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UNITED NATIONS JURIDICAL YEARBOOK

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Part One. Legal status of the United Nations and related intergovernmental organizations

Chapter I. Legislative texts concerning the legal status of the United Nations and related intergovernmental organizations



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Chapter I

LEGISLATIVE TEXTS CONCERNING THE LEGAL STATUS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

1. Austria

(a) ORDINANCE OF THE FEDERAL GOVERNMENT OF 17 OCTOBER 1978 ON THE GRANTING OF PRIVILEGES AND IMMUNITIES TO PERMANENT OBSERVER MISSIONS TO INTERNATIONAL ORGANIZATIONS

On the basis of article 1, paragraphs (1) and (9), of the Federal Act of 14 December 1977, Bundesgesetzblatt No. 677, on the Granting of Privileges and Immunities to International Organizations, it is ordered, by agreement with the Main Committee of the National Council, that:

Article 1

(1) Permanent observer missions accredited, in accordance with the statutes and decisions of the organizations in question, to international organizations within the meaning of article 1, paragraph (7), item 1, of the Federal Act contained in Bundesgesetzblatt No. 677/1977 which have their headquarters in Austria shall enjoy privileges and immunities as provided for in this Ordinance.

(2) Additional privileges and immunities which are granted to permanent observer missions through international treaties binding on the Republic of Austria shall not be affected.

Article 2

The premises of permanent observer missions shall enjoy such protection as circumstances make necessary. Austrian executive authorities may enter them only with the consent of the head of the mission or of the Federal Minister for Foreign Affairs.

Article 3

The documents of permanent observer missions shall be inviolable wherever they are to be found.

Article 4

Permanent observer missions may communicate with their superior authorities for official purposes freely and without hindrance and in doing so may also make use of coded reports. The courier pouches of permanent observer missions may be opened and detained with the consent of the Federal Minister for Foreign Affairs if there are valid grounds for assuming that the consignment contains something other than the documents referred to in article 3.

Article 5

Permanent observer missions shall be permitted to import objects for the official use of the mission free of tax and customs duties and free from import prohibitions or restrictions.

Article 6

(1) Members of permanent observer missions and the members of their families living in the same household must observe Austrian laws and may not interfere in the internal affairs of the Republic of Austria.

(2) Members of permanent observer missions and the members of their families living in the same household must refrain from all oral and written statements, which might impair the relations of the Republic of Austria with another State.

Article 7

(1) Members of permanent observer missions who hold a rank comparable to that of diplomatic personnel of a diplomatic mission and are neither Austrian nationals nor permanent residents of Austria shall be exempt from Austrian penal jurisdiction with respect to oral and written statements made by them and actions carried out by them in the exercise of their official functions as observers and representatives of their superior authorities.

(2) Members of permanent observer missions other than those who are referred to in paragraph (1) shall be subject to Austrian jurisdiction without any restriction.

Article 8

Members of permanent observer missions who are referred to in article 7, paragraph (1), shall also enjoy the following privileges:

(1) Exemption from all forms of taxation of the salaries, wages and remuneration, which they receive from their superior authorities.

(2) The right to import the following articles for personal use, free of tax and customs duties and free from economic import prohibitions and restrictions:

(a) On first taking up their duties, articles for their household establishment and personal items, in one delivery or several separate deliveries, and, within six months thereafter, any necessary supplementary items;

(b) One motor-car every four years;

(c) Limited quantities of specific articles intended for personal use and consumption but not for disposal as gifts or by sale, to the extent to which the employees of the International Atomic Energy Agency enjoy the right to import such articles under section 38 (iii) of the Headquarters Agreement, Bundesgesetzblatt No. 82/1958; in so far as the international organization to which the mission is accredited permits the persons referred to in article 7, paragraph (1), to have access to the commissary set up by the organization, they shall enjoy this right as well.

