part of their household, who did not have Dutch nationality or permanent residence status in the Netherlands, were granted the privileges and immunities, exemptions and facilities accorded to diplomatic agents.<sup>327</sup>

199. The 1995 Agreement between the United Nations and the Government of the United Republic of Tanzania concerning the headquarters of the International Criminal Tribunal for Rwanda<sup>328</sup> also addressed the privileges and immunities of the judges, the Prosecutor, the Registrar and members of their families forming part of their household in article XIV. Such persons, apart from those who are Tanzanian nationals, enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic agents.<sup>329</sup>

(iv) *The question of privileges and immunities of locally recruited personnel*

200. The general survey section outlined variations in agreements concluded with host Governments of United Nations conferences regarding immunity from legal process accorded to local personnel provided by the Government to perform functions for those conferences.<sup>330</sup>

201. The Legal Counsel sent a number of notes verbales to permanent representatives of Member States during the period under review concerning the issue of taxation of salaries of nationals and residents of the State in question employed as United Nations officials.<sup>331</sup>

202. Immunity from national service obligations continued to be an issue of concern during the period under review.<sup>332</sup>

<sup>320</sup> Ibid., p. 481.

<sup>321</sup> Pursuant to Security Council resolution 827 (1993).

<sup>322</sup> Pursuant to Security Council resolution 955 (1994).

<sup>323</sup> ICTY Statute, article 30, para. 2; ICTR Statute, article 29, para. 2.

<sup>324</sup> Ibid., para. 3.

<sup>325</sup> *United Nations Juridical Yearbook, 1994*, pp. 10-22.

<sup>326</sup> See also paras. 254-266 for a summary of the privileges and immunities in the Agreement.

<sup>327</sup> Article XIV, p. 16.

<sup>328</sup> *United Nations Juridical Yearbook, 1995*, pp. 69-81.

<sup>329</sup> Ibid., p. 75.

<sup>330</sup> See paras. 18-21.

<sup>331</sup> See sect. (ii) ii. above, paras. 189-192, on exemption from national income taxation.

<sup>332</sup> See sect. (ii) iii. above, paras. 193-194, on immunity from national service obligations.



(v) *Waiver of, and other obligations in connection with, the privileges and immunities*

203. In a letter to UNHCR, the Office of the Legal Counsel set out the practice of the United Nations with respect to the right and duty to waive the immunity of any official vested in the Secretary-General.<sup>333</sup> UNHCR inquired about general guidelines in order to regularize UNHCR practice in cases where UNHCR staff members were requested to testify before national judicial bodies.

204. The Office of the Legal Counsel advised that the practice in this respect had developed in such a way that the United Nations agencies, in response to requests for their staff to testify in national judicial bodies, normally reported those requests, with their recommendations, to the Legal Counsel. The Office of the Legal Counsel would then examine the merits of any specific case and authorize, on behalf of the Secretary-General, the waiver of immunity if it would not be prejudicial to the interests of the United Nations. The Office of the Legal Counsel further noted that section 18 (a) of the General Convention provides immunity only for words spoken or written or acts performed by officials in their official capacity. Accordingly, requests for them to testify in cases of a private nature did not necessitate a waiver of immunity. If there were doubts as to whether certain acts were performed by staff members in their official or unofficial capacity, such cases should be referred to the Office of the Legal Counsel for determination.<sup>334</sup> Further, high-ranking officials of the Organization at the Under-Secretary-General and Assistant Secretary-General levels were entitled to diplomatic privileges and immunities pursuant to section 19 of the General Convention. Therefore, in respect of such officials, a waiver of immunity would be necessary for any court proceedings, including those of a private nature.<sup>335</sup>

205. The Office of the Legal Counsel reminded UNHCR of the long-standing policy of the Organization in relation to invitations to Secretariat officials to give testimony before national parliamentary committees or congressional hearings. In this connection, the Office attached a circular memorandum of the Secretary-General dated 8 August 1991 which stated, inter alia, "it has not been the

practice for Secretariat officials to provide formal testimony in such forums, except on the rarest occasions and on matters of a purely technical nature. If Secretariat officials feel it necessary to give such testimony, the authorization of the Secretary-General must first be obtained ... at the same time ... officials may need to provide information to members of national governmental bodies on specific issues. This should be achieved by briefings, as and when appropriate, on an informal basis".<sup>336</sup>

206. UNDP requested a waiver of immunity in connection with a motor vehicle accident involving a United Nations volunteer while he was driving a government-owned vehicle from work to his home. The Office of Legal Affairs advised that no question of a waiver of immunity would arise unless and until it was first determined that the volunteer enjoyed immunity in respect of the acts in question. In this connection, it was noted that United Nations Volunteers were accorded the privileges and immunities of officials of the United Nations in the country where they were assigned.<sup>337</sup> However, before raising the question of waiver of immunity, it would be necessary to determine whether the volunteer was acting, when the accident occurred, in an official capacity.<sup>338</sup> Under section 20 of the General Convention, privileges and immunities of United Nations officials were essentially linked to official acts they perform on behalf of the Organization and as such were functional. As a general rule, travel between home and office was not in itself considered to be an official act within the meaning of section 18 of the General Convention. Officials who committed traffic violations in transit between their home and the office and vice versa were not considered to be performing an official act for which they could assert immunity from legal process.<sup>339</sup> However, there might be an exception to that general rule in the light of the particular circumstances of a given case. To determine whether the volunteer was driving home from work in an

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<sup>333</sup> *United Nations Juridical Yearbook*, 1993, pp. 413-414.

<sup>334</sup> *Ibid.*

<sup>335</sup> *Ibid.*, p. 414.

<sup>336</sup> *Ibid.*

<sup>337</sup> *Ibid.*, p. 482. See also *United Nations Juridical Yearbook*, 1991, pp. 305-307.

<sup>338</sup> *United Nations Juridical Yearbook*, 1992, pp. 482-483.

See also section (b) (ii) i. above, immunity from legal process, above, for more examples of requests for waivers during the period under review.

<sup>339</sup> *Ibid.*, p. 482. The position taken by the United Nations in this connection was published as a legal opinion in the *United Nations Juridical Yearbook*, 1977, p. 246.

official capacity, the Office of Legal Affairs would need to be informed of all the circumstances of the particular case. Only if it was determined that he was acting in an official capacity when the accident occurred could there be any immunity and only then would the question of waiver of immunity arise.<sup>340</sup>

(c) *United Nations laissez-passer and travel facilities*

207. The official and private travel of United Nations staff members in the United States continued to be the subject of discussions between the United Nations and the United States as a result of legislation (the so-called Roth Amendment) passed in the United States Congress in 1985, which placed restrictions on travel beyond a 25-mile radius of Columbus Circle, New York City, for international organization officials of certain nationalities.<sup>341</sup> Staff members of the selected nationalities who wished to travel beyond that area were required to submit a written notification of all non-official travel in the United States, specifically recreational travel, and deliver it to the Host Country Section of the United States Mission to the United Nations at least two full working days in advance of travel. During the period under review, the travel regulations were revoked in whole or in part for some nationalities and extended to other nationalities. The existing arrangements for official travel in the United States of United Nations staff members, outlined in information circular [ST/IC/86/4](#) dated 14 January 1986, remained unchanged during the period under review.<sup>342</sup>

208. Officials were kept informed of developments through information circulars.<sup>343</sup> The Secretary-General maintained the Organization's position of principle, previously stated in information circular [ST/IC/85/76](#) of 20 December 1985 that, under the given circumstances, compliance by individual staff members with such conditions could not be considered to prejudice the legal position of the United Nations.<sup>344</sup>

209. By a note verbale dated 19 January 1989, the Secretary-General was informed by the United States Mission that all employees of the United Nations assigned to New York City (including persons temporarily assigned) who were nationals of China and their dependants wishing to travel beyond a 25-mile radius of Columbus Circle would be required to submit written notification for all non-official travel in the United States by any means of transportation at least two full working days in advance of travel, effective 26 January 1989.<sup>345</sup>

210. By note verbale dated 21 September 1990, the Secretary-General was informed by the United States Mission that, effective immediately, "all employees of the United Nations assigned to New York City (including persons temporarily assigned) who are nationals of Iraq, including members of their families and personal staffs who are nationals of Iraq, will be restricted to travel within a 25-mile radius of Columbus Circle in New York City. When the persons subject to these restrictions believe they have a justifiable basis to travel beyond these designated limits, a travel authorization form must be submitted to the United States Mission ... a full two days prior to the date of departure".<sup>346</sup> Another note verbale, dated 16 January 1991, stated that the measures had been further tightened by restricting the travel of Iraqi nationals to within the five boroughs of New York City.<sup>347</sup> The Secretary-General reiterated his previously expressed protest against the regulations on the ground that they constituted restrictive measures and discriminated among members of the Secretariat solely on the basis of their nationality and were therefore in violation of, and detrimental to, the fundamental principles of the international civil service, as envisaged in the Charter of the United Nations.<sup>348</sup>

211. During the period under review, the travel regulations were revoked for staff members and their

<sup>340</sup> Ibid., p. 483.

<sup>341</sup> See *Repertory, Supplement No. 7, vol. VII*, under this Article, paras. 85-88.

<sup>342</sup> Ibid., para. 87.

<sup>343</sup> [ST/IC/89/10](#), [ST/IC/1990/16](#), [ST/IC/1990/34](#), [ST/IC/1990/67](#), [ST/IC/1990/74](#), [ST/IC/1991/3](#), [ST/IC/1991/48](#), [ST/IC/1991/67](#), [ST/IC/1992/2](#), [ST/IC/1992/33](#), [ST/IC/1992/51](#), [ST/IC/1992/58](#), [ST/IC/1993/7](#) and [ST/IC/1994/5](#).

<sup>344</sup> See [ST/IC/89/10](#), para. 4.

<sup>345</sup> See [ST/IC/89/10](#) and [A/44/26](#), at paras. 10-24, for discussion by the Committee on the extension of the travel regulations to the staff members of the United Nations who were Chinese nationals. See also [A/C.5/44/11](#), at para. 15 and [ST/IC/1990/16](#), for changes in procedural requirements.

<sup>346</sup> [ST/IC/1990/67](#), annex I.

<sup>347</sup> [ST/IC/1991/3](#).

<sup>348</sup> See annex II of [ST/IC/89/10](#), [ST/IC/1990/67](#), and [ST/IC/1991/3](#).

dependants of the following nationalities: Poland,<sup>349</sup> Czechoslovakia,<sup>350</sup> Hungary,<sup>351</sup> Bulgaria,<sup>352</sup> Albania,<sup>353</sup> Belarus, Ukraine, Armenia, Azerbaijan, Estonia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Tajikistan, Turkmenistan, Uzbekistan,<sup>354</sup> Georgia,<sup>355</sup> Afghanistan<sup>356</sup> and Romania.<sup>357</sup>

212. By a note verbale dated 23 December 1991, the United States Mission informed the Secretary-General that, effective immediately, Vietnamese staff members of the United Nations, including members of their families and personal staff who were nationals of Viet Nam, would enjoy unrestricted travel in the United States. However, these nationals would still be required to notify the Department of State of any intended non-official travel, specifically recreational travel, by submitting to the United States Mission a travel notification form at least two full working days in advance of the contemplated travel.<sup>358</sup> In his reply, the Secretary-General welcomed the host country's decision, noting that the requirement to submit a travel notification form was still of a restrictive character.<sup>359</sup>

213. By a note verbale dated 24 April 1992, the United States Mission informed the Secretary-General that Russian Federation personnel at the United Nations Secretariat were no longer required to use the Office of the Foreign Missions travel services but were still required to submit requests for private recreational travel.<sup>360</sup> In another note verbale from the United States Mission dated 7 August 1992, the Secretary-General was informed that Russian Federation personnel and their dependants would no longer be

required to request approval for private recreational travel, but would need to submit to the United States Mission, two full working days in advance of the planned departure, a revised streamlined travel notification form. The note stipulated that private recreational travel for which timely notification had been given would not be subject to denial by the Department of State. However, in cases where notification had not been provided on a timely basis, travel might be undertaken only after the Department of State granted a time exception and approval had been received by the traveller.<sup>361</sup> The Secretary-General welcomed the decision by the United States but noted that the requirement was of a restrictive character and expressed hope that all remaining travel restrictions would be removed by the host country as soon as possible.<sup>362</sup>

214. The Office of Legal Affairs, in a letter to the Director of Personnel of the European Organization for the Safety of Air Navigation, provided information concerning the United Nations laissez-passer — the legal provisions governing its issuance, the categories of officials entitled to it, special provisions which might exist in that respect for non-staff members and whether there was any standard agreement with Member States recognizing the validity of the United Nations laissez-passer as a valid travel document.<sup>363</sup> It was noted that the issuance of United Nations laissez-passer is governed by article VII of the General Convention and article VIII of the 1947 Convention on the Privileges and Immunities of the Specialized Agencies (hereinafter “the Specialized Agencies Convention”). Under section 24 of the General Convention, United Nations laissez-passer may only be issued to officials of the United Nations.<sup>364</sup> Comparable officials of specialized agencies are also entitled to a United Nations laissez-passer, under section 28 of the General Convention, if the agreements for the relationship made under Article 63 of the Charter of the United Nations so provide. Similar facilities are accorded to experts and other persons pursuant to section 26 of the General Convention and section 29 of the Specialized Agencies

<sup>349</sup> By note verbale received 7 May 1990, *A/C.5/45/10*, para. 28. See also *ST/IC/1990/34*, annex I.

