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**Letter to the Minister Counsellor of a Permanent Mission of a Member State
to the United Nations, concerning the waiver of immunity of a United Nations
expert on mission**

TESTIMONY OF EXPERTS ON MISSION IN JUDICIAL PROCEEDINGS—PRIVILEGES AND IMMUNITIES ACCORDED TO EXPERTS ON MISSION—CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, 1946—IMMUNITY FROM LEGAL PROCESS WITH RESPECT TO WORDS SPOKEN OR WRITTEN AND ALL ACTS PERFORMED IN AN OFFICIAL CAPACITY—CONTINUATION OF IMMUNITY AFTER THE EXPERT’S MISSION HAS ENDED—IMMUNITY MAY BE WAIVED WHEN IT WOULD OTHERWISE IMPEDE THE COURSE OF JUSTICE AND CAN BE DONE WITHOUT PREJUDICE TO THE INTERESTS OF THE ORGANIZATION—CONFIDENTIALITY OBLIGATIONS OF EXPERTS ON MISSION CONTINUE AFTER THE CESSATION OF THEIR OFFICIAL FUNCTIONS—ST/SGB/2002/9—EXPERTS’ TESTIMONY MUST BE LIMITED TO INFORMATION AND FINDINGS CONTAINED IN PUBLIC REPORTS AND ANY OTHER MATERIAL SINCE MADE PUBLIC

I have the honour to refer to your letter to the Legal Counsel of the United Nations of 10 May 2012 transmitting a request from [Name A] of the of [Member State] Department of Justice for the waiver of the immunity from legal process of [Name B], [title] of the [sanctions panel], a subsidiary organ of the United Nations Security Council established pursuant to resolution [...], to allow him to provide testimony as an expert witness in the criminal case against [Name C] in [City].

As the [title] of the current [sanctions panel] and a member of the former [sanctions panel], [Name B] enjoys the privileges and immunities accorded to experts on mission under article VI of the 1946 Convention on the Privileges and Immunities of the United Nations* (“the Convention”). In particular, pursuant to article VI, section 22(b) of the Convention, [Name B] enjoys “immunity from legal process of every kind” with respect to words spoken or written and acts done by him in the course of the performance of his mission. In accordance with article VI, section 22(b) of the Convention such immunity “shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the United Nations”. Pursuant to article VI, section 23 of the Convention “[t]he Secretary-General shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the United Nations”.

Following consultations with the Department of Political Affairs and with [Name B] himself, I am pleased to inform you that the Secretary-General has decided to waive the immunity of [Name B] for the sole purpose of allowing him to provide testimony in the criminal case against [Name C] in [City].

We take note of your statement that “the Department of Justice believes that the scope of [Name B]’s testimony can be drawn so as to avoid addressing issues that would be considered sensitive and proprietary to the Organization”. In this connection, we wish to reiterate that [Name B]’s testimony shall take into account his confidentiality obligations as a United Nations expert on mission. In this connection, reference is made to paragraph 2(f) of the Secretary-General’s Bulletin dated 18 June 2002 entitled “Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission” (ST/SGB/2002/9), which provides that experts on mission “shall not communicate to any Government, entity, person or any other source any information known to them by

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

reason of their official position that they know or ought to have known has not been made public, except as appropriate in the normal course of their duties or by authorization of the Secretary-General... *These obligations do not cease upon the cessation of their official functions.*" (emphasis added). Accordingly, any part of [Name B]'s testimony which is based on, or derived from, his work with the current [sanctions panel] or the former monitoring groups will be limited to the information or findings contained in the public reports of these groups as well as any other material known to or collected by them which has since made public.

[Name B]'s confidentiality obligations would also constrain him from making public any information which would (i) place the other members of the [sanctions panel] or the former [sanctions panels], their sources or their sources' families in danger, (ii) violate a duty of confidentiality which the United Nations owes to a third party, (iii) compromise the confidentiality of the Organization's internal decision-making processes, including the Security Council and its Committees, or (iv) impede the effective functioning of current or future operations of the United Nations.

Finally, we note with appreciation that the Department of Justice will make the necessary arrangements for [Name B]'s travel and accommodation in connection with his testimony.

17 May 2012

Letter to the Permanent Mission of a Member State to the United Nations, concerning certifications related to licenses for certain equipment

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, 1946—
CERTIFICATIONS RELATED TO LICENSES FOR EQUIPMENT PURCHASED BY THE ORGANIZATION IN A
MEMBER STATE TO BE USED BY A PEACEKEEPING MISSION

I am writing to follow-up on my previous letter of 18 April 2012 with respect to the issue of a requirement by the [Member State A department] that the United Nations provide specific certifications related to licenses for [Company] desktops, notebooks and tablets and [Company] [...] products and accessories that are being purchased by the United Nations for use by its peacekeeping mission in [city, Member State B] and in [region in Member State B].

We now understand from [the Company] that the [Member State A department] has indicated to [the Company] that the [Member State A department] would also alternatively accept a signed letter on United Nations letterhead indicating that the [Company] equipment will be used by United Nations personnel only in [Member State B], that the equipment will not be transferred to any non-United Nations entity and that once the equipment is no longer being used or is damaged, the equipment will be removed from [Member State B] or be destroyed.

We have contacted the peacekeeping mission in [Member State B] and it has provided the attached proposed certification with respect to the above, consistent with our past practice and the rights and obligation of the United Nations under article II, section 7(b) of the Convention on the Privileges and Immunities of the United Nations.* We would be grateful if you could kindly confirm that the attached proposed undertaking is satisfactory to the [Member State A department] to resolve this issue and that this type of certification will be sufficient for similar future purchases.

If there are any future questions, we remain available to discuss this further with officials of the [Member State A] Mission or the [Member State A department].

29 August 2012

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

[UN LETTERHEAD]**END USER CERTIFICATE**

The [United Nations Mission] hereby certifies that the under-mentioned equipment are procured for the sole use of [United Nations Mission] and should be considered in a tax exempt status.

This equipment is for use only by the United Nations personnel in [Member State B] and will be stored in secured warehouses. Equipment will not otherwise be re-sold or transferred to any non-United Nations entity. Once equipment is no longer in use or damaged it would be removed from [Member State B] and/or destroyed properly.

Name of Exporter:

System Contract no.: ...

Description of Goods: ...

Name:

Title:

Date:

Signature: