NATIONS
UNIES

ST

Secrétariat

ST/LEG/17
6 April 1987

ENGLISH/FRENCH/SPANISH

RELATIONS BETWEEN STATES AND INTERNATIONAL ORGANIZATIONS
(SECOND PART OF THE TOPIC)

Copies of replies to a questionnaire concerning the status, privileges and immunities of regional organizations

87-08771 9244R 9245R 9246R 9247R (F)
GE. 87-61567

/...

CONTENTS

		Pages
	INTRODUCTION	4
I.	GENERAL COMMENTS AND OBSERVATIONS	6
II.	REPLIES TO SPECIFIC QUESTIONS	9
	LEGAL PERSONALITY (Question 1)	9
	A. LEGAL PERSONALITY IN DOMESTIC LAW	21
	Contractual capacity (Questions 2-5)	21
	Capacity to acquire and dispose of immovable property (Questions 6 and 7)	40
	Capacity to acquire and dispose of movable property (Question 8)	47
	Licensing and registration of land vehicles, vessels, aircraft and spacecraft (Question 9)	50
	Capacity to institute legal proceedings (Question 10)	54
	B. INTERNATIONAL LEGAL PERSONALITY	57
	Treaties and treaty making capacity (Questions 11-15)	57
	International claims (Questions 16-18)	73
	PREMISES, PROPERTY, FUNDS AND ASSETS OF THE ORGANIZATION	84
	Inviolability (Questions 19-23)	84
	Immunity from legal process and execution (Questions 24-26)	103
	Waiver (Questions 27-29)	113
	Holding, transfer or conversion of funds, gold or currency and operation of accounts (Questions 30 and 31)	123
	Exemption from taxation (Questions 32-37)	131
	Exemption from customs duties and from imports and exports restrictions and prohibitions (Questions 38-45)	155
	Facilities in respect of communications (Questions 46-54)	180

CONTENTS (continued)

	Pages
Officials of the organization	208
Immunity from legal process (Questions 55-58)	208
Exemption from taxation	222
A. On earnings with the organization (salaries and emoluments) (Questions 59-63)	222
B. Other taxation (Questions 64 and 65)	242
Exemption from immigration restrictions and alien registration (Questions 66-68)	250
Exemption of duties in importation of furniture and other personal effects (Questions 69-72)	261
Exemption from national service obligations (Questions 73-75)	274
Exchange advantages (Question 76)	282
Repatriation advantages (Questions 77 and 78)	286
Diplomatic privileges and immunities (Questions 79 and 80) ...	292
Determination of the officials of the organization and communication to the host country (Questions 81-84)	301
Waiver of immunity (Questions 85-87)	315
Abuses of privileges (Questions 88-91)	326
Travel documents and advantages (Questions 92-100)	339
SETTLEMENTS OF DISPUTES (Questions 101-102)	365
SPECIALIZED AGENCIES OF REGIONAL ORGANIZATIONS (Questions 103-105)	372

INTRODUCTION

1. At its thirty-fifth session in 1983, the International Law Commission requested the Legal Counsel of the United Nations "to send the legal counsels of regional organizations a questionnaire similar to that circulated to the legal counsels of the specialized agencies and the International Atomic Energy Agency (AIEA), with a view to gathering information of the same kind as that acquired through the two questionnaires sent to the United Nations specialized agencies and IAEA in 1965 and 1978". 1/ On 5 January 1984, the Legal Counsel, as requested, sent regional organizations a questionnaire (in English, French or Spanish) concerning their status, privileges and immunities. The questions included in that questionnaire are reproduced below, followed in each case by copies of the replies received to the particular question.

2. At its thirty-seventh session in 1985, the International Law Commission expressed the view that it would be useful if the Secretariat could submit to members ot the Commission copies of the replies to the questionnaire. 2/

3. This collection sets out copies of the replies received, organized on a question-by-question basis, from organizations to the questionnaire of 5 January 1984 (in English, French or Spanish). The organizations which submitted replies to the questionnaire and the date of the replies are indicated below:

Acuerdo de Cartagena (Commission for the Cartagena Agreement)	15 June 1984
African Civil Aviation Commission	9 May 1984
Caribbean Community	27 April 1984
Commission centrale pour la navigation du Rhin (Central Commission for the Navigation of the Rhine)	27 April 1984
Commonwealth Secretariat	
Conférence européenne des administrations des postes et des communications (European Conference of Postal and Telecommunications Administrations)	9 May 1984
Council of Europe	15 June 1984
Consejo Oleícola Internacional (International Olive Oil Council)	13 April 1984
Council for Mutual Economic Assistance	27 April 1984
European Communities	28 May 1984
European Space Agency	12 July 1984
International Cocoa Organization	7 March 1984

1/ See Official Records of the General Assembly, Thirty-eighth Session, Supplement No. 10 (A/38/10), para. 277 (f). The replies to the 1965 and 1978 questionnaires formed the basis of two studies prepared by the Secretariat: Yearbook of the International Law Commission, 1967, vol. II, pp. 154-325, document A/CN.4/L.118 and Add.1-2; and document A/CN.4/L.383 and Add.1-3.

2/ Official Records of the General Assembly, Fortieth Session, Supplement No. 10 (A/40/10), para. 267 (f).

International Sugar Agreement	19 March 1984
International Whaling Commission	20 March 1984
North Atlantic Treaty Organization	19 March 1984
Organisation for Economic Co-operation and Development	25 April 1984
Secretaría Permanente del Tratado General de Integración Económica Centroamericana (Permanent Secretariat of the General Treaty on Central American Economic Integration)	10 May 1984
Union économique Bénélux (Benelux Economic Union)	13 February 1984

4. The following organizations, in addition to submitting replies to the questionnaire, included relevant materials, referred to in their respective replies, which are maintained in the files of the Office of Legal Affairs and which may be consulted upon request:

African Civil Aviation Commission
Caribbean Community
Commonwealth Secretariat
Conférence européenne des administrations des postes et des communications (European Conference of Postal and Telecommunications Administrations)
Council for Mutual Economic Assistance
European Community
European Space Agency
International Cocoa Organization
International Whaling Commission
Organisation for Economic Co-operation and Development
Secretaría Permanente del Tratado General de Integración Económica Centroamericana (Permanent Secretariat of the General Treaty on Central American Economic Integration)
Union économique Bénélux (Benelux Economic Union)

5. The following organizations did not submit replies to the questionnaire, but submitted relevant materials which are maintained in the files of the Office of Legal Affairs and which may be consulted upon request:

Commission du Danube (Danube Commission)
European Conference of Ministers of Transport
International Tin Council
International Organization of Space Communications
Organisation africaine de la propriété intellectuelle (African Intellectual Property Organization)
Union africaine des postes et télécommunications (African Postal and Telecommunications Union)
Western European Union

I. GENERAL COMMENTS AND OBSERVATIONS

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE (CMEA)

1. The Council for Mutual Economic Assistance (hereinafter referred to as "CMEA" or "the Council") is not strictly a "regional" organization, since it includes member countries from three different continents of the world.