<sup>350</sup> *A/C.5/47/14*, para. 15.

<sup>351</sup> By note verbale dated 19 October 1990, *ST/IC/1990/74*. See also *A/C.5/47/14*, para. 15.

<sup>352</sup> By note verbale dated 1 August 1991, *ST/IC/1991/48*. See also *A/C.5/47/14*, para. 15.

<sup>353</sup> By note verbale dated 13 November 1991, *ST/IC/1991/67*. See also *A/C.5/47/14*, para. 17.

<sup>354</sup> By note verbale dated 24 April 1992, *ST/IC/1992/33*. See also *A/C.5/47/14*, para. 19.

<sup>355</sup> By note verbale dated 24 September 1992, *ST/IC/1992/58*. See also *A/C.5/48/5*, para. 13.

<sup>356</sup> By note verbale dated 11 January 1993, *ST/IC/1993/7*. See also *A/C.5/48/5*, para. 14.

<sup>357</sup> By note verbale dated 10 January 1994, *ST/IC/1994/5*. See also *A/C.5/49/6*, para. 12.

<sup>358</sup> *ST/IC/1992/2*.

<sup>359</sup> *Ibid.* See also *A/C.5/47/14*, paras. 18 and 21.

<sup>360</sup> *ST/IC/1992/33*.

<sup>361</sup> *ST/IC/1992/51*.

<sup>362</sup> *Ibid.* See also *A/C.5/47/14*, paras. 20-21.

<sup>363</sup> *United Nations Juridical Yearbook, 1993*, pp. 410-411.

<sup>364</sup> Defined by the General Assembly in its resolution 76 (I) of December 1946 to mean all regular staff members of the Organization, with the exception of those who are recruited locally and are assigned to hourly rates.

Convention. Though not entitled to hold a United Nations laissez-passer, they have a certificate that they are travelling on United Nations business or on business of the specialized agency.<sup>365</sup>

215. Section 24 of the General Convention and section 27 of the Specialized Agencies Convention provide in similar terms that United Nations laissez-passer shall be recognized and accepted as valid travel documents by the authorities of the Member States. No additional agreement between the United Nations and a Member State for the recognition of a United Nations laissez-passer as a valid travel document is therefore necessary.<sup>366</sup>

216. The Office of Legal Affairs advised the United Nations Institute for Training and Research (UNITAR) that consultants, fellows and experts appointed by the Executive Director under contracts appointing them as experts on mission might be<sup>367</sup> given a United Nations certificate in accordance with section 26 of the General Convention if they were required to travel.

217. In response to a query by the United Nations Office at Geneva in relation to the intended issuance of certificates to the military personnel of a State participating in multinational demining missions in accordance with section 26 of the General Convention, the Office of Legal Affairs advised that, as the military personnel had the legal status of “experts on mission” as defined in section 22 of the General Convention, they “are among the categories of personnel eligible to be issued United Nations certificates ... [I]t is our opinion that the [State’s] military personnel may accordingly be granted certificates for travelling on official United Nations business”.<sup>368</sup>

218. Similarly, the Office of Legal Affairs advised in a memorandum to the Assistant Special Representative of the Secretary-General for Western Sahara that, since the observers participating in the Identification Commission in the United Nations Mission for the Referendum in Western Sahara (MINURSO) would be accorded the status of experts on mission, the observers could be issued, under section 26 of the

General Convention, with a United Nations certificate if they were to travel on United Nations business.<sup>369</sup>

219. The Office of Legal Affairs advised UNHCR that, since the status of the air crew and support personnel provided by the Government of a Member State to the UNHCR airlift for Rwandan refugees was that of experts on mission for the United Nations within the meaning of section 22 of the General Convention, such personnel should be issued a United Nations travel certification pursuant to section 26 of the General Convention.<sup>370</sup>

220. In a memorandum to the Travel Unit, Transportation Section, the Office of Legal Affairs advised that certain restrictions imposed by the United States on air transportation to Lebanon were, in so far as they applied to official travel of United Nations officials, contrary to section 25 of the General Convention and Article 105 of the Charter of the United Nations. Section 25 of the General Convention provides that staff members holding United Nations laissez-passer and travelling on official business shall be “granted facilities for speedy travel”.<sup>371</sup> Article 105 of the Charter of the United Nations provides that the Organization should not be impeded in the fulfilment of its purposes and its officials should not be impeded in the independent exercise of their functions. The imposed restrictions consisted of prohibiting the air transportation between the United States and Lebanon and the sale in the United States by any airline or its agent of tickets for passenger air transportation with a stop in Lebanon. The prohibition covered the taking of reservations, including reservations taken at a location outside the United States if the reservation communication originated in the United States. The Office of Legal Affairs advised that the effect of the directives was “to impose certain impediments to official travel of United Nations staff members and the performance of official business of the Organization. Such impediments are not consistent with the letter and spirit of the Charter of the United Nations, the Headquarters Agreement and the General Convention, or the operative functions of the Organization”.<sup>372</sup> The Office advised that it would be appropriate to request

<sup>365</sup> *United Nations Juridical Yearbook*, 1993, p. 411.

<sup>366</sup> *Ibid.*, p. 411.

<sup>367</sup> *United Nations Juridical Yearbook*, 1990, pp. 305-306 at p. 306. See also para. 243 for a summary of the advice given in respect of privileges and immunities for consultants, fellows and experts appointed by UNITAR.

<sup>368</sup> *United Nations Juridical Yearbook*, 1990, p. 351.

<sup>369</sup> *United Nations Juridical Yearbook*, 1993, pp. 401-402.

See also para. 248 for more information on this advice.

<sup>370</sup> *United Nations Juridical Yearbook*, 1994, pp. 440.

<sup>371</sup> *United Nations Juridical Yearbook*, 1993, pp. 411-413.

<sup>372</sup> *Ibid.*, p. 413.

an exemption from the application of the restrictions to the United Nations in-house travel agency.

#### 4. Privileges and immunities of experts on mission for the United Nations

221. On 6 January 1989, the Permanent Representative of Romania to the United Nations handed to the United Nations Legal Counsel an aide-mémoire in respect of Mr. Dumitru Mazilu, a Romanian national, who was a Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities. Romania stated that Mr. Mazilu had in 1987 become gravely ill and that he had been placed on the retired list on grounds of ill-health. Romania expressed the view that “the problem of the application of the General Convention [did] not arise in this case”, as the General Convention “does not equate rapporteurs, whose activities are only occasional, with experts on mission for the United Nations” and that “even if rapporteurs are given some of the status of experts, they can enjoy only functional immunities and privileges”. Romania stated that it was opposed to a request for an advisory opinion from the International Court of Justice (hereinafter the Court) of any kind in this case.<sup>373</sup>

222. Mr. Dumitru Mazilu had been elected on 13 March 1984 to serve as a member of the Sub-Commission, a subsidiary organ of the Commission on Human Rights, for a three-year term due to expire on 31 December 1986. By its resolution 1985/12 of 29 August 1985, the Sub-Commission requested Mr. Mazilu to “prepare a report on human rights and youth analysing the efforts and measures for securing the implementation and enjoyment by youth of human rights, particularly, the right to life, education and work” and requested the Secretary-General to provide him with all necessary assistance for the completion of his task.<sup>374</sup>

223. The thirty-ninth session of the Sub-Commission, at which Mr. Mazilu’s report was to be presented, was not convened in 1986 as originally scheduled but was postponed until 1987. The three-year mandate of its members — originally due to expire on 31 December 1986 — was extended by Economic and Social Council decision 1987/102 for an additional year. When the

session of the Sub-Commission opened in Geneva on 10 August 1987 no report had been received by Mr. Mazilu, nor was he present. The Permanent Mission of Romania informed the United Nations Office at Geneva that Mr. Mazilu had suffered a heart attack and was still in hospital. Thus, the Sub-Commission adopted decision 1987/112 on 4 September 1987, whereby it deferred consideration of the item under which Mr. Mazilu’s report would have been discussed until its fortieth session scheduled for 1988. Notwithstanding the scheduled expiration on 31 December 1987 of Mr. Mazilu’s term as a member of the Sub-Commission, the latter included a reference to a report to be submitted by him, identified by name, under the agenda item “Prevention of discrimination and protection of children”, and entered the report, under the title “Human rights and youth” in the “List of studies and reports under preparation by members of the Sub-Commission in accordance with the existing legislative authority”.<sup>375</sup>

224. In January 1988, following attempts by the Centre for Human Rights of the United Nations Secretariat in Geneva to contact Mr. Mazilu to provide him with assistance in the preparation of his report, including arranging a visit to Geneva, Mr. Mazilu informed the Secretary-General that he had been in hospital twice in 1987 and that, as of 1 December 1987, he had been forced to retire from his various governmental posts. He also stated that he was willing to travel to Geneva for consultations, but that the Romanian authorities had refused him a travel permit.<sup>376</sup>

225. On 31 December 1987 the terms of all members of the Sub-Commission, including Mr. Mazilu, expired. On 29 February 1988 the Commission, upon nomination of their respective Governments, elected new members of the Sub-Commission, including a new Romanian national member. All the rapporteurs and special rapporteurs of the Sub-Commission were invited to attend its fortieth session (8 August-2 September 1988), but Mr. Mazilu again did not appear and could not be located. On 15 August 1988, the Sub-Commission adopted decision 1988/102, whereby it requested the Secretary-General

“to establish contact with the Government of Romania and to bring to the Government’s

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<sup>373</sup> *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations, Advisory Opinion, I.C.J. Reports 1989, paras. 23-24.*

<sup>374</sup> *Ibid.*, para. 10.

<sup>375</sup> *Ibid.*, paras. 11-12.

<sup>376</sup> *Ibid.*, paras. 13-14.

attention the Sub-Commission's urgent need to establish personal contact with its Special Rapporteur Mr. Dumitru Mazilu and to convey the request that the Government assist in locating Mr. Mazilu and facilitate a visit to him by a member of the Sub-Commission and the secretariat to help him in the completion of his study on human rights and youth if he so wished".<sup>377</sup>

226. The Under-Secretary-General for Human Rights informed the Sub-Commission on 17 August 1988 that, in contacts between the Secretary-General's Office and the Chargé d'affaires of the Permanent Mission of Romania to the United Nations in New York, he had been told that any intervention by the United Nations Secretariat and any form of investigation in Bucharest would be considered an interference in Romania's internal affairs. On 1 September 1988, the Sub-Commission adopted resolution 1988/37 by which, *inter alia*, it requested the Secretary-General to approach once more the Government of Romania and invoke the applicability of the General Convention. It further requested him, in the event that the Government of Romania did not concur on the applicability of the provisions of that Convention in that case, to bring the difference between the United Nations and Romania immediately to the attention of the Commission in 1989. It also requested the Commission, in that event, to urge the Economic and Social Council to request from the International Court of Justice an advisory opinion on the applicability of the General Convention to the case.<sup>378</sup>

227. Pursuant to resolution 1988/37 of 1 September 1988, the Secretary-General, on 26 October 1988, addressed a note verbale to the Permanent Representative of Romania to the United Nations in New York, in which he invoked the General Convention in respect of Mr. Mazilu and requested the Romanian Government to accord Mr. Mazilu the necessary facilities in order to enable him to complete his assigned task. On 6 January 1989 the Permanent Representative of Romania handed to the Legal Counsel of the United Nations an aide-mémoire in which was set forth the Romanian Government's position concerning Mr. Mazilu. The aide-mémoire stated, *inter alia*, that it was opposed to a request for an

advisory opinion from the International Court of Justice of any kind in this case.<sup>379</sup>

228. At the forty-fifth session of the Commission on Human Rights in 1989, the Secretary-General presented a note pursuant to paragraph 2 of resolution 1988/37 of 1 September 1988 of the Sub-Commission, to which was attached his note verbale to the Romanian Government of 26 October 1988, and the Romanian aide-mémoire of 6 January 1989. The Commission adopted on 6 March 1989 its resolution 1989/37, recommending that the United Nations Economic and Social Council request an advisory opinion from the Court on the applicability of the relevant provisions of the General Convention to Mr. Dumitru Mazilu.<sup>380</sup>

229. On 24 May 1989, the Economic and Social Council adopted resolution 1989/75, which concluded that a difference had arisen between the United Nations and Romania as to the applicability of the General Convention to Mr. Dumitru Mazilu as Special Rapporteur of the Sub-Commission and requested, on a priority basis, an advisory opinion from the Court on the legal question of the applicability of article VI, section 22, of the General Convention in the case of Mr. Dumitru Mazilu as Special Rapporteur of the Sub-Commission.<sup>381</sup>

230. A report on Human Rights and Youth prepared by Mr. Mazilu was circulated as a document of the Sub-Commission bearing the date 10 July 1989; the text of this report had been transmitted by Mr. Mazilu to the Centre for Human Rights through various channels. On 8 August 1989, the Sub-Commission decided, in accordance with its practice, to invite Mr. Mazilu to participate in the meetings at which his report was to be considered. No reply was received to the invitation extended. By a note verbale dated 15 August 1989 from the Permanent Mission of Romania to the United Nations Office in Geneva, the Permanent Mission referred to "the so-called report" by Mr. Mazilu and indicated, *inter alia*, that since becoming ill in 1987, Mr. Mazilu did not "possess the intellectual capacity necessary for making an objective, responsible and unbiased analysis that could serve as the substance of a report consistent with the requirements of the United Nations". On 1 September 1989, the Sub-Commission adopted resolution 1989/45

<sup>377</sup> *Ibid.*, para. 18.