(b) ORDINANCE OF THE FEDERAL GOVERNMENT OF 5 JUNE 1979 ON THE GRANTING OF PRIVILEGES AND IMMUNITIES TO THE PERMANENT OBSERVER MISSION OF THE COMMISSION OF THE EUROPEAN COMMUNITIES

On the basis of article 1, paragraphs (1) and (9), of the Federal Act of 14 December 1977, Bundesgesetzblatt No. 677, on the Granting of Privileges and Immunities to International Organizations, it is ordered, by agreement with the Main Committee of the National Council, that:

Article 1

The permanent observer mission of the Commission of the European Communities accredited, in accordance with the statutes and decisions of the organizations in question, to one or more international organizations within the meaning of article 1, paragraph (7), item 1, of the Federal Act contained in Bundesgesetzblatt No. 677/1977 which have their headquarters in Austria shall enjoy

the same privileges and immunities as the permanent representation of a State member of the international organization to which the observer mission is accredited.

Article 2

The members of the permanent observer mission within the meaning of article 1 shall enjoy the same privileges and immunities as members of comparable rank of the permanent representation of a State member of the international organization to which the observer mission is accredited.

2. Cape Verde

A DECREE-LAW NO. 84/79, WHICH BECAME EFFECTIVE ON 13 OCTOBER 1979, ESTABLISHED A NEW REGULATION ON THE MOTOR VEHICLE CIRCULATION TAX CONCERNING THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS ORGANIZATION AND SPECIALIZED AGENCIES

The third paragraph of this Decree-Law provides that the auto vehicles of the United Nations Organization, specialized agencies and other international organizations that contribute to the development of the country shall be exempt of the Motor Vehicle Circulation Tax.

3. Czechoslovakia

NOTICE OF THE FEDERAL MINISTRY OF FOREIGN TRADE OF 12 MAY 1979 PROHIBITING OR LIMITING THE EXPORTATION OF CERTAIN GOODS BY TOURISTS¹

Article 4

The notice does not apply to:

...

(b) goods exported by personnel of foreign diplomatic missions and other organizations benefiting from immunities and privileges in the Czechoslovak Socialist Republic.

Article 6

The present notice enters into force on 1 June 1979.

¹ English translation provided by Czechoslovakia.

4. El Salvador

REGULATIONS FOR THE GRANTING OF TAX EXEMPTIONS TO DIPLOMATIC REPRESENTATIONS AND REPRESENTATIONS OF INTERNATIONAL ORGANIZATIONS

Under these regulations, tax exemptions shall be authorized on the basis of the strictest reciprocity, in the following manner:

1. Diplomatic representations and those of international organizations may purchase or bring into the country duty-free one (1) motor-car for the official use of the mission concerned.

The Ministry of Foreign Affairs, through the Office of Protocol, may, however, authorize the entry of such other motor vehicles as may be needed for the normal requirements of the missions, provided that they meet the technical specifications of the function for which they are intended.

2. Ambassadors shall be entitled to import:

(a) Two (2) motor-cars the titles to which they may transfer tax-free after two (2) years have elapsed since the date on which the relevant tax exemption was authorized.

Monthly entitlement:

- (b) Three hundred (300) gallons of petrol;
- (c) Four (4) cases of whisky, containing twelve (12) bottles each;
- (d) Four (4) cases of liqueurs, containing twelve (12) bottles each;
- (e) Four (4) cases of wine containing twelve (12) bottles each;
- (f) Four (4) cases of champagne containing twelve (12) bottles each;
- (g) Two thousand (2,000) cigarettes.

The above-mentioned whisky and liqueur entitlements may be increased in special cases.

3. The entitlement of other accredited mission officials, except for honorary officials, shall be as follows:

(a) One (1) motor-car, the title to which they may transfer tax-free on the same conditions as those required of ambassadors.

Monthly entitlement:

- (b) One hundred and fifty (150) gallons of petrol;
- (c) Two (2) cases of whisky containing twelve (12) bottles each;
- (d) Two (2) cases of liqueurs containing twelve (12) bottles each;
- (e) Two (2) cases of wine containing twelve (12) bottles each;
- (f) Two (2) cases of champagne containing twelve (12) bottles each;
- (g) One thousand five hundred (1,500) cigarettes.

4. Administrative staff of accredited missions who are not nationals of El Salvador, provided that the same privilege is granted in their country of origin to Salvadorians, shall, in accordance with the provisions of the Vienna Convention on Diplomatic Relations, be granted an entitlement equal to that which is granted in their own country to administrative staff of the missions of El Salvador.

5. Duly accredited heads of the offices of international organizations shall be granted an entitlement equal to that referred to in paragraph 2 above; officials of the said offices shall be granted the entitlement referred to in paragraph 3, provided that they are not nationals of El Salvador.

6. Every request for a tax exemption must be accompanied by the following:

- (i) A request indicating that Salvadorian officials enjoy the same exemption in the applicant's country of origin;
- (ii) Invoices of the goods imported, giving details of the article or articles purchased;
- (iii) A tax exemption form signed by the head of mission, as the applicant, and by the person concerned or by the owner of the imported article.

7. If persons are transferred, the sale of imported vehicles may not be authorized until six (6) months after the date of the tax exemption authorization, provided that this same procedure is followed in the applicant's country of origin.

8. For the granting of the above-mentioned tax exemptions it is essential that the official making the application should be a permanent resident of the country.

9. The provisions contained in circular notes No. 3 of 8 January 1974 and No. 13 of 18 August 1977 are hereby abrogated.

5. United States of America

DEPARTMENT OF STATE REGULATIONS ON LIABILITY INSURANCE²

PART 151. COMPULSORY LIABILITY INSURANCE FOR DIPLOMATIC MISSIONS AND PERSONNEL.

Section 151.1 Purpose.

This part establishes regulations required under section 8 of the Diplomatic Relations Act (Pub. L. 95-393; 22 U.S.C. 254e). These regulations require all missions, members of missions and their families, and those officials of the United Nations who are entitled to diplomatic immunity to have and maintain liability insurance against the risks of bodily injury, including death, and property damage, including loss of use, arising from the ownership, maintenance, or use in the United States of any motor vehicle, vessel, or aircraft.

Section 151.2 Definitions.

(a) "Act" means the Diplomatic Relations Act, Pub. L. 95-393 (22 U.S.C. 254a *et seq.*, 28 U.S.C. 1364).

(b) "Persons subject to the Act", as defined in Section 2 of the Act, means: (1) The head of a mission and members of the diplomatic staff, administrative and technical staff, and service staff of a mission, as such terms are defined in Article 1 of the Vienna Convention on Diplomatic Relations of April 18, 1961 (TIAS 7502, 23 U.S.T. 3227); (2) members of the family of a member of the diplomatic staff of a mission who form part of his or her household if they are not nationals of the United States, and members of the family of a member of the administrative and technical staff of a mission who form part of his or her household if they are not nationals or permanent residents of the United States; and (3) senior officials of the United Nations as defined in paragraph (d) of this section.

(c) "Missions", as defined in Section 2 of the Act, means missions within the meaning of the Vienna Convention on Diplomatic Relations and any missions representing foreign governments, individually or collectively, which are extended the same privileges and immunities, pursuant to law, as are enjoyed by missions under the Vienna Convention.

(d) "Senior United Nations official" means a United Nations official entitled to diplomatic immunity as provided in Section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1948 (21 UST 1418; 1 UNTS 16).

(e) "Insurance" means insurance as required by the Act and these regulations.

Section 151.3 Types of insurance coverage required.

(a) Every person subject to the Act and every mission shall have and maintain with respect to any motor vehicle, vessel or aircraft owned by, leased to, or furnished for the regular use of every

² U.S. *Federal Register*, vol. 44, No. 99, 21 May 1979, pp. 29450-42.

such person or mission liability insurance in accordance with the form, terms, and conditions provided for in these regulations.

(b) The insurance shall provide coverage against the following risks to third parties arising from the ownership, maintenance, or use in the United States of any motor vehicle, vessel, or aircraft:

- (1) Bodily injury, including death;
- (2) Property damage, including loss of use; and

(3) Any additional coverage required to be included in liability insurance policies by the jurisdiction where the motor vehicle, vessel or aircraft is principally garaged, berthed, or kept, such as uninsured motorist coverage or first party no-fault coverage.