2. The answers to the present questionnaire are to be understood as being of significance only as a means of facilitating the relevant research work being carried out by the United Nations Secretariat, and may not in any way be regarded as an expression of the official position of CMEA on the matters concerned or as setting a precedent for the future.

EUROPEAN COMMUNITIES

1. In responding to your questionnaire, on behalf of the European Communities, it is necessary to underline some general characteristics of the European Communities. This will provide a framework for the answers to the specific questions.

2. The "European Communities" constitute the entity resulting from the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community. They form an international organization sui generis. The member States have, in several areas, definitely and permanently transferred to the European Communities sovereign powers, thereby establishing the exclusive competence of the Community in these fields. In addition, the treaties provide a basis for a wide range of interstate co-operation.

3. As defined in the Treaty establishing the European Economic Community, "the Community shall have as its task, by establishing a common market and progressively approximating the economic policies of member States, to promote throughout the Communities a harmonious development of economic activities, a continous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the States belonging to it" (art. 2). To pursue these objectives, the Communities enact legislation and develop guidelines for the co-ordination of national policies. The legislation affects the legal relationships both between the citizens and between the member States and their citizens, in that it confers on individuals rights which the national courts are bound to protect. It prevails over domestic law and cannot be overridden by domestic legislation, however framed and even if it is enacted at a later date. Due to the extensive nature of their legislation and their own active co-operation with third States, the international role of the Communities has become considerable, and the Communities have established their own personality on the international plane. The legal bases for Communities' external relations are the relevant provisions in the Treaty (e.g. arts. 210, 113, 238, 235, 228 and 229). In addition, the Communities can also act in the fields of external relations in so far as the subject-matter is part of the Communities' internal legislation.

4. More than 100 countries have entered into diplomatic relations with the Communities. The European Communities have up to now concluded - alone or together with their member States - about 800 international agreements. These are mostly bilateral, with more than 100 States, but recently they have also, to a considerable degree, included multilateral treaties. Reference is made to world-wide conventions made under the auspices of the United Nations Conference on Trade and Development, the United Nations Educational, Scientific and Cultural Organization, IAEA and the General Agreement on Tariffs and Trade, as well as the regional conventions under the auspices of the Economic Commission for Europe and the Council of Europe, and to regional conventions on fishing and conservation of living resources and on protection of the marine environment in the North Atlantic and North-East Atlantic Ocean, Antarctica and the Mediterranean and Baltic Seas. Reference is also made to the participation of the Communities in negotiations on the law of the sea.

5. Such agreements are binding, for those parts of the agreements which fall within Communities' competence, exclusively via their conclusion by the Communities. From the date they come into force, their provisions form an integral part of Community law. Such provisions may confer on individuals direct rights which the national courts must protect. The Communities enjoy permanent observer status in many international organizations. It participates in almost all major international conferences, generally as an observer.

6. The treaties established an institutional framework for the Communities. This framework includes the European Parliament, the Council, the Commission and the Court of Justice of the European Communities. The latter has been endowed with wide judicial powers, among others that of verifying the compatibility of acts of the member States in relation to Community law. This may entail an obligation for member States to alter their national legislation so as to be in conformity with Community law.

7. As you will see from the specific answers, questions of privileges and immunities have hardly caused any major problems or difficulties for the European Communities.

INTERNATIONAL COCOA ORGANIZATION (ICO)

1. Paragraph 2 of article 21 of the current International Cocoa Agreement (1980) which deals with privileges and immunities in broad terms states:

> "The status, privileges and immunities of the Organization, of its Executive Director, its staff and experts and of representatives of members whilst in the territory of the United Kingdom of Great Britain and Northern Ireland for the purpose of exercising their functions, shall continue to be governed by the Headquarters Agreement concluded between the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the host Government) and the International Cocoa Organization in London on 26 March 1975."

2. Practically all the points raised in your questionnaire find an answer in the various articles of the Headquarters Agreement particularly those relating to topics like legal personality, premises, funds and assets, facilities in respect of communication, privileges and immunities enjoyed by the Executive Director and the staff of the secretariat.

INTERNATIONAL SUGAR AGREEMENT (ISO)

1. In many cases where it is indicated that a question or problem has not arisen, this means, more precisely, that it has not arisen so far as is known to the present senior officers of the secretariat.

2. It should also be noted that the organization does not have a staff legal counsel, relying instead on outside legal counsel where legal advice is needed. The answers here given have not been taken up with any legal counsel but rather represent the knowledge or views of the Executive Director as advised by other senior officers of the secretariat.

3. In view of the heading of the questionnaire, it should be made clear that the ISO is not a regional organization, being open to all states and having a world-wide membership. However, we have answered the questionnaire at the request of the United Nations Office of Legal Affairs.

NORTH ATLANTIC TREATY ORGANIZATION (NATO)

Bien que la rédaction de ce document ait nécessité un travail considérable, se plaçant en dehors des activités normales du service, il est possible que certaines réponses ne correspondent pas entièrement, ni quant à leur conception, ni quant à leur élaboration, aux espérances des rédacteurs du questionnaire. Cependant, les structures particulières de l'Organisation impliquent parfois une si grande variété, de telles différences de situation s'ajoutant par ailleurs à des conditions juridiques nationales changeantes, qu'une autre manière de travailler a dû être exclue.

II. REPLIES TO SPECIFIC QUESTIONS

Question 1

LEGAL PERSONALITY

What treaty provisions, national regulations or practice, if any, regulate questions pertaining to the legal personality of your organization:

(a) Within the legal system of the host country;

(b) Within the legal systems of members or non-member States;

(c) On the international plane?