<sup>378</sup> *Ibid.*, paras. 18-21.

<sup>379</sup> *Ibid.*, paras. 22-23.

<sup>380</sup> *Ibid.*, para. 25.

<sup>381</sup> *Ibid.*



entitled “The report on human rights and youth prepared by Mr. Dumitru Mazilu” by which, noting that Mr. Mazilu’s report had been prepared in difficult circumstances and that the relevant information collected by the Secretary-General appeared not to have been delivered to him, it invited him to present the report in person to the Sub-Commission at its next session, and also requested the Secretary-General to continue providing Mr. Mazilu with all the assistance he might need in updating his report, including consultations with the Centre for Human Rights.<sup>382</sup>

231. According to the written statement submitted to the Court by the Secretary-General,

“[i]t should ... be noted that while the Court has been asked about the applicability of Section 22 of the Convention in the case of Mr. Mazilu, it has not been asked about the consequences of that applicability, that is about what privileges and immunities Mr. Mazilu might enjoy as a result of his status and whether or not these had been violated”.<sup>383</sup>

During the oral proceedings, the representative of the Secretary-General, when replying to a question put by a Member of the Court, observed that:

“it is suggestive of the Council’s intention in adopting the resolution to note that, having referred to a ‘difference’, it then did not attempt to have that difference as a whole resolved by the question it addressed to the Court. Rather ... the Council merely addressed a preliminary legal question to the Court, which appears designed to clarify at most the general status of Mr. Mazilu in respect of the Convention, without resolving the entire issue that evidently separates the United Nations and the Government”.<sup>384</sup>

232. On 15 December 1989, the Court delivered its advisory opinion in response to the request of the Economic and Social Council concerning the applicability of section 22 of the General Convention, in the case of Mr. Mazilu.<sup>385</sup>

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<sup>382</sup> Ibid., para. 26.

<sup>383</sup> Ibid., para. 27.

<sup>384</sup> Ibid.

<sup>385</sup> *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations, Advisory Opinion, I.C.J. Reports 1989, p. 177.*

233. The Court considered what was meant by the term “experts on missions” for the purposes of section 22 of the General Convention.<sup>386</sup> The General Convention does not define “experts on mission” or indicate what is a “mission”. The Court found that the purpose of section 22 was nevertheless clearly to enable the United Nations to entrust missions to persons who do not have the status of an official of the Organization and to guarantee them such privileges and immunities as are necessary for the independent exercise of their functions. The experts thus appointed or elected may or may not be remunerated, may or may not have a contract and may be given a task requiring work over a lengthy period or a short time. The essence of the matter lay not in their administrative position but in the nature of their mission.<sup>387</sup> The Court noted that the practice of the United Nations showed that such experts had been entrusted with various missions, including, inter alia, mediation, preparing studies, conducting investigations or finding and establishing facts and participating in peacekeeping forces. In addition, many committees, commissions or similar bodies whose members serve, not as representatives of States, but in a personal capacity, have been set up within the Organization.<sup>388</sup> The Court concluded that the practice of the United Nations shows that the persons so appointed, and in particular the members of those committees and commissions, have been regarded as experts on mission within the meaning of section 22.<sup>389</sup>

234. The Court then considered the meaning of the phrase “during the period of their missions” in section 22. The question arose in this connection as to whether experts on mission were covered by section 22 “only during missions requiring travel or whether they were also covered when there was no such travel or apart from such travel”.<sup>390</sup> The Court considered that

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<sup>386</sup> Ibid., paras. 44-48.

<sup>387</sup> Ibid., para. 47.

<sup>388</sup> Ibid., para. 48. For example, the International Law Commission, the Advisory Committee on Administrative and Budgetary Questions, the International Civil Service Commission, the Human Rights Committee established for the implementation of the International Covenant on Civil and Political Rights and various other committees of the same nature, such as the Committee on the Elimination of All Forms of Discrimination Against Women.

<sup>389</sup> Ibid.

<sup>390</sup> Ibid., para. 49.

section 22, in its reference to experts performing missions for the United Nations, uses the word “mission” in a general sense “of the tasks entrusted to a person, whether or not those tasks involve travel”.<sup>391</sup> According to the Court, the intent of section 22 was to ensure the independence of such experts in the interest of the Organization by according them the privileges and immunities necessary for the purpose. The Court concluded that section 22 “is applicable to every expert on mission, whether or not he travels”.<sup>392</sup>

235. The Court next considered whether the privileges and immunities provided for in section 22 could be invoked against the State of which an expert is a national or on the territory of which he or she resides.<sup>393</sup> The Court found that the privileges and immunities set out in article VI of the General Convention — such as those conferred on officials of the Organization in article V of the General Convention — were conferred with the view to ensuring the independence of experts in the interests of the Organization. This independence must be respected by all States including their State of nationality and of residence. The Court noted that some States parties to the General Convention had entered reservations to certain provisions of article VI as regards their nationals or persons habitually resident on their territory. The Court stated that the fact that the States concerned felt it necessary to make such reservations confirmed the conclusion that “in the absence of such reservations, experts on missions enjoy the privileges and immunities provided for under the Convention in their relations with the States of which they are nationals or on the territory of which they reside”.<sup>394</sup>

236. The Court concluded that section 22 of the General Convention:

“is applicable to persons (other than United Nations officials) to whom a mission has been entrusted by the Organization and who are therefore entitled to enjoy the privileges and immunities provided for in this Section with a view to the independent exercise of their functions. During the whole period of such missions, experts enjoy these functional privileges and immunities whether or not they

travel. They may be invoked as against the State of nationality or of residence unless a reservation to section 22 of the General Convention has been validly made by that State”.<sup>395</sup>

237. The Court then considered the situation of special rapporteurs of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities.<sup>396</sup> The Court noted in this respect that rapporteurs formed a category of persons whom the United Nations and the specialized agencies found necessary to engage for the implementation of increasingly varied functions, and was thus one of importance for the whole of the United Nations system. The Court observed that the Economic and Social Council had expressly recalled in its resolution 1983/32 of 27 May 1983 that members of the Sub-Commission were elected by the Commission as experts in their individual capacity. The Court therefore found that, since their status was neither that of a representative of a Member State nor that of a United Nations official, and since they performed independently for the United Nations the functions contemplated in its remit, the members of the Sub-Commission must be regarded as experts on mission within the meaning of section 22.<sup>397</sup>

238. The Court further noted that, in accordance with the practice followed by many United Nations bodies, the Sub-Commission had from time to time appointed rapporteurs or special rapporteurs with the task of studying specified subjects. It also noted that, while those rapporteurs or special rapporteurs were normally selected from among members of the Sub-Commission, there had been cases in which special rapporteurs had been appointed from outside the Sub-Commission or had completed their report only after their membership of the Sub-Commission had expired. The Court concluded that, since their status was neither that of a representative of a Member State nor that of a United Nations official, and since they performed independently on behalf of the United Nations, they must be regarded as experts on mission within the meaning of section 22, even in the event that they were not, or were no longer, members of the Sub-Commission.<sup>398</sup>

<sup>391</sup> Ibid., para. 50.

<sup>392</sup> Ibid.

<sup>393</sup> Ibid., para. 51.

<sup>394</sup> Ibid.

<sup>395</sup> Ibid., para. 52.

<sup>396</sup> Ibid., para. 53.

<sup>397</sup> Ibid., para. 54.

<sup>398</sup> Ibid., para. 55.

239. The Court then gave its opinion on the question of the applicability of section 22 in the case of Mr. Mazilu. The Court observed that Mr. Mazilu had, from 13 March 1984 to 29 August 1985, the status of a member of the Sub-Commission; that from 29 August 1985 to 31 December 1987, he was both a member and a rapporteur of the Sub-Commission. The Court took note of the decisions or resolutions adopted by the Sub-Commission to retain Mr. Mazilu as a special rapporteur following the expiration of his status as a member of the Sub-Commission on 31 December 1987<sup>399</sup> and concluded that, although since the last-mentioned date he was no longer a member of the Sub-Commission, he remained a special rapporteur. The Court found that

“[a]t no time ... has he ceased to have the status of an expert on mission within the meaning of Section 22, or ceased to be entitled to enjoy for the exercise of his functions the privileges and immunities provided for therein”.<sup>400</sup>

240. The Court found that Mr. Mazilu continued to have the status of special rapporteur, and as a consequence had to be regarded as an expert on mission within the meaning of section 22 of the General Convention. The section was therefore applicable in his case.<sup>401</sup>

241. The Economic and Social Council adopted resolution 1990/43 on 25 May 1990, expressing its appreciation to the Court for having given the unanimous opinion on 15 December 1989 that section 22 of the General Convention was applicable in the case of Mr. Mazilu. The Council welcomed the Court’s opinion to the “effect that rapporteurs and special rapporteurs of the Sub-Commission must be regarded as experts on mission within the meaning of article VI, section 22, of the Convention”.

242. Following the issuance of the Court’s advisory opinion in the case of Mr. Mazilu, the Office of Legal Affairs advised the Secretary of the United Nations Joint Staff Pension Board on the legal status of the Pension Board members who represented the governing bodies of the Fund’s member organization and who at the same time were representatives of

Member States of the United Nations in New York. The Office of Legal Affairs advised that, in accordance with the regulations of the Pension Board, members were elected or appointed in their personal capacities, rather than as the representatives of Member States. The Office of Legal Affairs recalled in this connection that the International Court of Justice, in its opinion in the Mazilu case, had noted that many such bodies had been set up within the United Nations and had concluded that the members of those bodies had been regarded as experts on mission within the meaning of the General Convention. The Office of Legal Affairs considered this conclusion to apply to the members of the Pension Board. It went on to recall the Court’s conclusion that experts on mission enjoy the privileges and immunities provided for under the General Convention during the whole of their mission, whether or not they travel. It accordingly concluded that members of the Pension Board

“[w]hile performing functions on the Pension Board within the host country ... continue to enjoy the diplomatic immunities laid down in article IV of the Convention in addition to those to which they are entitled as experts on missions for the United Nations. In all other countries, while performing functions in connection with the Pension Board, such members enjoy the privileges and immunities granted to experts on missions under article VI of the Convention”.<sup>402</sup>

243. The Office of Legal Affairs was requested by the United Nations Institute for Training and Research (UNITAR) to examine article VI of the statute of UNITAR with a view to amending paragraph 2 in order to permit consultants, fellows and experts appointed by the Executive Director for the purpose of contributing to the analysis and planning of the Institute’s activities, or for special assignments in connection with its programme of training and research, to be granted certain privileges and immunities of the United Nations, especially while travelling on official business.<sup>403</sup> Rather than amend its statute, the Office of Legal Affairs advised UNITAR to insert in its contracts with consultants, fellows and experts engaged under article VI, paragraph 2, of its statute, a clause similar to that appearing in the special service agreements used by the United Nations when employing individual contractors. Those agreements

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<sup>399</sup> Resolutions 1987/112 of 4 September 1987, 1988/102 of 15 August 1988, 1988/37 of 1 September 1988 and 1989/45 of 1 September 1989.

<sup>400</sup> *Ibid.*, para. 57.

<sup>401</sup> *Ibid.*, para. 60.

<sup>402</sup> *United Nations Juridical Yearbook, 1990*, p. 296.

<sup>403</sup> *Ibid.*, pp. 305-306.

specifically provided that the individual contractor was not an “official” or “staff member” of the United Nations, but that he or she may be given the status of “expert on mission”.

244. In a memorandum to the Director of the Field Operations Division, Office of General Services, the Office of Legal Affairs provided advice on the privileges and immunities enjoyed by United Nations Guards when travelling within Iraq as well as to and from Iraq. Neither the memorandum of understanding of 18 April 1991 nor the memorandum of understanding of 24 November 1991, pursuant to which the United Nations Guards were stationed in the Member State, made specific references to the legal status of the Guards. The Office advised that United Nations Guards have special service Agreements with the United Nations and should therefore be considered as experts on mission within the meaning of section 22 of the General Convention. Iraq was a party to the General Convention. The Guards should therefore be accorded, *inter alia*, immunity from personal arrest or detention, from seizure of their personal baggage, inviolability for all papers and documents and the same immunities and facilities in respect of their baggage as are accorded to diplomatic envoys. The Office advised that, while the continued presence of the United Nations Guards in Iraq depended on the arrangements to be worked out with the authorities of Iraq, the scope of their privileges and immunities would continue to be determined by the provisions of the General Convention so long as the United Nations continued its humanitarian activities in that country.<sup>404</sup>

245. The Legal Counsel, in an aide-mémoire, responded to a question by a Permanent Representative of a Member State to the United Nations as to whether salaries and emoluments of experts on mission employed by the United Nations specialized agencies were exempt from national taxation, in particular United Nations Industrial Development Organization (UNIDO) experts and UNDP volunteers.<sup>405</sup> The Legal Counsel advised that the legal status of experts on mission for the United Nations is governed by sections 22, 23 and 26 of the General Convention. The Specialized Agencies Convention does not contain in its standard clauses provisions corresponding to article VI of the General Convention. However each specialized agency contains the standard clauses in

annexes which constitute an integral part of the Specialized Agencies Convention. For example, the privileges and immunities of UNIDO experts on mission are defined in annex XVII to the Specialized Agencies Convention. The annexes include provisions relating, *inter alia*, to “experts on mission” which generally correspond to those of sections 22 and 23 of the General Convention.<sup>406</sup> As such, experts on mission enjoy no tax exemption in any form on their official emoluments and salaries, no immunity from national service obligations, no immunity from immigration restrictions and requirements and no rights to duty-free imports. The Legal Counsel noted that the privileges and immunities, rights and facilities that are granted to experts on mission are strictly designed to protect the interests of the organization concerned in preventing any coercion or threat thereof in respect of the performance by the experts of their missions. This reflected the conclusion in the Legal Counsel’s written statement submitted on behalf of the Secretary-General to the Court, on 28 July 1989, in connection with the request for an advisory opinion of the Court concerning the applicability of section 22 of the General Convention in the case of Mr. Mazilu.<sup>407</sup> As for the UNDP volunteers, their legal status entitled them to the same privileges and immunities as officials, not experts on mission, of the United Nations or the specialized agency concerned.<sup>408</sup>

246. The Legal Counsel noted, in a memorandum to the Office of General Services, that experts on mission are accorded wider privileges and immunities which are quasi-diplomatic in nature owing to the specific character of their functions.<sup>409</sup> Unlike United Nations officials, experts on missions enjoy, in addition to such privileges as inviolability for all papers and documents, immunity from seizure of their personal baggage in accordance with section 22 of the General Convention. The Court in its advisory opinion dated 15 December 1989 on the applicability of section 22 of

<sup>406</sup> *Ibid.*, p. 486.

