

**Inter-office memorandum to the General Counsel of a United Nations Agency,
concerning information requested by Member States about the Organization's relations
with contractors**

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, 1946—INFORMATION IN THE POSSESSION OF UNITED NATIONS AGENCIES CONCERNING THE VALUE OF CONTRACTS WITH LOCAL FIRMS IS PRIVILEGED—WAIVER OF THE PRIVILEGE BY THE SECRETARY-GENERAL IS A POLICY MATTER

With reference to your memorandum of 7 May 1953 on this subject, I have the following comments.

1. With regard to the general question presented by the requests from the Governments of [Member State A] and [Member State B], I am of the opinion that information in the possession of the Agency concerning the value of contracts placed by the Agency with local firms is privileged under sections 3 and 4 of the Convention on the Privileges and Immunities of the United Nations.* In my view this information is privileged in the sense that there can be no obligation devolving upon the Agency to supply either Member or non-Member Governments with financial or other particulars to be found in its archives or other documents.

2. Whether the Secretary-General might desire to authorise the waiver of the privilege in any particular case in order to meet the request of a Government is a policy matter depending on factors, such as how many similar requests can be expected, the administrative burden which is imposed upon the Agency thereby, and the value of the goodwill of the Government in affording cooperation. In my view the relative merit of these factors can best be ascertained by the Agency itself rather than by Headquarters.

3. Furthermore, with respect to the request from the Income Tax Department of [Member State B], it would appear that article 39 of the Income Tax Ordinance of 1951, upon which the request for information purports to be based, is inapplicable to the present question. It refers only to income received by "employees". Moreover, even if article 39 were pertinent to the question of the value of contracts placed with local firms, it still cannot in my view affect the legal position of the Agency, since it relates to government employment and, applying the *ejusdem generis* principle of interpretation, the Agency does not fall within the scope of the phrase "any other public body" in section 1 thereof.

4. As far as I am aware this problem has not been encountered by any other United Nations body.

29 May 1953

* United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1).