PERSONNALITE JURIDIQUE

Quelles sont les dispositions des traités, les règlements nationaux ou les pratiques qui régissent, le cas échéant, les questions touchant à la personnalité juridique de votre organisation :

a) Dans le cadre du système juridique du pays hôte;

b) Dans le cadre des systèmes juridiques des Etats membres ou non membres;

c) Au plan international?

PERSONALIDAD JURIDICA

Indique qué disposiciones de tratados, reglamentos o prácticas nacionales, si los hubiere, rigen las cuestiones atinentes a la personalidad jurídica de su organización:

a) Dentro del sistema jurídico del país huesped;

b) Dentro de los sistemas jurídicos de los Estados miembros o no miembros;

c) En el plano internacional.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

1. En el plano de los países miembros: el Acuerdo de Cartagena. Adicionalmente, en el país miembro sede, el Convenio de Privilegios e Inmunidades celebrado entre el Gobierno del Perú y la Junta.

2. En el plano internacional: actos de reconocimiento, tales como contratos y relaciones de cooperación y de asistencia técnica y financiera, acreditación de observadores por terceros países y por otras organizaciones internacionales.

AFRICAN CIVIL AVIATION COMMISSION (AFCAC)

1. The Headquarters Agreement signed on 10 September 1974 between the Government of the Republic of Senegal and AFCAC.

2. The AFCAC Constitution.

CARIBBEAN COMMUNITY

1. Within the legal system of the host country: article 20 of the Treaty establishing the Caribbean Community and article 63 of the annex to the Treaty.

2. Within legal systems of members: the provisions mentioned above.

3. On the international plane: article 20 (1) of the Treaty and article 63 (1) of the annex to the Treaty.

4. The national regulations are as follows:

(a) Guyana [host country]: the Privileges and Immunities (the Caribbean Community and the Caribbean Common Market) Order 1982;

(b) Jamaica: the Caribbean Community and Common Market Act (Act 4 of 1975);

(c) St. Vincent and the Grenadines: the Caribbean Community and Origin System Act, 1979;

(d) Barbados: the Caribbean Community Act;

(e) Belize: the Caribbean Community Ordinance.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

1. L'accord entre la Commission centrale pour la navigation du Rhin et le Gouvernement de la République française du 10 mai 1978 relatif au siège de la Commission centrale pour la navigation du Rhin et ses privilèges et immunités sur le territoire français.

2. La Convention révisée pour la navigation du Rhin du 17 octobre 1968 et ses amendements ultérieurs.

COMMONWEALTH SECRETARIAT

1. The Commonwealth Secretariat was established by the Agreed Memorandum published at the conclusion of the 1965 meeting of Commonwealth Heads of Government. The Agreed Memorandum set out the functions which the Commonwealth Governments agreed to assign to the secretariat, and also defined the extent to which immunities and privileges would be conferred on the secretariat and its staff.

2. On the establishment of the secretariat, no precise definition of its status was attempted. However, relevant provisions are found in the "Administrative Arrangements" included in the Agreed Memorandum of 1965, especially in paragraphs 39 and 40:

> "39. The British Government will introduce legislation in order to give the secretariat a legal personality under United Kingdom law and to accord to the secretariat and its staff the immunities and privileges which are set out in annex A [headed 'Commonwealth Secretariat: proposed scale of immunities and privileges'].
>
> "40. Other Commonwealth Governments will take steps to accord corresponding immunities and privileges to the staff of the secretariat when visiting their territories, subject to whatever constitutional processes are required."

Host country

3. The Memorandum thus required legislative action by the United Kingdom, the host country, both to give the secretariat legal personality and to confer privileges and immunities on the secretariat and its staff. In 1966 the United Kingdom enacted the Commonwealth Secretariat Act (1966, chap. 10) which defines the privileges and immunities granted to the secretariat and to members of its staff, partly by reference to the privileges and immunities enjoyed by diplomatic agents. There is a reference to the Diplomatic Privileges Act 1964 which defines such privileges and immunities by giving the force of law to the appropriate provisions of the Vienna Convention on Diplomatic Relations of 1961.

Member States

4. The obligations undertaken by the other member States of the Commonwealth under the Agreed Memorandum were more limited in comparison to those undertaken by the United Kingdom. Commonwealth member States generally did not undertake to grant status, privileges or immunities to the secretariat itself; and the privileges and immunities to be granted to the staff of the secretariat were strictly required only when such staff were "visiting" the State in question.

5. There is no uniformity in the practice of member States. Some have not taken steps to implement the Agreed Memorandum; some have implemented it fairly literally, while others have taken a broader view of their obligations and have taken action well beyond the strict requirements of the Memorandum.

Non-member States

6. No obligations exist in these States with respect to the Commonwealth secretariat; and there are no treaty or other provisions affecting the status, privileges and immunities of the secretariat in such States.

International

7. No treaty or other provisions.

CONFERENCE EUROPENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS (CEPT)

(European Conference of Postal and Telecommunications Administrations)

Arrangement instituant la CEPT (Montreux, 26 juin 1959)

CONSEIL DE L'EUROPE

(Council of Europe)

L'Accord général sur les privilèges et immunités du Conseil de l'Europe du 2 septembre 1949 stipule en son article premier :

"Le Conseil de l'Europe possède la personnalité juridique. Il a la capacité de contracter, d'acquérir et d'aliéner des biens immobiliers et mobiliers et d'ester en justice.

Le Secrétaire général prend, au nom du Conseil, les mesures nécessaires à cet effet."

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

1. Dentro del sistema jurídico del país huésped, el Consejo Oleícola Internacional firmó un instrumento de ratificación del Convenio sobre Privilegios e Inmunidades de la Sede y Funcionarios del Consejo Oleícola Internacional el 8 de abril de 1963.

2. La personalidad jurídica reconocida por el Gobierno español al Consejo Oleícola Internacional y su capacidad para contratar, adquirir o enajenar bienes muebles o inmuebles y entablar acciones judiciales se determina en el artículo 1 del referido texto.

3. Dentro de los sistemas jurídicos de los Estados miembros o no miembros, el Convenio Internacional del Aceite de Oliva, 1979, en el capítulo XI "Privilegios e Inmunidades", en su artículo 37, dispone sobre este punto que, "en el territorio de cada miembro, y siempre que lo permita su legislación, el Consejo gozará de la capacidad jurídica necesaria para el desempeño de las funciones que le asigna el presente Convenio".

4. No existe otra referencia al respecto.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE (CMEA)

The international and internal legal personality of CMEA derives from its charter (in particular, arts. III, XI, XII and XIV), the Convention concerning the juridical personality, privileges and immunities of CMEA of 14 December 1959 (in particular, art. I), the Agreement between CMEA and the Government of the USSR concerning the settlement of questions connected with the location in the USSR of institutions of CMEA of 7 December 1961 (CMEA has concluded similar agreements with the Governments of Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary and Poland), and the Protocol of 3 October 1968 additional to that Agreement. The legal personality of CMEA on the international plane also derives from the norms of general international law applicable to inter-State organizations.

EUROPEAN COMMUNITIES

1. The Treaty establishing the European Coal and Steel Community (ECSC) (signed in Paris on 18 April 1951) in its article 6, paragraph 1, the Treaty establishing the European Economic Community (EEC) (signed in Rome on 25 March 1957) in its article 210 and the Treaty establishing the European Atomic Energy Community (EAEC) (signed in Rome on 25 March 1957) in its article 184 provide in identical terms: "the Community shall have legal personality".

2. The legal personality of the European Communities is closely related to its specific nature. By creating communities of unlimited duration, having their own institutions, their own personality, their own legal capacity and capacity of representation on the international plane and, more particularly, powers stemming from a limitation of sovereignty or a definite transfer of powers from the States to the Communities, the member States have limited their sovereign rights, and have thus created a body of law which binds both their nationals and themselves. By contrast with ordinary international agreements, the Treaties constituting the European Communities have created their own legal system which became an integral part of the legal systems of the member States and which their courts are bound to apply. The transfer by the States from their domestic legal system to the Community legal system of rights and obligations arising under the Treaty carries with it a permanent limitation of their sovereign rights, against which a subsequent unilateral act incompatible with the concept of the Communities cannot prevail.

3. The law stemming from the Treaties as an independent source of law, could not, because of its special and original nature, be overridden by domestic legal provisions, however framed, without being deprived of its character as Community law and without the legal basis of the Communities being called into question. The legal nature of the Communities has been described in several judgments of the Court of Justice of the European Communities established by the Treaties. (For more detailed study see J. V. Louis, "The Community Legal Order" published by the Commission of the European Communities, 1980.)

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. L'Agence spatiale européenne s'est vu attribuer la personnalité juridique par la Convention qui l'a créée, ouverte à la signature à Paris le 30 mai 1975.

2. Par ailleurs, l'article premier de l'annexe I de la Convention ("Privilèges et immunités") se lit :

> "L'Agence a la personnalité juridique. Elle a notamment la capacité de contracter, d'acquérir et d'aliéner des biens immobiliers et mobiliers ainsi que d'ester en justice."

L'article XV, paragraphe 1, de la Convention stipule :

> "L'Agence a la personnalité juridique."

3. L'Agence a siège à Paris; aucun accord de siège en bonne et due forme n'a été conclu entre le Gouvernement français et l'Agence (de même, aucun accord de siège n'avait été conclu avec les deux organisations, l'Organisation européenne de recherche spatiale (ESRO) et l'Organisation européenne de mise au point et de construction de lanceurs d'engins spatiaux (CECLES), auxquelles l'Agence a succédé).

4. La mise en oeuvre sur le territoire français des privilèges et immunités de l'Agence et de son personnel a fait l'objet de correspondances entre le Ministère des relations extérieures et l'Agence.

5. Pour l'exécution de ses activités et programmes, l'Agence a été amenée à installer des établissements sur le territoire de certains Etats membres et à conclure à cet effet des accords.

6. Ces accords contiennent des dispositions relatives aux privilèges et immunités de l'Agence :

a) Accord entre le Royaume des Pays-Bas et la CERS, entré en vigueur le 31 juillet 1967, sur la création et le fonctionnement du Centre européen de technologie spatiale (ESTEC);

b) Accord entre le Gouvernement de la République fédérale d'Allemagne et la CERS, entré en vigueur le 8 septembre 1967 relatif au Centre européen d'opérations spatiales (ESOC);

c) Accord entre le Gouvernement de la République italienne et la CERS/ESRO concernant l'Institut européen de recherches spatiales, entré en vigueur le 17 novembre 1978;

d) Accord concernant la station de localisation, de télémesure et de télécommande de la CERS/ESRO à Redu (Belgique), entré en vigueur le 15 juin 1972;

e) Accord relatif à l'établissement et à l'exploitation d'une section de contrôle de satellites géostationnaires à Michelstadt/Odenwald (République fédérale d'Allemagne), entré en vigueur le 7 juin 1974;

f) Accord relatif à l'établissement et à l'exploitation d'une station de contrôle de satellites géosynchrones à Villafranca del Castillo (Espagne), entré en vigueur le 3 juin 1975.

7. Le principe général établi par ces divers accords est que, sous réserve des dispositions du Protocole sur les privilèges et les immunités de l'organisation (aujourd'hui l'annexe I de la Convention de l'Agence), les activités de l'organisation sont régies par le droit du pays sur le territoire duquel les installations de l'Agence se trouvent.

8. De même, l'Agence a été amenée à conclure des accords avec des Etats non membres.

9. L'accord de coopération entre l'Agence et le Gouvernement du Canada, signé le 9 janvier 1984, stipule dans son article X, paragraphe 1 :

"L'Agence a le statut juridique de personne morale établie au Canada."

L'Accord se réfère ensuite aux dispositions pertinentes de la Convention sur les privilèges et immunités de l'Organisation des Nations Unies.

10. D'autres accords, conclus avec des Etats non membres, définissent les privilèges et immunités reconnus à l'Agence pour l'exercice de ses activités officielles. On citera :

a) Accord entre l'Agence et la République d'Autriche, signé le 17 octobre 1979;

b) Accord entre la Norvège et l'Agence, signé le 2 avril 1981;

c) Accord entre le Gouvernement de la Côte d'Ivoire et l'Agence relatif à l'installation et à l'utilisation de moyens de contrôle aux fins du programme de lanceur Ariane (station d'Akakro), signé le 16-23 avril 1982;

d) Accord avec l'Australie concernant un programme coopératif de poursuite de véhicules spatiaux entré en vigueur le 15 juin 1979.

11. L'Agence bénéficie, en application d'un Presidential Order, des privilèges et immunités reconnus aux organisations internationales auxquelles le Gouvernement des Etats-Unis est partie (International Immunities Act).

12. Au plan international, la personnalité juridique de l'Agence est conférée par l'article XIV de la Convention qui stipule :

> "L'Agence peut, en vertu de décisions du Conseil prises à l'unanimité de tous les Etats membres, coopérer avec d'autres organisations et institutions internationales et avec les gouvernements, organisations et institutions d'Etats non membres et conclure avec eux des accords à cet effet."

INTERNATIONAL SUGAR AGREEMENT (ISO)

(a) Headquarters Agreement between the Government of the United Kingdom and ISO; United Kingdom International Organizations Act of 1968.

(b) Article 5 of ISA, 1977.

(c) Article 5 of ISA, 1977.

It is proposed that the next ISA should include comprehensive privileges and immunities on a membership-wide basis.

INTERNATIONAL WHALING COMMISSION (IWC)

(a) The headquarters Agreement, article 2, states: "the Commission shall have legal personality."

(b) None.

(c) None.

NORTH ATLANTIC TREATY ORGANIZATION (NATO)

1. The North Atlantic Treaty was signed in Washington on 4 April 1949.

2. The member countries ratified the Treaty within five months thereafter.

3. Subsequently, four other countries joined the 12 original signatories.

4. Greece and Turkey acceded to the Treaty on 18 February 1952.

5. The Federal Republic of Germany officially became a member on 9 May 1955 and Spain on 10 December 1982.

6. Article 9 of the Treaty calls for the creation of the North Atlantic Council and provides for the setting up of whatever additional bodies may be needed to implement the Treaty.

7. This is the legal basis for the existence of the specialized bodies, committees and groups set up by the Council, the international secretariat which services them, the major and subordinate military commands and the various military and civilian agencies.

The Ottawa Convention (20 September 1951)

8. Considering that for the exercise of their functions and the fulfilment of their purposes it was necessary that NATO, its international staff and the representatives of member States attending meetings thereof should have their own status, the member States concluded the Agreement on the status of the North Atlantic Treaty Organization, national representatives and international staff, called the "Ottawa Agreement".

9. Article 2 stipulates that the Agreement shall not apply to any military headquarters established in pursuance of the North Atlantic Treaty nor, unless the Council decides otherwise, to any other military bodies.

10. According to article 4 "The Organization shall possess juridical personality; it shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings".

11. Within NATO a particular group of NATO bodies have been and may be created by the North Atlantic Council in any field related to production and logistics and in the field of research. They are called the NATO Production and Logistics Organizations (NPLO).

12. Although they possess a clearly defined organizational, administrative and financial independence, each NPLO constitutes an integral part of NATO. It shares in the international personality of NATO, as well as in the juridical personality possessed by NATO by virtue of article 4 of the Ottawa Agreement. The juridical personality of every NPLO is intermingled with that of NATO and cannot be distinguished from it.

Particular agreements between NATO and member countries: site agreements

13. The various NATO bodies are stationed on the territory of the different member countries. Agreements have been concluded concerning e.g. the premises to be used for the headquarters of these bodies and/or the privileges and immunities of NATO and its staff in the country concerned.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

1. The provisions which regulate questions pertaining to the legal personality of OECD within the legal system of the host country (France) are constituted by Supplementary Protocol No. 2 to the Convention on the Organisation for Economic Co-operation and Development (as published in the Official Journal of the French Republic on 5 November 1961). The Protocol provides that the organization shall have the legal capacity as provided for in Supplementary Protocol No. 1 to the Convention for European Economic Co-operation of 16 April 1948 (as published in the Official Journal of the French Republic on 29 August 1948). Article 1 of the latter Protocol provides as follows: "The Organization shall possess juridical personality. It shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings".

2. The legal personality of OECD is regulated in respect of the legal system of the other members which were Contracting Parties to the Convention for European Economic Co-operation of 16 April 1948 in accordance with Supplementary Protocol No. 1 to that Convention as provided for in Supplementary Protocol No. 2 to the OECD Convention. As concerns the United States of America, Supplementary Protocol No. 2 to the OECD Convention provides that the legal capacity privileges, exemptions and immunities are those under the International Organizations Immunities Act provided for in the Executive Order No. 10133 of 27 June 1950. In respect of Canada, Supplementay Protocol No. 2 stipulates that the organization shall have the legal capacity provided for in any agreement or arrangement entered

into between the Government of Canada and the organization. On 18 October 1966 an agreement was concluded between the Government of Canada and OECD on the privileges, exemptions and immunities of the organization in Canada and was completed by an exchange of letters between the head of the Canadian delegation to OECD and the Secretary-General of OECD dated 18 October 1966. Finally, Supplementary Protocol No. 2 stipulates that elsewhere than in the above-mentioned countries the organization shall have the legal capacity provided for in any agreement or arrangement entered into between the Government concerned and the organization. Such agreements have been concluded as follows:

(a) An agreement between the Government of Japan and OECD on privileges and immunities of the organization in Japan signed on 14 March 1967 and completed by an exchange of letters between the Permanent Representative of Japan to OECD and the Secretary-General of OECD dated 14 March 1967;

(b) An agreement between the Government of Finland and OECD on privileges and immunities of the organization in Finland signed on 18 March 1969;

(c) An agreement between the Government of Australia and OECD on privileges and immunities of the organization in Australia was signed on 24 January 1983 and completed by an exchange of letters between the head of the Australian delegation to OECD and the Secretary-General of OECD dated 24 January 1983.

New Zealand has not yet concluded an agreement with the organization on this subject.

3. The legal personality of the organization on the international plane was established by Supplementary Protocol No. 2. It has been recognized, further, in practice, in agreements concluded with non-member States (see reply to question 14) and with other international organizations such as IAEA.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA (SIECA)

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. La Secretaría Permanente del Tratado General de Integración Económica Centroamericana (SIECA) ha sido creada en virtud del artículo XXIII del Tratado General de Integración Económica Centroamericana, suscrito en Managua, República de Nicaragua, con fecha 13 de diciembre de 1960, del cual son parte Guatemala, El Salvador, Honduras, Nicaragua y Costa Rica. La SIECA inició sus labores el 12 de octubre de 1961, poco tiempo después de haber entrado en vigencia el Tratado que le dio origen (el 4 de junio de 1961).

2. El artículo antecitado establece:

> "Se crea una Secretaría Permanente, con carácter de persona jurídica, que lo será a la vez del Consejo Económico Centroamericano y del Consejo Ejecutivo creados por este Tratado.

La Secretaría tendrá su asiento y sede principal en la ciudad de Guatemala, capital de la República de Guatemala, y estará a cargo de un Secretario General nombrado por un período de tres años por el Consejo Económico Centroamericano. La Secretaría establecerá los departamentos y secciones que fueren necesarios para el desempeño de sus funciones. Sus gastos se conformarán a un presupuesto general aprobado anualmente por el Consejo Económico Centroamericano y cada una de las Partes contratantes deberá contribuir a su sostenimiento con una suma anual mínima equivalente a cincuenta mil dólares de los Estados Unidos de América, pagaderos en las respectivas monedas de los países signatarios.

Los funcionarios de la Secretaría gozarán de inmunidad diplomática. Los demás privilegios diplomáticos se otorgan únicamente a la Secretaría y al Secretario General."

3. Como se deja expresado, la SIECA está dotada de personalidad jurídica, a los efectos de hacer de ella un sujeto capaz de ser titular de derechos y de contraer obligaciones.

4. La República de Guatemala es el país huésped de la SIECA y, además, es uno de los cinco Estados miembros del Tratado General de Integración Económica Centroamericana. Guatemala reconoce a la SIECA su personalidad jurídica, con categoría de organismo internacional y, por ende, con capacidad legal para suscribir con dicha institución los convenios internacionales que estimare necesarios para el desempeño normal de las funciones para las cuales la secretaría permanente ha sido creada. De conformidad con el reconocimiento mencionado, Guatemala suscribió con la SIECA un Convenio de Prerrogativas, Inmunidades y Franquicias a favor de la Secretaría Permanente del Tratado General de Integración Económica Centroamericana, con fecha 26 de junio de 1978. Este instrumento fue aprobado y ratificado por el Gobierno de Guatemala, respectivamente, mediante el Decreto-Ley 73-82, de fecha 30 de agosto de 1982 y el Acuerdo Gubernativo 223-82, emitido en la misma fecha.

5. En la parte considerativa del citado Convenio se expresa lo siguiente:

"El Gobierno de la República de Guatemala (en adelante denominado 'el Gobierno'), por una parte, y la Secretaría Permanente del Tratado General de Integración Económica Centroamericana (en adelante denominada 'la Secretaría'), por la otra:

CONSIDERANDO:

1. Que la Secretaría Permanente del Tratado General de Integración Económica Centroamericana (SIECA), con sede en Guatemala, es un organismo internacional creado con el fin de coadyuvar en las tareas relacionadas con el Programa de Integración Económica Centroamericana;

2. Que el artículo XXIII del Tratado General de Integración Económica Centroamericana, suscrito por Guatemala el 13 de diciembre de 1960 y aprobado por el Congreso de la República en Decreto número 1435, que fuera ratificado por el Organismo Ejecutivo el 20 de abril de 1961, al crear la Secretaría Permanente (SIECA) dispuso que los funcionarios de la Secretaría gozan de

inmunidad diplomática y que los demás privilegios diplomáticos se otorgan únicamente a la Secretaría y el Secretario General;

3. Que el Gobierno de la República, como signatario del Tratado General de Integración Económica Centroamericana, estima procedente, con base en dicho instrumento, acordar las disposiciones pertinentes para el adecuado cumplimiento del mismo en lo que se refiere a prerrogativas, inmunidades y franquicias de la SIECA; y

4. Que el Gobierno de la República también estima del caso conceder prerrogativas e inmunidades a los funcionarios de la Secretaría Permanente del Tratado General de Integración Económica Centroamericana, de conformidad con el derecho y práctica internacionales." 3/

6. El artículo XXIII del Tratado General antes transcrito, rige la personalidad jurídica de la organización dentro de los sistemas jurídicos de los Estados miembros.

7. El mismo precepto es aplicable en el plano internacional. Así, sustentándose en él, la SIECA ha suscrito convenios de cooperación técnica y/o financiera con Estados Unidos de América y algunas organizaciones internacionales, tales como la Organización de las Naciones Unidas para el Desarrollo Industrial, el Sistema Económico Latinoamericano, la Asociación Latinoamericana de Integración y la Organización Latinoamericana de Energía.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

1. Le point c) est d'application. En effet, la base juridique de la personnalité juridique de l'Union est le Traité d'Union signé à La Haye le 3 février 1958.

3/ El "Convenio de Prerrogativas, Inmunidades y Franquicias", fue publicado en el Diario Oficial de la República de Guatemala, número 61, tomo CCXIX, con fecha 16 de septiembre de 1982.

Question 2

A. LEGAL PERSONALITY IN DOMESTIC LAW

CONTRACTUAL CAPACITY

Has there been any case of non-recognition of the contractual capacity of your organization? Have any limits been set to recognition of contractual capacity, whether by member or non-member States?

A. PERSONNALITE JURIDIQUE EN DROIT INTERNE

CAPACITE DE CONTRACTER

Y a-t-il eu des cas où la capacité de contracter de votre organisation n'a pas été reconnue? Des restrictions ont-elles été imposées par des Etats membres ou non membres en ce qui concerne la reconnaissance de la capacité de contracter?

A. PERSONALIDAD JURIDICA DE DERECHO INTERNO

CAPACIDAD CONTRACTUAL

¿Se ha dado algún caso de no reconocimiento de la capacidad contractual de su organización? ¿Hay algún límite establecido, ya sea por Estados miembros o no miembros, para el reconocimiento de esa capacidad contractual?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

AFCAC enjoys full contractual capacity and no cases of non-recognition of this capacity has ever occurred since its inception in 1969.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Réponse négative à ces deux questions.

CARIBBEAN COMMUNITY

There have been no cases of non-recognition of the contractual capacity of the organization. No limits have been set to recognition of contractual capacity neither by member nor non-member States.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Il n'y a pas de restriction concernant la reconnaissance de la capacité de contracter de l'organisation. Simplement, les limites sont celles de la spécificité des activités de l'organisation.

COMMONWEALTH SECRETARIAT

There has been no case of non-recognition; and no limitation of any form has been set by any member or non-member State.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Hasta el momento no se ha dado ningún caso de negar la capacidad contractual de esta organización. Por otra parte, tampoco hay límite alguno establecido ya sea por Estados miembros o no miembros para reconocer esa capacidad contractual.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

In practice, there have been no cases of non-recognition of the contractual capacity of CMEA or cases where member or non-member countries of CMEA have set limits to that capacity.

EUROPEAN COMMUNITIES

1. The contractual capacity of the European Communities is provided for in provisions of the Treaties which read as follows:

(a) Article 6, paragraphs 2, 3 and 4 of the ECSC Treaty:

"In international relations, the Community shall enjoy the legal capacity it requires to perform its functions and attain its objectives.

"In each of the member States, the Community shall enjoy th most extensive legal capacity accorded to legal persons constituted in the State; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.

"The Community shall be represented by its institutions, each within the limits of its powers."

(b) Article 211 of the EEC Treaty, which is identical to article 185 of the EAEC Treaty:

"In each of the member States, the Community shall enjoy th most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. To this end, the Community shall be represented by the Commission."

2. No limits have been set to recognition of contractual capacity.

INTERNATIONAL SUGAR AGREEMENT

No, none known.

INTERNATIONAL WHALING COMMISSION

No. The headquarters agreement, article 2, states: "...It [IWC] shall in particular have the capacity to contract ..."

NORTH ATLANTIC TREATY ORGANIZATION

The answer is no.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No. None.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No.

Question 3

Do contracts of your organization make

(a) A specific reference to a given system of domestic law; or

(b) A specific reference to the fact that domestic law shall not apply; or

(c) No mention of any kind as to the law applicable; or

(d) Reference to some other kind of law, e.g. general principles of law;

(e) In addition to the above, do your contracts refer to any particular form, or mode of arbitration?

Dans vos contrats :

a) Est-il fait expressément référence à un système de droit national donné?

b) La non-applicabilité du droit national est-elle expressément stipulée?

c) N'est-il fait aucune référence au droit applicable?

d) Est-il fait référence à une autre sorte de droit, par exemple aux principes généraux du droit?

e) Outre ce qui précède, vos contrats stipulent-ils une forme particulière ou un mode d'arbitrage?

Indique si, en los contratos de su organización,

a) Se hace referencia concretamente a una determinada legislación nacional;

b) Se dice específicamente que no se aplicará la legislación nacional;

c) No se menciona en modo alguno qué legislación se ha de aplicar;

d) Se hace referencia a algún otro tipo de legislación, como, por ejemplo, los principios generales de derecho;

e) Además de lo anterior, se hace referencia en sus contratos a alguna forma o modalidad particulares de arbitraje.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

a) Generalmente, sí.

b) No.

/...

c) A veces.

d) No.

e) En casos excepcionales.

AFRICAN CIVIL AVIATION COMMISSION

In AFCAC contracts, no mention is made to a given system of domestic law, to the fact that domestic law shall not apply nor to any other kind of law. In its contracts no mention is made to any kind of the law applicable nor do they include any reference to any particular form or mode of arbitration.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

a) Le droit applicable est précisé dans le contrat lui-même; dans la grande majorité des cas, ce sera le droit du fournisseur, droit du lieu où s'exécute la prestation. Pour certains types de contrats bien déterminés (licence de software), l'Agence envisage de faire toujours référence au même droit.

b) Non.

c) Non.

d) Non.

e) L'Agence est tenue de prévoir le recours à l'arbitrage lors de la conclusion de tous contrats écrits autres que ceux conclus conformément au statut du personnel. La clause d'arbitrage spécifie la loi applicable et le pays dans lequel siègent les arbitres.

Si aucun arbitrage particulier n'est institué dans le contrat, les différends seront tranchés suivant le règlement arbitral de la Chambre de commerce internationale (Paris).

CARIBBEAN COMMUNITY

(a) Yes.

(b) No.

(c) No.

(d) No.

(e) Yes. Usually the form of arbitration referred to is as follows: each party nominates an arbitrator and the two arbitrators so nominated select a third person as a Chairman. Where either party fails to nominate an arbitrator or if the two arbitrators fail to appoint a Chairman within a specified time, a third party, usually the head of an international or regional organization, may be invited to make the selection. Arbitrators usually choose their own rules of procedure.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Tout différend portant sur l'interprétation ou l'exécution des contrats écrits auxquels la Commission centrale est partie est, en vertu de l'article 20.1 de l'accord de siège, soumis à un arbitrage privé à la demande de l'autre partie. L'exécution de la sentence rendue à la suite de cet arbitrage selon cette même disposition de l'article 20.2 sera régie par les règles en vigueur dans l'Etat sur le territoire duquel elle sera exécutée.

COMMONWEALTH SECRETARIAT

a) As applicable, secretariat contracts are normally expressed as subject to the law of the United Kingdom.

(b) No.

(c) As under (a) above.

(d) As under (a) above.

(e) No particular form or mode of arbitration clause is used. However in appropriate cases, the provisions of section 1 (3) of the Commonwealth Secretariat Act 1966 (United Kingdom) (which deems a written contract), in the absence of express provisions, to be treated as an arbitration agreement for purposes of the United Kingdom Arbitration Act (1950) is generally followed.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

a) Non.

b) Non.

c) Oui.

d) Non.

e) Non.

CONSEIL DE L'EUROPE

(Council of Europe)

1. Les contrats du Conseil de l'Europe ne contiennent, en règle générale, aucune référence au droit applicable.

2. En vertu de l'article 40 a) du statut du Conseil de l'Europe précisé notamment à l'article 21 de l'Accord général "tout litige entre le Conseil et les particuliers au sujet des fournitures, travaux ou achats immobiliers effectués pour le compte du Conseil est soumis à un arbitrage administratif dont les modalités sont déterminées par arrêté du Secrétaire général approuvé par le Comité des ministres".

3. L'arrêté No 481 du 27 février 1976 détermine les modalités d'arbitrage.

4. S'agissant du droit applicable, l'article 3 de l'arrêté précise ce qui suit :

> "A défaut d'accord entre les parties quant au droit applicable, la Commission ou, le cas échéant, l'arbitre statuera ex aequo et bono, compte tenu des principes généraux du droit ainsi que des usages du commerce."