<sup>407</sup> *Ibid.* A similar conclusion was reached in an earlier study prepared by the United Nations Secretariat for the International Law Commission in 1967 on the practice of the United Nations, the specialized agencies and the International Atomic Energy Agency concerning their status, privileges and immunities. The study concluded that “in article VI *no immunity is granted from national taxation*” (emphasis added).

<sup>408</sup> *Ibid.*, p. 487.

<sup>409</sup> *United Nations Juridical Yearbook, 1992*, pp. 480-481.

<sup>404</sup> *United Nations Juridical Yearbook, 1992*, pp. 479-480.

<sup>405</sup> *Ibid.*, pp. 485-486.

the General Convention stated that the purpose of section 22 is to enable the United Nations to entrust missions to persons who do not have the status of an official of the Organization, and to guarantee them such privileges and immunities as are necessary for the independent exercise of their functions.<sup>410</sup>

247. The Office of Legal Affairs, in a memorandum to the United Nations Office at Geneva, advised that the Organization could enter into a contractual relationship with a Member State's military personnel participating in a multinational demining mission by means of the proposed standard "special service agreement of an individual contractor" which would give the personnel the status of "experts on mission" in accordance with section 22 of the General Convention.<sup>411</sup> This conclusion was suggested by the fact that the Government of the State hosting the mission had indicated that they would consider the demining personnel as "experts", as defined in the General Convention. The authorities of the State from whose armed services the members of the mission were drawn had in effect agreed to detach the military personnel and place them at the disposal of the Office of the Coordinator for Afghanistan for a specific period of time. The personnel were therefore free agents who could contract directly with the Organization. The Office advised the Coordinator should confirm that these detached personnel would serve in their personal capacity and not as representatives of their Government during their period of service in the demining operation before the Organization entered into a special service agreement with them. If so, this could be spelled out in the special service agreement as a condition of service.

248. In a memorandum to the Assistant Special Representative of the Secretary-General for Western Sahara, the Office of Legal Affairs advised that observers participating in the identification/registration of voters (hereinafter "the Identification Commission"), in the framework of the United Nations Mission for the Referendum in Western Sahara (MINURSO), would be performing official functions for the United Nations within the meaning of article VI of the General Convention and thus would be provided quasi-diplomatic status as United Nations experts on mission. In this capacity, the observers could be issued, under article VII, section 26, of the General

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<sup>410</sup> Ibid.

<sup>411</sup> *United Nations Juridical Yearbook, 1989*, pp. 350-351.

Convention, a United Nations certificate if they were to travel on United Nations business.<sup>412</sup>

249. In a facsimile to UNHCR, the Office of Legal Affairs advised that the status which seemed appropriate to accord to the air crew and support personnel provided by a Member State to the UNHCR airlift for Rwandan refugees was of "experts on mission" for the United Nations within the meaning of section 22 of the General Convention.<sup>413</sup>

250. In a memorandum to UNICEF, the Office of Legal Affairs advised that UNICEF Goodwill Ambassadors were not considered staff members of the United Nations but "experts on mission" within the meaning of sections 22, 23 and 26 of the General Convention. UNICEF Goodwill Ambassadors were therefore entitled to the privileges and immunities accorded within those sections of the General Convention when performing functions in their official capacity.<sup>414</sup>

**\*\*5. Privileges and immunities of members of the International Court of Justice, the Registrar, officials of the Registrar, assessors, agents and counsel of the parties, witnesses and experts**

**6. Privileges and immunities of members of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, the judges, the Prosecutor and his or her staff, and the Registrar and his or her staff, officials, locally recruited personnel, persons performing missions, witnesses and experts, counsel, suspects or the accused**

251. The Statutes creating the International Tribunal for the Former Yugoslavia (ICTY)<sup>415</sup> and the International Criminal Tribunal for Rwanda (ICTR)<sup>416</sup> addressed the status, privileges and immunities of members and those affiliated with the Tribunals in article 30 and article 29, respectively.

252. Article 30 of the Statute of the ICTY provides:

"1. The Convention on the Privileges and Immunities of the United Nations of 13 February

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<sup>412</sup> *United Nations Juridical Yearbook, 1993*, pp. 401-402.

<sup>413</sup> *United Nations Juridical Yearbook, 1994*, pp. 440-441.

<sup>414</sup> Ibid., pp. 455-456.

<sup>415</sup> Pursuant to Security Council resolution 827 (1993).

<sup>416</sup> Pursuant to Security Council resolution 955 (1994).

1946 shall apply to the International Tribunal, the judges, the Prosecutor and his staff, and the Registrar and his staff.

“2. The judges, the Prosecutor and the Registrar shall enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

“3. The staff of the Prosecutor and of the Registrar shall enjoy the privileges and immunities accorded to officials of the United Nations under articles V and VII of the Convention referred to in paragraph 1 of this article.

“4. Other persons, including the accused, required at the seat of the International Tribunal shall be accorded such treatment as is necessary for the proper functioning of the International Tribunal”.

253. Article 29 of the Statute of the ICTR replicated article 30 of the Statute of the ICTY.<sup>417</sup>

254. In the 1994 Agreement between the United Nations and the Government of the Netherlands concerning the headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991<sup>418</sup> (hereinafter “the ICTY Headquarters Agreement”), articles XIV to XX provided for the privileges and immunities of the judges, the Prosecutor and the Registrar,<sup>419</sup> officials,<sup>420</sup> persons recruited locally and assigned to hourly rates,<sup>421</sup> persons performing missions for the Tribunal,<sup>422</sup> witnesses and experts appearing before the Tribunal,<sup>423</sup> counsel<sup>424</sup> and the suspect or accused.<sup>425</sup>

255. The privileges and immunities of the same categories of persons affiliated with the ICTR were set out in articles XIV to XX of the 1995 Agreement between the United Nations and the Government of the United Republic of Tanzania concerning the

Headquarters of the International Criminal Tribunal for Rwanda<sup>426</sup> (hereinafter “the ICTR Headquarters Agreement”).

256. Article XIV of the ICTY Headquarters Agreement provided that the judges, the Prosecutor and the Registrar shall, together with members of their families forming part of their household and who do not have Netherlands nationality or permanent residence status in the Netherlands, enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic agents.

“They shall, inter alia, enjoy:

“1.(a) Personal inviolability, including immunity from arrest or detention;

“(b) Immunity from criminal, civil and administrative jurisdiction in conformity with the Vienna Convention;

“(c) Inviolability for all papers and documents;

“(d) Exemption from immigration restrictions, alien registration or national service obligations;

“(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 agents.

“... ”

“3. Privileges and immunities are accorded to the Judges, the Prosecutor and the Registrar in the interest of the Tribunal and not for the personal benefit of individuals themselves. The right and duty to waive the immunity in any case where it can be waived without prejudice to the purpose for which it is accorded shall lie, as concerns the Judges, with the Tribunal in accordance with its rules; as concerns the Prosecutor and the Registrar, with the Secretary-General in consultation with the President”.<sup>427</sup>

257. The equivalent provisions in the ICTR Headquarters Agreement appear in article XIV.<sup>428</sup> The

<sup>417</sup> The only difference was the addition of “or her” before ‘staff’ in para. 1.

<sup>418</sup> *United Nations Juridical Yearbook, 1994*, pp. 10-23.

<sup>419</sup> *Ibid.*, p. 16, article XIV.

<sup>420</sup> *Ibid.*, p. 17, article XV.

<sup>421</sup> *Ibid.*, p. 18, article XVI.

<sup>422</sup> *Ibid.*, p. 18, article XVII.

<sup>423</sup> *Ibid.*, p. 19, article XVIII.

<sup>424</sup> *Ibid.*, p. 19, article XIX.

<sup>425</sup> *Ibid.*, p. 19, article XX.

<sup>426</sup> *United Nations Juridical Yearbook, 1995*, pp. 69-81.

<sup>427</sup> *Supra* n. 418, p. 17.

<sup>428</sup> *Supra* n. 426, p. 75.



article is in the same terms, save that those of the judges, the Prosecutor, the Registrar and members of their families forming part of their household who are permanent residents of the United Republic of Tanzania enjoy such privileges and immunities.

258. Article XV of the ICTY Headquarters Agreement provided that officials of the ICTY shall, regardless of their nationality, be accorded the privileges and immunities as provided for in articles V and VII of the General Convention.<sup>429</sup> The provisions of Article XV<sup>430</sup> of the ICTR Headquarters Agreement concerning the staff of the Tribunal are identical. (The “staff of the Tribunal” and “officials of the Tribunal” are defined in equivalent terms in the respective Agreements).

259. Article XVI of the ICTY Headquarters Agreement provided that personnel recruited by the ICTY locally and assigned to hourly rates shall, inter alia, be

“accorded immunity from legal process in respect of words spoken or written and acts performed by them in their official capacity for the Tribunal. Such immunity shall continue to be accorded after termination of employment with the Tribunal”.<sup>431</sup>

260. Article XVII of the ICTY Headquarters Agreement provided that persons performing missions for the ICTY

“shall enjoy the privileges, immunities and facilities under articles VI and VII of the General Convention, which are necessary for the independent exercise of their duties for the Tribunal”.

The President of the Tribunal could waive such immunity in any case where it would not prejudice the administration of justice by the Tribunal.<sup>432</sup>

261. The terms of articles XVI and XVII<sup>433</sup> of the ICTR Headquarters Agreement are identical to articles XVI and XVII of the ICTY Headquarters Agreement.

262. Article XVIII of the ICTY Headquarters Agreement granted witnesses and experts appearing before the Tribunal immunity from legal process in respect of acts or convictions prior to their entry into the

Netherlands. Such immunity would cease when the witness or expert had stayed in the Netherlands for a period of fifteen consecutive days from the date when his or her presence was no longer required by the Tribunal or the Prosecutor, or having left the Netherlands, had returned, unless such return was on another summons or request of the Tribunal or the Prosecutor.<sup>434</sup>

263. The terms of article XVIII<sup>435</sup> of the ICTR Headquarters Agreement are substantively the same as article XVIII of the ICTY Headquarters Agreement, save that there is no equivalent provision stating that the immunity of witnesses and experts from outside the Netherlands is without prejudice to the obligation of the host country to comply with a request for its assistance, or orders issued by, the Tribunal pursuant to article 29 of the ICTY Statute regarding States’ duties to provide cooperation and judicial assistance (article 28 of the ICTR Statute).

264. Article XIX of the ICTY Headquarters Agreement provided that counsel of a suspect or an accused shall be accorded:

“2. (a) Exemption from immigration restrictions;

“(b) Inviolability of all documents relating to the exercise of his or her functions as a counsel of a suspect or accused;

“(c) Immunity from criminal and civil jurisdiction in respect of words spoken or written and acts performed by them in their official capacity as counsel. Such immunity shall continue to be accorded to them after termination of their functions as a counsel of a suspect or accused.

“... ”

“4. The right and duty to waive the immunity referred to in paragraph 2 above in any particular case where it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which it is granted, shall lie with the Secretary-General”.<sup>436</sup>

265. Paragraphs 2 and 4 of article XIX<sup>437</sup> of the ICTR Headquarters Agreement are the same as paragraphs 2 and 4 of article XIX of the ICTY Headquarters

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<sup>429</sup> Supra n. 418, p. 17-18.

<sup>430</sup> Supra n. 426, pp. 76-77.

<sup>431</sup> Supra n. 418, p. 18.

<sup>432</sup> Supra n. 418, p. 18.

<sup>433</sup> Supra n. 426, p. 77.

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<sup>434</sup> Supra n. 418, p. 19.

<sup>435</sup> Supra n. 426, pp. 77-78.

<sup>436</sup> Supra n. 418, p. 19.

<sup>437</sup> Supra n. 426, p. 78.

Agreement, save that paragraph 2 (c) provided for immunity from administrative jurisdiction, in addition to criminal and civil jurisdiction, in respect of words spoken or written and acts performed by counsel in his or her official capacity.