Section 151.4 Minimum limits for motor vehicle insurance.

The insurance shall provide not less than the minimum limits of liability specified in the financial responsibility, compulsory insurance or other law of the jurisdiction where the motor vehicle is principally garaged.

Section 151.5 Recommended limits for motor vehicle insurance.

Every person subject to the Act and every mission should have and maintain insurance adequate to afford reasonable compensation to accident victims. Minimum limits of liability of \$100,000 per person and \$300,000 per incident for bodily injury, including death, and \$50,000 per incident for property damage, including loss of use, are recommended to meet this objective.

Section 151.6 Authorized insurer.

The insurance must be issued by an insurer licensed or otherwise authorized by applicable law to do business in the jurisdiction where the motor vehicle, vessel or aircraft is principally garaged, berthed or kept.

Section 151.7 Policy terms consistent with the Act.

(a) The insurance shall be construed in conformity with the Act. In particular, no effect shall be given to any policy terms which are inconsistent or in conflict with those provisions of the Act stating that any suit against the insurer under the policy shall not be subject to any of the following defenses:

- (1) That the insured is immune from suit;
- (2) That the insured is an indispensable party; or
- (3) In the absence of fraud or collusion, that the insured has violated a term of the contract, unless the contract was canceled before the claim arose.

(b) Notwithstanding the provisions of paragraph (a) of this section, the insured is expected to respond to reasonable requests from the insurer for co-operation.

Section 151.8 Evidence of insurance for motor vehicles.

(a) Every mission must periodically, and otherwise upon official request, furnish evidence satisfactory to the Department of State that the required insurance is in effect for the mission, its members and their families. Every senior United Nations official must also periodically furnish evidence satisfactory to the Department of State that the required insurance is in effect.

(b) The Department of State will accept as satisfactory evidence that the required insurance is in effect:

- (1) A written statement of self-certification signed by the Chief of Mission, indicating that the mission, its members and their families have and will maintain insurance throughout the period of registration of all vehicles owned or leased or otherwise regularly used, and showing the name of the insurance company or companies and identifying each policy by number and name of insured; and

(2) A written statement of self-certification signed by each senior United Nations official, indicating that he or she has and will maintain insurance throughout the period of registration on all motor vehicles owned or leased or otherwise regularly used, and showing the name of the insurance company or companies and identifying each by number and name of insured.

(c) A certification under paragraph (1) of this section by a Chief of a Mission to the United Nations or by a senior United Nations official shall be delivered to the Counselor for host country affairs of the United States Mission to the United Nations. All other certifications shall be delivered to the Chief of Protocol, Department of State.

Section 151.9 Evidence of insurance required for diplomatic license plates and waiver of fees.

The Department of State will not endorse on behalf of any person subject to the Act or any mission any application for diplomatic motor vehicle license plates or any application for waiver of motor vehicle registration fee without prior receipt of satisfactory evidence from the Chief of Mission or other duly authorized official that the required insurance is in effect.

Section 151.10 Minimum limits of insurance for aircraft and/or vessels.

Insurance in respect of vessels and/or aircraft shall provide limits of liability adequate in light of reasonably foreseeable risks from the ownership, maintenance, or other regular use of vessels and/or aircraft.

Section 151.11 Notification of ownership, maintenance or use of vessel and/or aircraft; evidence of insurance.

(a) Each person subject to the Act and each mission must notify the Department of State in writing of the ownership, maintenance or other regular use of a vessel or aircraft in the United States by such mission or person.

(b) Notices under paragraph (a) of this section shall identify the vessel and/or aircraft with specificity, including model and manufacturer's name, and serial and registration numbers. Each notification shall be accompanied by a copy of the insurance policy or policies issued in respect of the vessel and/or aircraft. Such policy or policies need not be issued by the insurer providing liability insurance for motor vehicles.

(c) With regard to senior United Nations officials, missions to the United Nations and members of such missions as have diplomatic status and their families, notices and evidence of insurance under this section shall be delivered to the counselor for host country affairs of the United States Mission to the United Nations. All other notices under this section shall be delivered to the Chief of Protocol, Department of State.