266. Article XX of the ICTY Headquarters Agreement provided that the Netherlands shall not exercise its criminal jurisdiction over persons present in its territory, who were to be or were transferred as a suspect or an accused to the Tribunal. Such immunity would

“cease when the person, having been acquitted or otherwise released by the Tribunal and having had for a period of fifteen consecutive days from the date of his or her release an opportunity of leaving, has nevertheless remained in the territory of the host country, or having left it, has returned”.<sup>438</sup>

267. The immunity granted in favour of a suspect or accused against the exercise of Tanzania’s criminal jurisdiction in article XX<sup>439</sup> of the ICTR Headquarters Agreement is in the same terms as article XX of the ICTY Headquarters Agreement.

### **7. Privileges and immunities of members of United Nations peacekeeping operations**

268. During the period under review, an unprecedented number of peacekeeping and observer missions were deployed. As a result, seventeen agreements and two protocols were concluded between the United Nations and host countries regulating the status of those missions.<sup>440</sup> The Secretariat, upon request by the General Assembly,<sup>441</sup> prepared a model SOFA which was annexed to document [A/45/594](#) of 9 October 1990. The model was intended to serve as a basis for the drafting of individual agreements to be concluded between the United Nations and countries on whose territory peacekeeping operations were deployed.<sup>442</sup> In addition, the Office of Legal Affairs provided a number of opinions concerning peacekeeping operations and observer missions during the period

under review. Some of those opinions have already been described in other relevant sections.<sup>443</sup>

269. In a memorandum to the Field Operations Division, the Office of Legal Affairs commented on the draft agreement on the status of the United Nations Operation in Mozambique (ONUMOZ) proposing, inter alia, that internationally contracted personnel provided by civilian contractors in the context of United Nations peacekeeping operations be accorded, as is the case of “persons performing services” under the UNDP Standard Basic Assistance Agreement, such privileges and immunities accorded to United Nations officials.<sup>444</sup> The Office of Legal Affairs conducted a substantive review of existing international agreements, documents and issues related to the proposal which it set out in its advice.

270. Specifically, the Office of Legal Affairs advised that the General Convention, while providing specifically for the legal status of representatives of Member States, officials of the Organization and experts performing missions for the Organization, does not obligate States Parties to grant any other category of personnel, such as internationally contracted personnel provided by civilian contractors, any privileges and immunities. Therefore, any privileges and immunities which the United Nations would consider granting to civilian contractors or any other category of personnel not provided for in the General Convention would have to be subject to the agreement of the State concerned and expressly provided for in a bilateral international agreement.<sup>445</sup>

271. The Office of Legal Affairs then reviewed the UNDP Standard Basic Assistance Agreement and the UNICEF Basic Cooperation Agreement. Article IX (5) of the Standard Basic Assistance Agreement defines “persons performing services” as “operational experts, volunteers, consultants, and juridical as well as natural persons and their employees. It includes governmental or non-governmental organizations or firms which UNDP may retain, whether as an executing agency or otherwise, to execute or to assist in the execution of UNDP assistance to a project, and their employees”. The practice of Member States illustrated that a restrictive approach had been adopted to the broad definition of “persons performing services” and to the scope of their

<sup>438</sup> Supra n. 418, p. 20.

<sup>439</sup> Supra n. 426, p. 78.

<sup>440</sup> See annex II.

<sup>441</sup> [A/44/49](#), para. 11.

<sup>442</sup> See paras. 22-23 for commentary on the model status-of-forces agreement and its implementation during the period under review.

<sup>443</sup> See paras. 78, 86, 89, 100, 217-218, 247-248.

<sup>444</sup> United Nations *Juridical Yearbook*, 1993, pp. 396-400.

<sup>445</sup> *Ibid.*, p. 397.

privileges and immunities as provided for in the Standard Basic Assistance Agreement. This restrictive approach was reflected in the recently adopted model Basic Cooperation Agreement. In that agreement, the definition was limited to individual contractors and the privileges and immunities of such persons were limited to immunity from legal process and to repatriation facilities in times of international crisis.<sup>446</sup>

272. In the report of the Secretary-General dated 18 September 1990<sup>447</sup> to the Special Committee on Peacekeeping Operations on the use of civilian personnel in peacekeeping operations, the Secretary-General, while acknowledging the value and increasing use of civilian contractors, did not contemplate granting to them any privileges and immunities, as he did in the case of civilian contractors provided by Governments. The latter assumed the status of experts on mission in terms of article VI of the General Convention.<sup>448</sup>

273. The Office of Legal Affairs then advised on liability provisions (the “hold harmless” clause) in relation to civilian personnel. The rationale behind the “hold harmless” clause was to preserve the jurisdictional immunity of the United Nations and the need to ensure that the contractor, notwithstanding its contractual relationship with the Organization, would be held liable for acts or omissions committed in the performance of its services under the contract. Granting contractors privileges and immunities was therefore unrelated to the question of liability for loss or damage that they may cause. A “hold harmless” clause was included in the UNDP Standard Basic Assistance Agreement and the UNICEF Basic Cooperation Agreement, where the Government agreed to indemnify and hold UNDP or UNICEF harmless against all claims arising from or attributable to acts of the respective organizations or their employees in relation to their activities in the country concerned. A “hold harmless” clause was also included in the “General Conditions”

attached to contracts concluded between the United Nations and corporate or institutional contractors. This was consistent with the provisions of paragraph 23 of administrative instruction [ST/AI/327](#) dated 23 January 1985 on institutional or corporate contractors. The granting of privileges and immunities to personnel provided by civilian contractors would not exempt the contractors from the obligation to hold the United Nations harmless against any claims. In the case of civilian contractors engaged in the context of the United Nations Protection Force (UNPROFOR) in the former Yugoslavia, the Office of Legal Affairs noted that the provisions of the agreement between the United Nations and the contractor in question reflected the prevailing practice. Accordingly, under the provisions of that agreement, the contractor had the status of an independent contractor and its employees were not considered officials of the United Nations, but rather employees of the contractor.<sup>449</sup>

274. Based on the substantive review of the existing international agreements, documents and issues regarding internationally contracted personnel provided by civilian contractors in the context of United Nations peacekeeping operations, the Office of Legal Affairs advised it would have no objection to introducing in status-of-forces agreements, on an ad hoc basis, provisions to the effect that internationally contracted personnel should be entitled to enjoy privileges and immunities along the lines of those approved in the UNICEF Basic Cooperation Agreement, namely, immunity from legal process and entitlement to repatriation in times of international crises. This would of course be subject to the consent of the States with which the status-of-forces agreements were negotiated.<sup>450</sup> In conclusion, the Office suggested that the Field Operations Division should examine the introduction of such provisions in consultation with the Special Committee on Peacekeeping Operations, the Office of Human Resources Management and other offices competent to review the implications of the proposal.<sup>451</sup>

275. In a memorandum to the Under-Secretary-General for Peacekeeping Operations, the Office of Legal Affairs advised on issues related to visa requirements imposed by the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) on members of the

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<sup>446</sup> Ibid.

<sup>447</sup> [A/45/502](#). The report was submitted pursuant to General Assembly resolution 44/49, in which the Assembly requested the Secretary-General to undertake a study to identify those tasks and services which could be performed by civilian personnel and to inform the Special Committee on Peacekeeping Operations of the conclusions of that study.

<sup>448</sup> *United Nations Juridical Yearbook, 1993*, p. 398. The report of the Secretary-General was subsequently endorsed by the General Assembly in its resolution 45/258.

<sup>449</sup> Ibid., pp. 398-399.

<sup>450</sup> Ibid., p. 399.

<sup>451</sup> Ibid., p. 400.

United Nations Protection Force (UNPROFOR).<sup>452</sup> The Federal Republic of Yugoslavia (Serbia and Montenegro) sought to impose on members of UNPROFOR a requirement for entry visas for both individuals with United Nations laissez-passer and individuals with national passports of countries which required entry visas for nationals from the Federal Republic of Yugoslavia (Serbia and Montenegro). The visa requirements would not, however, apply to UNPROFOR convoys transiting through the Federal Republic of Yugoslavia (Serbia and Montenegro), except for the leader of such convoys. Therefore, large movements of military personnel of UNPROFOR transiting through the State concerned would not be affected by the new visa requirements. This was important since the provisions of the draft agreement with the Federal Republic of Yugoslavia (Serbia and Montenegro) on the status of UNPROFOR, under which members of the Force were exempted from visa regulations, were precisely intended to ensure that large movements of personnel could proceed without any impediment to the area of operation. The Office of Legal Affairs advised that as a general rule, the position of the United Nations in respect of visa requirements was to consider the mere visa requirement as unobjectionable so long as it was a formality which did not entail an impediment to the speedy travel and movement of United Nations personnel. This position was based on sections 25 and 26 of the General Convention. Therefore, if visa applications for UNPROFOR personnel were dealt with “as speedily as possible”, the Government would not be acting at variance with its obligations under sections 25 and 26 of the General Convention. It pointed out that the procedure relating to the issuance of the visas should not result in any restrictions which would impede the travel and movement of UNPROFOR members.<sup>453</sup>

276. In a memorandum to the Department of Peacekeeping Operations, the Office of Legal Affairs advised that “members of the military component of the United Nations Peacekeeping Force in Cyprus were entitled to the exemption from registration fees and road tax in accordance with the provisions of article 26 of the Agreement concluded by exchange of letters dated 21 March 1964 between the United Nations and the Government of Cyprus on the status of UNFICYP”.<sup>454</sup> Members of the military component of

UNFICYP, with the exception of the Force Commander and Chief of Staff, were required to pay registration fees and road tax for their cars, while members of the civilian component were not. Article 26 of the Agreement provided that the members of the Force “shall be exempt from all other fees, and charges”. Members of the Force were defined as meaning “any person, belonging to the military service of a State, who is serving under the Commander of the United Nations Force and to any civilian placed under the Commander by the State to which such civilians belongs”. Therefore, the Office of Legal Affairs advised, no distinction should apply between members of the civilian and military components of UNFICYP, as far as the exemption provided in article 26 of the Agreement was concerned.<sup>455</sup>

**\*\*8. Privileges and immunities of operational and executive personnel**

**\*\*D. Article 105 (3)**

<sup>452</sup> *United Nations Juridical Yearbook, 1993*, pp. 409-410.

<sup>453</sup> *Ibid.*, p. 410.

<sup>454</sup> *United Nations Juridical Yearbook, 1994*, p. 455.

<sup>455</sup> *Ibid.*

## Annex I

**Member States that became parties to the Convention on the Privileges and Immunities of the United Nations between 1 January 1989 and 31 December 1994**

<i>State</i>	<i>Accession/Succession</i>
Angola	9 August 1990 (a)
Zimbabwe	13 May 1991 (a)
Estonia	21 October 1991 (a)
Republic of Korea	9 April 1992 (a) <sup>a</sup>
Slovenia	6 July 1992 (s) <sup>b</sup>
Azerbaijan	13 August 1992 (a)
Bahrain	17 September 1992 (a)
Croatia	12 October 1992 (s) <sup>c</sup>
Czech Republic	22 February 1993 (s) <sup>d</sup>
Liechtenstein	25 March 1993
Slovakia	28 May 1993 (s) <sup>e</sup>
The former Yugoslav Republic of Macedonia	18 August 1993 (s) <sup>f</sup>
Bosnia and Herzegovina	1 September 1993 (s) <sup>g</sup>

<sup>a</sup> The Republic of Korea made the following reservation: “[The Government of the Republic of Korea declares] that the provision of paragraph (c) of section 18 of article V shall not apply with respect to Korean nationals”.

<sup>b</sup> Slovenia was admitted as a Member by General Assembly resolution 46/236 following the dissolution of the Socialist Federal Republic of Yugoslavia.

<sup>c</sup> Croatia was admitted as a Member by General Assembly resolution 46/238 following the dissolution of the Socialist Federal Republic of Yugoslavia.

<sup>d</sup> Czechoslovakia acceded to the Convention on 7 September 1955 with a reservation to section 30 of the Convention. The reservation was subsequently withdrawn by a notification received on 26 April 1991. The Czech Republic was admitted as a Member on 19 January 1993.

<sup>e</sup> Ibid. Slovakia was admitted as a Member on 19 January 1993.

<sup>f</sup> By resolution 47/225, the General Assembly decided to admit as a Member the State being provisionally referred to for all purposes within the United Nations as “The former Yugoslav Republic of Macedonia” pending settlement of the difference that had arisen over its name.

<sup>g</sup> Bosnia and Herzegovina was admitted as a Member by General Assembly resolution 46/237 following the dissolution of the Socialist Federal Republic of Yugoslavia.

## Annex II

### Agreements concluded by the United Nations during the period under review that contained provisions on privileges and immunities

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*Description*

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#### 1

#### Technical cooperation and assistance

Agreement between the Secretary-General of the United Nations and Namibia<sup>a</sup> concerning the United Nations Information Centre in Namibia. Signed at New York on 21 August 1991.

Exchange of letters constituting an agreement between the United Nations and the Government of Albania regarding the Technical Cooperation Programme on Human Rights to be implemented in Albania beginning in April 1992. Geneva, 20 and 25 February 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Romania regarding the Technical Cooperation Programme on Human Rights to be implemented from March 1992 through December 1993. Geneva, 28 February and 3 March 1992.

Cooperation Service Agreement between the United Nations and the Government of Canada. Signed at New York on 16 June 1993.

Cooperation Service Agreement between the United Nations and the Government of the Kingdom of Norway. Signed at Geneva on 15 October 1993.

#### (a) UNICEF

Agreement between the United Nations Children's Fund and the Government of Belize<sup>a</sup> [Basic Cooperation Agreement]. Signed at Belize City on 5 September 1990.

Basic Cooperation Agreement between the United Nations Children's Fund and the Government of Romania, with an exchange of letters. Signed at Bucharest on 21 June 1991.

Agreement between the United Nations Children's Fund and the Government of Sierra Leone. Signed at Freetown on 26 April 1993.

Agreement between the United Nations Children's Fund and the Government of Albania. Signed at Tirana on 23 July 1993.

Agreement between the United Nations Children's Fund and the Government of Bosnia and Herzegovina. Signed at Sarajevo on 13 October 1993.

Agreement between the United Nations Children's Fund and the Government of Guinea. Signed at Conakry on 10 December 1993.

Basic Cooperation Agreement between the United Nations Children's Fund and the Government of Bhutan.<sup>a</sup> Signed at Thimphu on 17 March 1994.

Agreement between the United Nations Children's Fund and the Government of Barbados. Signed at Barbados on 23 September 1994.



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Agreement between the United Nations Children's Fund and the Government of Botswana.<sup>a</sup> Signed at Gabon on 21 March 1994.

Agreement between the United Nations Children's Fund and the Government of Burkina Faso. Signed at Ouagadougou on 1 November 1994.

Agreement between the United Nations Children's Fund and the Government of Cambodia. Signed at Phnom Penh on 1 June 1994.

Agreement between the United Nations Children's Fund and the Government of Central African Republic. Signed at Bangui on 1 July 1994.

Agreement between the United Nations Children's Fund and the Government of Comoros.<sup>a</sup> Signed at Moroni on 1 July 1994.

Agreement between the United Nations Children's Fund and the Government of Ethiopia. Signed at New York on 25 February 1994.

Agreement between the United Nations Children's Fund and the Government of Guyana. Signed at Georgetown on 3 March 1994.

Agreement between the United Nations Children's Fund and the Government of Mongolia. Signed at Ulaanbaatar on 8 February 1994.

Agreement between the United Nations Children's Fund and the Government of Papua New Guinea. Signed at Waigain on 9 March 1994.

Agreement between the United Nations Children's Fund and the Government of the Sudan. Signed at Khartoum on 4 August 1994.

Agreement between the United Nations Children's Fund and the former Yugoslav Republic of Macedonia. Signed at Skopje on 8 December 1994.

Agreement between the United Nations Children's Fund and the Government of the United Republic of Tanzania. Signed at Dar es Salaam on 26 September 1994.

Agreement between the United Nations Children's Fund and the Government of Yemen. Signed at Sana'a on 12 January 1994.

**(b) UNDP**

Agreement between the United Nations Development Programme and the Government of Ecuador concerning assistance by UNDP to the Government of Ecuador. Signed at Quito on 8 March 1989.

Agreement between the United Nations Development Programme and the Government of Pakistan on the oceanographic space information systems. Signed at New York on 28 June 1989.

Agreement between the United Nations Development Programme and the Government of Sri Lanka.<sup>a</sup> Signed at Colombo on 20 March 1990.

Agreement between the United Nations Development Programme and the Government of Poland. Signed at Warsaw and New York on 30 July 1990.

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Agreement between the United Nations Development Programme and the Government of Kenya. Signed at Nairobi on 17 January 1991.

Agreement between the United Nations Development Programme and the Government of Romania. Signed at Bucharest on 23 January 1991.

Agreement between the United Nations Development Programme and the Government of Albania. Signed at Tirana on 17 June 1991.

Agreement between the United Nations Development Programme and the Government of Cameroon. Signed at Yaoundé on 25 October 1991.

Agreement between the United Nations Development Programme and the Government of the Argentine Republic on the Establishment of a National Office for the Technological Information Pilot System. Signed at Buenos Aires on 1 November 1991.

Agreement between the United Nations Development Programme and the Government of Bulgaria. Signed at New York on 20 August 1992.

Agreement between the United Nations Development Programme and the Government of Kyrgyzstan.<sup>a</sup> Signed at Bishkek on 14 September 1992.

Agreement between the United Nations Development Programme and the Government of Belarus. Signed at Bishkek on 24 September 1992.

Agreement between the United Nations Development Programme and the Government of Moldova.<sup>a</sup> Signed at Bishkek on 2 October 1992.

Agreement between the United Nations Development Programme and the European Bank for Reconstruction and Development to execute UNDP projects. Signed at London on 11 March 1993.

Agreement between the United Nations Development Programme and the Government of Lithuania.<sup>a</sup> Signed at Vilnius on 12 July 1993.

Agreement between the United Nations Development Programme and the Government of Tajikistan.<sup>a</sup> Signed at New York on 1 October 1993.

Agreement between the United Nations Development Programme and the Government of Turkmenistan.<sup>a</sup> Signed at New York on 5 October 1993.

Agreement between the United Nations Development Programme and the Government of the Russian Federation. Signed at New York on 17 November 1993.

Agreement between the United Nations Development Programme and the Government of Slovakia. Signed at New York on 18 November 1993.

Agreement between the United Nations Development Programme and the Government of Côte d'Ivoire. Signed at Abidjan on 3 December 1993.

Basic Agreement between the United Nations Development Programme and the Government of Eritrea<sup>a</sup> concerning assistance by the United Nations Development Programme to the Government of Eritrea. Signed at Asmara on 11 June 1994.

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Basic Agreement between the United Nations Development Programme and the Government of Kazakhstan.<sup>a</sup> Signed at New York on 4 October 1994.

Basic Agreement between the United Nations Development Programme and the Government of the Marshall Islands.<sup>a</sup> Signed at Majuro on 14 January 1994.

Basic Agreement between the United Nations Development Programme and the Government of South Africa.<sup>a</sup> Signed at New York on 3 October 1994.

**2**

**Establishing UN offices, centres and institutions**

**(a) Information centres** Agreement between the United Nations and the Government of Denmark establishing the United Nations Information Centre for the Nordic countries in Copenhagen. Signed at New York on 31 January 1989.

Agreement between the Secretary-General of the United Nations and Namibia<sup>a</sup> concerning the United Nations Information Centre in Namibia. Signed at New York on 21 August 1991.

Agreement between the United Nations and the Government of Cameroon concerning the United Nations Information Centre for Cameroon, Gabon and the Central African Republic at Yaoundé. Signed at Yaoundé on 8 March 1994.

**(b) Additional land for offices**

Agreement between the United Nations and Ethiopia concerning additional land for the Economic Commission for Africa in Addis Ababa. Signed at Addis Ababa on 18 January 1990.

Agreement between the United Nations Children's Fund and the Government of Senegal on the assignment to UNICEF of a building for use as offices. Signed at Dakar on 18 March 1992.

**(c) UNHCR offices**

Agreement between the United Nations (Offices of the United Nations High Commissioner for Refugees) and the Government of Nicaragua. Signed at Managua on 1 November 1990.

Cooperation Agreement between the United Nations (United Nations High Commissioner for Refugees) and the Government of the Republic of Venezuela<sup>a</sup> relating to the establishment in Caracas of the Regional Office for Northern South America and the Caribbean. Signed at Caracas on 5 December 1990.

Agreement between the United Nations (Office of the United Nations High Commissioner for Refugees) and the Government of South Africa<sup>a</sup> governing the Legal Status, Privileges and Immunities of the UNHCR Office and its Personnel in South Africa. Signed at Geneva on 2 October 1991.

Agreement between the United Nations (United Nations High Commissioner for Refugees) and the Government of Poland concerning the Legal Status, Immunities and Privileges of UNHCR and its Personnel in the Republic of Poland. Signed at Geneva on 27 February 1992.

Agreement between the United Nations (United Nations High Commissioner for Refugees) and the Government of Romania. Signed at Geneva on 12 August 1992.

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Agreement between the United Nations (United Nations High Commissioner for Refugees) and the Government of the Russian Federation. Signed at Geneva on 6 October 1992.

Memorandum of Understanding between the United Nations (United Nations High Commissioner for Refugees) and the Government of Saudi Arabia.<sup>a</sup> Signed at Jeddah on 22 June 1993.

Agreement between the United Nations (United Nations High Commissioner for Refugees) and the Government of Bulgaria. Signed at Geneva on 22 July 1993.

Cooperation Agreement between the United Nations (United Nations High Commissioner for Refugees) and the Government of Pakistan. Signed at Islamabad on 18 September 1993.

Agreement between the United Nations (United Nations High Commissioner for Refugees) and the Government of Slovakia concerning the legal status, immunities and privileges of the Office of the United Nations High Commissioner for Refugees and its personnel in Slovakia. Signed at Bratislava on 1 March 1994.

Agreement between the United Nations (United Nations High Commissioner for Refugees) and the Government of Albania on the establishment of a UNHCR field office in Albania. Signed at Tirana on 13 April 1994.

**(d) Interim offices**

Agreement between the United Nations and the Government of Belarus relating to the Establishment of the United Nations Interim Office in Minsk. Signed at Geneva on 15 May 1992.

Agreement between the United Nations and the Government of Armenia relating to the establishment of a United Nations Interim Office in Armenia.<sup>a</sup> Signed at Geneva on 17 September 1992.

Agreement between the United Nations and the Government of Azerbaijan relating to the establishment of a United Nations Interim Office in Azerbaijan. Signed at New York on 1 October 1992.

Agreement between the United Nations and the Government of Kazakhstan relating to the establishment of a United Nations Interim Office in Kazakhstan.<sup>a</sup> Signed at New York on 5 October 1992.

Agreement between the United Nations and the Government of Ukraine relating to the establishment of a United Nations Interim Office in Ukraine. Signed at New York on 6 October 1992.

Agreement between the United Nations and the Government of Uzbekistan relating to the establishment of a United Nations Interim Office in Uzbekistan.<sup>a</sup> Signed at Taskhent on 27 November 1992 and at New York on 7 December 1992.

Agreement between the United Nations and the Government of Georgia<sup>a</sup> relating to the establishment of a United Nations Interim Office. Signed at Tbilisi on 27 January 1993.

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**(e) Integrated offices**

Agreement between the United Nations and the Government of the Russian Federation relating to the Establishment in the Russian Federation of a United Nations Integrated Office. Signed at Vienna on 15 June 1993.

Agreement between the United Nations and the Government of Eritrea<sup>a</sup> relating to the Establishment in Eritrea of a United Nations Integrated Office. Signed at New York on 30 September 1993.

**(f) Institutions**

Agreement between the United Nations Development Programme and the Government of Denmark relating to the headquarters of the Inter-Agency Procurement Services Unit in Copenhagen. Signed at New York on 25 January 1989.

Agreement between the United Nations and the Government of Netherlands concerning the headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991. Signed at New York on 29 July 1994.

Agreement between the United Nations and the Government of the United Republic of Tanzania concerning the headquarters of the International Criminal Tribunal for Rwanda. Signed at New York on 31 August 1995.

**3**

**UN sessions, meetings, seminars, workshops or trainings**

Agreement between the United Nations and the Government of Colombia regarding arrangements for the twelfth session of the United Nations Commission on Human Settlements to be held at Cartagena de Indias. Signed at Cartagena de Indias on 24 April 1989.

Agreement between the United Nations and the Government of Egypt regarding arrangements for the fifteenth session of the United Nations World Food Council. Signed at Cairo on 26 April 1989.

Memorandum of Understanding between the United Nations and the Government of Australia on the Fifth International Training Course on use of Remote Sensing Systems in Hydrological and Agrometeorological Applications, held at Canberra by the United Nations, the Food and Agriculture Organization of the United Nations, the World Meteorological Organization and the European Special Agency, and the first International Training Course on the Use of the MicroBRIAN Image Processing System, held at Brisbane. Signed at New York on 12 May 1989.

Agreement between the United Nations and the Government of Cuba on the United Nations Workshop on Space Communications for Development, Current and Future Developments, Rural Communications, Search and Rescue Missions, and Disaster Relief, to be held at Havana. Signed at New York on 15 June 1989.

Agreement between the United Nations and the Government of the German Democratic Republic relating to the Second United Nations International Training Course on Remote Sensing Applications to Geological Sciences, to be held at Potsdam from 5 to 20 October 1989. Signed at New York on 18 September 1989.

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Exchange of letters constituting an agreement between the United Nations and the Government of Argentina concerning the Latin American Seminar and Regional Non-governmental Organization Symposium on the Inalienable Rights of the Palestinian People, to be held at Buenos Aires from 5 to 9 February 1990. New York, 24, 25 and 26 January 1990.

Exchange of letters constituting an agreement between the United Nations and the Government of the United Republic of Tanzania<sup>a</sup> concerning the holding of a Workshop on Conflict Resolution, Crisis Prevention and Management and Confidence-building among African States, New York, 25 January and 7 February 1990.

Agreement between the United Nations and the Government of Cuba regarding the arrangements for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held at Havana from 27 August to 7 September 1990. Signed at Vienna on 4 April 1990.

Exchange of letters constituting an agreement between the United Nations and the Government of Finland on the Meeting of Experts on Alternative Ways to Mark the End of the United Nations Decade of Disabled Persons, to be held at Järvenpää-Talo, Finland, from 7 to 11 May 1990. Vienna, 10 April 1990.

Exchange of letters constituting an agreement between the United Nations and the Government of Vanuatu<sup>a</sup> concerning the arrangements for the Asia Pacific Regional Seminar in Observance of the Thirtieth Anniversary of the Declaration on the Granting of Independence to Colonial Countries and Peoples, to be organized by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples at Port Vila, Vanuatu, from 9 to 11 May 1990. New York, 27 April 1990.

Agreement between the United Nations and the Government of Thailand regarding arrangements for the sixteenth session of the World Food Council of the United Nations, to be held at Bangkok from 21 to 24 May 1990. Signed at Rome on 4 May 1990.

Exchange of letters constituting an agreement between the United Nations and the Government of Sweden on the United Nations and the Government of Sweden on the United Nations Training Course on Remote Sensing for Educators, to be held at Stockholm and Kiruna from 14 May to 15 June 1990. New York, 10 and 22 May 1990.

Agreement between the United Nations and the Government of Togo concerning the arrangements for the seminar for French-speaking African countries on the relationships between the status of women and demographic phenomena. Signed at Vienna on 30 March and at Lomé on 23 May 1990.

Exchange of letters constituting an agreement between the United Nations and the Government of the Federal Republic of Germany concerning the arrangements for the International Conference on "Energy in Climate and Development: Policy Issues and Technological Options". New York, 20 March, 23 May and 24 May 1990.

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Exchange of letters constituting an agreement between the United Nations and the Government of Spain concerning arrangements for the International Symposium on the Integration of Young People in Society, to be held in Spain in June 1990. Vienna, 9 May and 28 May 1990.

Exchange of letters constituting an agreement between the United Nations and the Government of Bulgaria concerning the holding of the Seminar on Confidence-building Measures in the Maritime Environment. New York, 5 and 11 June 1990.

Exchange of letters constituting an agreement between the United Nations and the Government of Sweden concerning the United Nations European Regional Seminar on the Question of Palestine. New York, 9 April and 18 June 1990.

Exchange of letters constituting an agreement between the United Nations and the Government of Barbados concerning the arrangements for the Caribbean Regional Seminar in Observance of the Thirtieth Anniversary of the Declaration on the Granting of Independence to Colonial Countries and Peoples. New York, 30 May 1990, and St. Michael, Barbados, 12 June 1990.

Exchange of letters constituting an agreement between the United Nations and the Government of Finland concerning the arrangements for the Meeting of Experts, "The social impact of the critical economic environment on developing countries: strategies for social development cooperation". Vienna, 11 and 17 July 1990.

Agreement between the United Nations and the Government of France concerning the Second United Nations Conference on the Least Developed Countries, to be held in Paris from 3 to 14 September 1990. Signed at Geneva on 9 August 1990.

Exchange of letters constituting an agreement between the United Nations and the Government of Nepal concerning a Regional Meeting on Confidence-building Measures in the Asia-Pacific Region [to be held at Kathmandu from 24 to 26 January 1991]. New York, 7 and 14 January 1991.

Exchange of letters constituting an agreement between the United Nations and the Austrian Federal Government concerning the United Nations Seminar on Confidence-and Security-building Measures. New York, 19 November 1990 and 21 February 1991.

Exchange of letters constituting an agreement between the United Nations and the Union of Soviet Socialist Republics concerning a Conference of Peace Messenger Organizations [to be held at Dagomys (Sochi), USSR, from 10 to 14 June 1991]. New York, 17 January and 25 February 1991.

Agreement between the United Nations and the Government of the Republic of Korea<sup>b</sup> regarding the arrangements for the forty-seventh session of the Economic and Social Commission for Asia and the Pacific [to be held at Seoul from 1 to 10 April 1991]. Signed at Bangkok on 25 March 1991.

Exchange of letters constituting an agreement between the United Nations and the Government of India concerning the United Nations/European Space Agency Workshop on Basic Space Science for the Benefit of Developing Countries, to be held at Bangalore, India, from 30 April to 3 May 1991. New York, 30 January and 24 April 1991.



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Exchange of letters constituting an agreement between the United Nations and the Government of Canada on arrangements for the Eighth United Nations North American Regional NGO Symposium on the Question of Palestine, to be held at Montreal from 28 to 30 June 1991. New York, 24 April 1991.

Exchange of letters constituting an agreement between the United Nations and the Government of Cameroon concerning arrangements for the United Nations Workshop on Conflict Resolution, Crisis Prevention and Management and Confidence-building, to be held at Yaoundé from 17 to 21 June 1991. New York, 8 and 25 April 1991.

Agreement between the United Nations and the Government of Denmark regarding arrangements for the seventeenth session of the World Food Council [to be held at Helsingor from 5 to 8 June 1991]. Signed at Copenhagen on 10 and 16 May 1991.

Exchange of letters constituting an agreement between the United Nations and the Austrian Federal Government concerning the thirty-fourth session of the Committee on the Peaceful Uses of Outer Space, to be held at Graz, Austria, from 27 May to 7 June 1991. New York, 3 April and 23 May 1991.

Exchange of letters constituting an agreement between the United Nations and the Government of Spain on the Third United Nations/FAO/European Space Agency Workshop on Microwave Remote Sensing Technology, organized with the cooperation of the Government of Spain, to be held at Mapalomas, Canary Islands, Spain, from 10 to 14 June 1991. New York, 21 May and 7 June 1991.

Agreement between the United Nations and the Government of the Islamic Republic of Iran regarding Arrangements for the Meeting of Ministers of Industry and Technology of the United Nations Economic and Social Commission for Asia and the Pacific [to be held at Tehran from 24 February to 1 March 1992]. Signed at Bangkok on 27 June 1991.

Exchange of letters constituting an agreement between the United Nations and the Government of Mexico regarding the Regional Disarmament Workshop for Latin America and the Caribbean with Special Emphasis on Chemical Weapons, to be held at Mexico City from 1 to 5 July 1991. New York, 28 June 1991.

Exchange of letters constituting an agreement between the United Nations, the Government of Denmark and the Greenland Home Rule Government concerning a meeting of experts to review the experience of countries in the operation of schemes of internal self-government for indigenous populations, to be held at Nuuk, Greenland, from 24 to 28 September 1991. Geneva, 2 July and 9 August 1991.

Exchange of letters constituting a Memorandum of Understanding between the United Nations and the Government of China on the United Nations/ESCAP/UNDRO Workshop on the Application of Space Techniques to Combat Natural Disasters, to be held at Beijing from 23 to 27 September 1991. New York, 9 and 11 September 1991.

Exchange of letters constituting an agreement between the United Nations and the Government of Italy on the participation of the United Nations and other organizations of the United Nations system in the International Specialized Exhibition in Genoa in 1992. New York, 16 September and 2 October 1991.

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Exchange of letters constituting an agreement between the United Nations and the Government of Spain concerning the United Nations European Regional Seminar on the Question of Palestine, to be held at Madrid from 27 to 30 May 1991. New York, 17 and 25 April 1991.

Exchange of letters constituting an agreement between the United Nations and the Government of Cyprus concerning the Asian Regional Seminar and NGO Symposium on the Question of Palestine, to be held at Nicosia from 20 to 24 January 1991. New York, 29 October and 22 November 1991.

Exchange of letters constituting an agreement between the United Nations Environment Programme and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the arrangements for the Meeting of Experts to Discuss Draft Proposals for an Intergovernmental Mechanism for Chemical Risk Assessment and Management. Nairobi, 30 October 1991, and London, 26 November 1991.

Agreement between the United Nations and the Government of China regarding Arrangements for the Forty-eighth Session of the United Nations Economic and Social Commission for Asia and the Pacific [to be held at Beijing from 14 to 23 April 1992], with exchange of letters. Signed at Bangkok on 6 December 1991.

Agreement between the United Nations and the Republic of Colombia on the arrangements for the eighth session of the United Nations Conference on Trade and Development. Signed at Geneva on 29 January 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Poland concerning the High-level Meeting on Cooperation and Sustainable Development in the Chemical Industry, of the Economic Commission for Europe, to be held at Warsaw from 10 to 12 March 1992. Geneva, 17 December 1991 and 24 February 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of the Czech and Slovak Federal Republic concerning the arrangements for the Expert Group Meeting on Increased Awareness by Women of their Rights, including Legal Literacy, to be held at Bratislava from 18 to 22 May 1992. Vienna, 17 January and 24 February 1992.

Memorandum of Understanding between the United Nations and the Government of Antigua and Barbuda concerning the arrangements for the Regional Seminar on the Convention on the Elimination of All Forms of Discrimination against Women. Signed at Vienna on 28 February 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Burundi concerning the arrangements for the twelfth session of the Advisory Committee on Science and Technology for Development, to be held at Bujumbura from 4 to 12 May 1992. New York, 7, 18 and 28 February 1992.

Agreement between the United Nations and the Government of Indonesia regarding arrangements for the Fourth Asian and Pacific Population Conference of the United Nations Economic and Social Commission for Asia and the Pacific, to be held at Nusa Dua, Bali, from 19 to 27 August 1992. Signed at Bangkok on 16 March 1992.

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Exchange of letters constituting an agreement between the United Nations and the Government of Chile on the convening of a Technical Conference on Practical Experience in Achieving Sustainable and Ecologically Sound Autonomous Development by Indigenous Peoples, to be held at Santiago, Chile, from 18 to 22 May 1992. Geneva, 12 March and 23 April 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Australia regarding the Meeting of Experts on Coal Trade, Statistics and Transport, of the Economic Commission for Europe, to be held at Sydney from 18 to 22 May 1992. Geneva, 14 February and 30 April 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Turkey concerning arrangements regarding the Seventh Conference on Urban and Regional Research, of the Economic Commission for Europe, to be held at Ankara from 29 June to 3 July 1992. Geneva, 24 January and 4 May 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Poland on arrangements regarding the Seminar on the Restructuration and Management Techniques in Steel Industries in Countries in Transition towards Market Economy Conditions, of the Economic Commission for Europe, to be held at Dabrowa Górnicza from 18 to 22 May 1992. Geneva, 17 March and 15 May 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Germany on arrangements regarding the Meeting of Experts on Lighting and Light-signalling, of the Economic Commission for Europe, to be held at Darmstadt from 9 to 12 November 1992. Geneva, 25 March and 19 May 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Ukraine on arrangements regarding the Seminar on New Materials and their Application in Engineering Industries, of the Economic Commission for Europe, to be held at Kiev from 13 to 16 October 1992. Geneva, 8 May and 2 June 1992.

Agreement between the United Nations and the Government of Kenya regarding arrangements for the eighteenth session of the World Food Council of the United Nations, to be held at Nairobi on 22 June 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Portugal<sup>a</sup> in connection with the Working Meeting on Environmental Statistics of the Economic Commission for Europe, to be held at Lisbon from 14 to 17 September 1992. Geneva, 25 March and 1 July 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Portugal<sup>a</sup> in connection with the fifty-third session of the Committee on Human Settlements, of the Economic Commission for Europe, to be held at Lisbon from 14 to 17 September 1992. Geneva, 12 February and 1 July 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of the Islamic Republic of Iran regarding the Training Course on the Preparation of Periodic Reports under International Instruments on Human Rights, to be held at Tehran from 2 to 5 August 1992. Geneva, 24 June and 27 July 1992.

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Exchange of letters constituting an agreement between the United Nations and the Government of Sweden regarding the Work Session on Survey Processing on Micro-computers, of the Economic Commission for Europe, to be held at Stockholm from 19 to 21 October 1992. Geneva, 12 and 18 August 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of the Czech and Slovak Federal Republic regarding the Meeting of Coordinators and Rapporteurs on Standardization Policies, of the Economic Commission for Europe, to be held at Prague on 14 and 15 September 1992. Geneva, 20 July and 26 August 1992.

Agreement between the United Nations and the Government of Spain regarding arrangements for the Symposium on Product Quality in the Agri-Food Sector, [to be held at Murcia, from 5 to 9 October 1992]. Signed at Geneva on 23 September 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Germany regarding the Fourth United Nations International Training Course on Remote Sensing Applications to Geological Sciences, to be held at Potsdam and Berlin from 28 September to 16 October 1992. New York, 4 and 29 September 1992.

Agreement between the United Nations and the Government of the Kingdom of Spain concerning the Meeting of Experts of the Economic Commission for Europe on the Problems of Habitat in Southern Europe, to be held at Seville from 21 to 23 October 1992. Signed at Geneva on 16 October 1992.

Agreement between the United Nations and the Government of Tunisia regarding the arrangements for the Preparatory African Regional Conference of the World Conference on Human Rights, [to be held at Tunis from 2 to 6 November 1992]. Signed at Geneva on 23 October 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Italy concerning the Ad Hoc Meeting on Energy Efficiency Demonstration Zones of the Economic Commission for Europe, to be held at Rome from 28 to 30 October 1992. Geneva, 7 and 27 October 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Italy regarding the Seminar on Statistics Services of Mediterranean Countries of the Economic Commission for Europe, held at Palermo from 12 to 15 October 1992. Geneva, 17 June and 10 December 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Italy concerning the nineteenth session of the FAO/ECE/ILO Joint Committee on Forest Technology, Management and Training of the Economic Commission for Europe, to be held at Croce di Magara from 29 September to 2 October 1992. Geneva, 25 June and 10 December 1992.

Exchange of letters constituting an agreement between the United Nations and the Government of Bolivia regarding the organization of the Expert Group Meeting on Population Distribution and Migration, to be held at Santa Cruz from 18 to 22 January 1993. La Paz, 11 and 22 December 1992.

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Exchange of letters constituting an agreement between the United Nations and the Government of Nepal concerning the Regional Meeting on National Security and Building of Confidence among Nations in the Asia-Pacific Region, to be held at Kathmandu from 1 to 3 February 1993. New York, 11 and 13 January 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of Indonesia concerning arrangements regarding the Asia-Pacific Workshop on Human Rights Issues, to be held at Jakarta from 26 to 28 January 1993. Geneva, 6 and 18 January 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of Greece concerning the United Nations Workshop on Space Communications for Development, organized in cooperation with the Government of Greece, to be held at Athens from 10 to 12 May 1993. New York, 6 and 28 January 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of Poland concerning arrangements for a Seminar on Low-waste Technology and Environmentally Sound Products of the Economic Commission for Europe, to be held at Warsaw from 24 to 28 May 1993. Geneva, 22 October 1992 and 8 February 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of Egypt concerning arrangements regarding the United Nations Institute for Disarmament Research Regional Conference of Research Institutes in the Middle East, to be held at Cairo from 18 to 20 April 1993. Geneva, 31 March and 8 April 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of Poland concerning arrangements regarding the Meeting of Experts for the Establishment of the Regional Environmental Management Centre for the Chemical Industry of the Economic Commission for Europe, to be held at Warsaw on 15 and 16 April 1993. Geneva, 26 March and 14 April 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of Australia concerning arrangements for the Meeting of Representatives of National Institutions and Organizations Promoting Tolerance and Harmony and Combating Racism and Racial Discrimination, to be held at Sydney from 19 to 23 April 1993. Geneva, 24 March and 15 April 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of Sweden concerning arrangements for the Third United Nations Training Course in Remote Sensing Education for Educators, to be held at Stockholm and Kiruna from 3 May to 4 June 1994. New York, 2 February and 26 April 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of Finland regarding the Food and Agriculture Organization of the United Nations/United Nations Economic Commission for Europe Meeting of Experts on Global Forest Resources Assessment, to be held at Kotka from 3 to 7 May 1993. Geneva, 30 April and 1 May 1993.

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Exchange of letters constituting an agreement between the United Nations and the Government of Finland concerning arrangements regarding the Symposium on New Coal Utilization Technologies and the Meeting of Experts on Clean Coal Technologies, of the Economic Commission for Europe, to be held at Helsinki from 10 to 13 May 1993, and on 13 May 1993, respectively. Geneva, 30 April and 1 May 1993.

Exchange of letters constituting a Memorandum of Understanding between the United Nations and the Government of Indonesia concerning the arrangements made for the United Nations Regional Conference on Space Science and Technology for Sustainable Development, to be held at Bandung from 17 to 21 May 1993. New York, 22 April to 10 May 1993.

Agreement between the United Nations and the Austrian Federal Government regarding the Arrangements for the World Conference on Human Rights. Signed at Vienna on 18 May 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of the Czech Republic regarding the study tour of the Working Party on Steel, subsidiary body of the Economic Commission for Europe, to be held in the Czech Republic from 6 to 12 June 1993. Geneva, 18 March and 3 June 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of the United Kingdom of Great Britain and Northern Ireland in connection with the Ad Hoc Meeting on Methods of Financing Energy Efficiency Demonstration Zones of the Economic Commission for Europe, to be held at Newcastle on 15 and 16 June 1993. Geneva, 11 and 15 June 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of the Russian Federation regarding the Symposium on the Environmental Benefits of Energy Conservation, of the Economic Commission for Europe, to be held in Moscow from 20 to 24 September 1993. Geneva, 10 June and 24 August 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of the Netherlands on the arrangements for the study tour of the Committee on Human Settlements, principal subsidiary body of the Economic Commission for Europe, to be held in the Netherlands from 24 to 30 September 1993. Geneva, 8 and 11 June, 6 and 30 August and 1 and 17 September 1993.

Agreement between the United Nations and the Government of Indonesia regarding arrangements for the Second Asian and Pacific Ministerial Conference on Women in Development at the United Nations Economic Social Commission for Asia and the Pacific. Signed at Bangkok on 7 October 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of Israel on the arrangements regarding the Seminar on Safety of Young and Novice Drivers, and the session of the Working Party on Road Traffic Safety, of the Economic Commission for Europe, to be held at Tel Aviv from 10 to 12 and 13 to 15 October 1993, respectively. Geneva, 8 and 11 October 1993.

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Exchange of letters constituting an agreement between the United Nations Environment Programme and the Government of Thailand concerning the arrangements for the Third Meeting of the Conference of the Parties to the Vienna Convention for the Protection of the Ozone Layer and the Fifth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer, as well as their preparatory meetings to be held at Bangkok from 15 to 24 November 1993. Nairobi and Bangkok, 10 September and 3 November 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of Tunisia concerning the Second International Workshop on National Institutions for the Promotion and Protection of Human Rights, held at the invitation of the Government of Tunisia, at Tunis, from 13 to 17 December 1993. Geneva, 29 November and 7 December 1993.

Agreement between the United Nations and the Government of Slovakia on the provision of facilities for the technical conversion training of the Bangladeshi military contingent assigned to the United Nations Protection Force in Bosnia and Herzegovina. Signed at Bratislava on 23 September 1994.

Agreement between the United Nations and the Government of India regarding arrangements for the fiftieth session of the United Nations Economic and Social Commission for Asia and the Pacific [to be held at New Delhi from 5 to 13 April 1994]. Signed at Bangkok on 16 February 1994.

Agreement between the United Nations Environment Programme and the Government of Canada constituting a Memorandum of Understanding regarding the arrangements for the meeting of Government designated experts focusing on the 1985 Montreal Guidelines for the protection of the Marine Environment against Pollution from Land-based Sources, Montreal, 6 to 10 June 1994. Signed at Nairobi on 9, 11 and 26 May 1994.

Agreement between the United Nations and the Government of China regarding the arrangements for the Fourth World Conference on Women: Action for Equality, Development and Peace [to be held at Beijing from 4 to 15 September 1994]. Signed at Beijing on 14 September 1994.

Agreement between the United Nations and the Government of Egypt regarding the arrangements for the International Conference on Population and Development [to be held at Cairo from 4 to 13 September 1994]. Signed at Geneva on 6 July 1994.

Agreement between the United Nations and the Government of Barbados regarding the arrangements for the Global Conference on the Sustainable Development of Small Island Developing States, Bridgetown, 25 April to 6 May 1994. Signed at New York on 11 March 1994.

Agreement between the United Nations and the Government of Denmark regarding arrangements for the World Summit for Social Development [to be held at Copenhagen from 11 to 12 March 1995]. Signed at New York on 22 August 1994.

Agreement between the United Nations and the Government of the Philippines regarding the arrangements for the Asian and Pacific Ministerial Conference in Preparation for the World Summit for Social Development of the United Nations Economic and Social Commission for Asia and the Pacific. Signed at Bangkok on 10 May 1994.



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Exchange of letters constituting an agreement between the United Nations and the Government of the Republic of Korea concerning arrangements regarding the Asia-Pacific Workshop on Human Rights issues to be held at Seoul from 18 to 20 July 1994. Geneva, 10 and 17 June 1994.

Exchange of letters constituting an agreement between the United Nations and the Government of Lithuania concerning arrangements regarding the Seminar on Human Rights to be held at Vilnius from 12 to 14 April 1994. Geneva, 4 March and 7 April 1994.

Exchange of letters constituting an agreement between the United Nations and the Government of Greece concerning arrangements regarding the Seminar on Harvesting and Silviculture of Degraded and Coppice Forests in the Mediterranean Region and the twentieth session of the joint FAO/ECE/ILO Committee on Forest Technology, Management and Training, of the Economic Commission for Europe, to be held at Thessaloniki from 1 to 3 November and from 7 to 10 November 1994, respectively. Geneva, 17 October 1994, and Athens, 26 October 1994.

Exchange of letters constituting an agreement between the United Nations and the Government of Sweden concerning arrangements for the Fourth United Nations Training Course on Remote Sensing Education for Educators, organized in cooperation with the Government of Sweden, to be held at Stockholm and Kiruna from 2 May to 10 June 1994. Vienna, 6 and 29 April 1994.

Exchange of letters constituting an agreement between the United Nations and the Government of Hungary concerning arrangements regarding the meeting of signatories to the Convention on the Transboundary Effects of Industrial Accidents, to be held at Budapest from 23 to 25 March 1994. Geneva, 23 and 25 February 1994.

Exchange of letters constituting an agreement between the United Nations and the Government of Cyprus concerning arrangements for the meeting of experts on human settlements problems in Southern Europe, of the Economic Commission for Europe, to be held at Nicosia from 6 to 8 June 1994. Geneva, 26 May and 1 June 1994.

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**Peacekeeping and other missions**

Agreement between the United Nations Transition Assistance Group and the Government of Namibia<sup>b</sup> concerning the status of UNTAG to Namibia. Signed at New York on 10 March 1989.

Protocol between the United Nations Transition Assistance Group and the Government of Angola<sup>a</sup> on the tasks to be fulfilled by UNTAG in Angolan territory, and Additional Protocol on the status of the UNTAG personnel in the territory of the People's Republic of Angola. Signed at Lubango on 9 June 1989.

Exchange of letters between the United Nations and the Government of Nicaragua constituting an agreement on the status and privileges and immunities of the United Nations Observer Group in Central America. Signed at New York on 10 November 1989 and at Managua on 7 August 1990.

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Exchange of letters constituting an agreement between the United Nations and the Government of Guatemala concerning the status, privileges and immunities of the United Nations Observer Group in Central America in Guatemala. New York, 10 November 1989, and Guatemala City, 26 January 1990.

Exchange of letters constituting an agreement between the United Nations and the Government of El Salvador concerning the status, privileges and immunities of the United Nations Observer Group in Central America in El Salvador. New York, 10 November 1989, and San Salvador, 16 May 1990.

Exchange of letters constituting an agreement between the United Nations and the Government of Honduras concerning the status, privileges and immunities of the United Nations Observer Group in Central America in Honduras (with memorandum of understanding). New York, 10 November 1989, and Tegucigalpa, 5 July 1990.

Exchange of letters constituting an agreement between the United Nations and the Government of Iraq on the status, privileges and immunities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991). New York, 6 May 1991, and Baghdad, 17 May 1991.

Exchange of letters constituting an agreement between the United Nations and the Government of El Salvador concerning the United Nations Observer Mission in El Salvador for the purpose of verifying the observance of human rights in El Salvador in accordance with the Agreement on Human Rights signed at San José on 26 July 1990 between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional. New York, 16 July and 9 August 1991, and San Salvador, 23 July 1991.

Exchange of letters constituting an agreement between the United Nations and the Government of Morocco concerning the United Nations Mission for the Referendum in Western Sahara. New York, 13 December 1991, and Rabat, 15 January 1992.

Exchange of letters constituting a Protocol between the United Nations and the Government of El Salvador, supplementing the Agreement concluded by the exchange of letters dated 16 and 23 July 1991 and 9 August 1991 between the United Nations and the Government of El Salvador concerning the United Nations Observer Mission in El Salvador for the purpose of verifying the observance of human rights in El Salvador in accordance with the Agreements on Human Rights, signed at San José on 26 July 1990 between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional. San Salvador, 29 January 1992, and New York, 2 March 1992.

Agreement between the United Nations and the Supreme National Council of Cambodia on the status of the United Nations Transitional Authority in Cambodia. Signed at Phnom Penh on 7 May 1992.

Exchange of letters constituting an agreement between the United Nations and Kuwait concerning the legal status, privileges and immunities of the United Nations, Iraq-Kuwait Observation Mission. New York, 15 April 1992, and Kuwait, 20 May 1992.

Agreement between the United Nations and the Government of Mozambique<sup>a</sup> on the Status of the United Nations Operation in Mozambique. Signed at New York on 14 May 1993.

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Agreement between the United Nations and the Government of Bosnia and Herzegovina<sup>b</sup> on the Status of the United Nations Protection Force in Bosnia and Herzegovina. Signed at Sarajevo on 15 May 1993.

Exchange of letters between the United Nations and the Government of Uganda<sup>a</sup> as required under Security Council resolution 846 (1993) and concerning the United Nations Observer Mission Uganda-Rwanda to be deployed on the Ugandan side of the border. New York, 14 and 18 August 1993.

Agreement between the United Nations and the Government of the Republic of Rwanda on the Status of the United Nations Assistance Mission for Rwanda. Signed at New York on 5 November 1993.

Agreement between the United Nations and the Government of South Africa<sup>a</sup> concerning the Legal Status, Privileges and Immunities of the United Nations Observer Mission and its Personnel in South Africa. Signed at Pretoria on 14 December 1993.

Exchange of letters constituting an agreement between the United Nations and the Government of the former Yugoslav Republic of Macedonia on the status of the United Nations Protection Force in the former Yugoslav Republic of Macedonia. Skopje, 1 and 14 June 1994.

Exchange of letters constituting an agreement between the United Nations and the Government of Liberia on the establishment of the United Nations Observer Mission in Liberia. New York, 9 May and 29 July 1994.

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<sup>a</sup> Non-party to the General Convention at the time the agreement was concluded.

<sup>b</sup> Non-party to the General Convention and to the Charter of the United Nations at the time the agreement was concluded.