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

a) En ningún contrato se hace referencia concretamente a una determinada legislación y en caso de litigio se entendería que lo resolverían los tribunales del lugar de la sede, es decir, Madrid.

b) No.

c) En algunos casos específicos, sí se indica la legislación a aplicar.

d) No.

e) En el caso de que hubiera algún conflicto en la aplicación del Convenio de Sede que no se resolviera por medio de negociaciones entre las partes, será sometido, para su solución, a un Tribunal compuesto por tres árbitros.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The civil-law contracts of CMEA contain no specific references to the law or to arbitration.

EUROPEAN COMMUNITIES

European Community contracts generally make a specific reference to a given system of domestic law. They either refer to national courts or else, in matters of community-wide importance, to the European Court of Justice. The legal basis for the latter reference is article 42 of the ECSC Treaty, article 181 of the EEC Treaty and article 153 of the Euratom Treaty:

> "The Court of Justice [of the European Communities] shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Community, whether that contract be governed by public or private law."

INTERNATIONAL SUGAR AGREEMENT

Contracts make no mention of the law applicable.

INTERNATIONAL WHALING COMMISSION

No mention of any kind as to the law applicable.

NORTH ATLANTIC TREATY ORGANIZATION

1. NATO regulations do not contain provisions by virtue of which NATO together with other contracting parties may not choose the legal system which they intend to give their contractual relations. Thus NATO contracts may be governed by the chosen legal system as a whole and thereby become its creature.

2. Although agreements concluded with third persons may be governed and constructed in accordance with the national laws of a member country, NATO will, in principle, never recognize the exclusive jurisdiction of national tribunals and courts. NATO wants to go to arbitration in case of disputes.

The arbitration clause in NATO contracts

(a) Domestic and international contracts

3. Under the terms of article 24 (a) of the Ottawa Agreement, the North Atlantic Council is responsible for making provisions

> "for appropriate modes of settlement of disputes arising out of contracts or other disputes of a private character to which the organization is a party".

4. In pursuance of that same clause, the North Atlantic Treaty Council decided in 1962, in view of possible commercial disputes, that all arbitration clauses pertaining to contracts to be signed by the Secretary-General or by his authority shall contain a provision according to which contracting parties consent that, unless otherwise agreed, the sole arbitrator or the third arbitrator shall be a profesional magistrate.

(b) Immunity from jurisdiction

5. NATO's reason to go to arbitration in order to settle any differences it may have with the other contracting parties is essentially based on the fact that, under the terms of article 5 of the Ottawa Agreement:

> "The organization its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case - the Secretary-General - acting on behalf of the organization, may expressly authorize the waiver of this immunity".

6. This clause means that, as has been indicated as a rule and in the normal course of events, the organization does not expect to submit its activities to the appraisement of the courts of member States. In the light of this position it may be said that the waiver of the immunity would constitute a big exception.

7. Up till now such a waiver has even not been decided. It is thought indeed that the arbitration proceedings instituted should offer NATO and other contracting parties every possible guarantee of impartiality and competence.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

(a) In principle, the OECD contracts do not make a specific reference to a given system of domestic law. But occasionally, mainly at the request of the other contracting party, there may be such a reference. In such instances the applicable system of domestic law is normally that of the country of the other contracting party. There is, however, one category of contract for which such a reference is always inserted: contracts relating to the performance of work on buildings belonging to the organization and located in France provide that the contractor is to abide by the law applicable in the host country.

(b) No.

(c) Usually.

(d) No.

(e) Under normal circumstances, all OECD contracts contain an arbitration clause. The only exceptions are to be found either in contracts with other international organizations (in cases where both parties consider there is no need for such a provision), or - very seldom - in contracts with some public administrations, the status of which makes it difficult for them to accept an arbitration clause. The arbitration clauses are mainly of four types:

(i) Appointment of a sole arbitrator by common agreement of both parties or, failing such agreement, by the First President of the Court of Appeal of Paris;

(ii) Appointment of three arbitrators: one by each party, and an umpire by common agreement of the parties or, failing such agreement, by the First President of the Court of Appeal of Paris;

(iii) The same as above, but replacing the First President of the Court of Appeal of Paris by the President of the International Court of Justice (mainly in cases of agreement with member States or with other international organizations);

(iv) And finally, not very often, one, or several arbitrators appointed pursuant to the rules of the International Chamber of Commerce, or pursuant to those of another body having set up some arbitration mechanisms and/or rules (London Court of Arbitration, American Arbitration Association, etc. ...).

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

a) No se hace referencia a una determinada legislación nacional.

b) No se dice expresamente que no se aplicará la legislación nacional.

c) No se menciona qué legislación se ha de aplicar ni se hace referencia a algún otro tipo de legislación.

d) Sí se hace referencia a ciertos procedimientos de arbitraje expresamente convenidos.

e) En los contratos de arriendo no se hace mención a ninguna legislación, aun cuando los contratos se ajustan a lo previsto por las leyes guatemaltecas sobre la materia.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

c) Exact.

e) Non.

Question 4

Apart from contractual provisions, is there any practice relating to the question of what legal system applies to contracts made by your organization?

En dehors des stipulations conventionnelles, existe-t-il dans votre organisation une pratique en ce qui concerne la question du droit applicable aux contrats conclus par votre organisation?

Aparte de las disposiciones contractuales, ¿existe alguna práctica relativa a la cuestión del sistema jurídico que corresponde aplicar a los contratos concertados por su organización?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

No.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

La pratique utilisée est une pratique contractuelle en vigueur dans le pays hôte.

COMMONWEALTH SECRETARIAT

No.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

En los contratos en favor de la propaganda genérica del aceite de oliva que se han establecido con diversos países, se indica que "en caso de litigio, sólo serán competentes los tribunales de la ciudad de sede del Consejo Oleícola Internacional, es decir, de Madrid". Estos contratos privados no se refieren a ninguna legislación nacional particular y relevan únicamente del "derecho comercial" común a muchos países.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There is no practice relating to the question of what legal system applies to contracts made by CMEA.

EUROPEAN COMMUNITY

No.

INTERNATIONAL SUGAR AGREEMENT

With no specific provision, we accept that United Kingdom law applies to contracts in the United Kingdom. Articles 24 and 25 of the headquarters agreement (see question 1 (a) above) relate to contracts in the United Kingdom.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

1. NATO regulations do not contain provisions by virtue of which NATO, together with other contracting parties, may not choose the legal system which they intend to give their contractual relations. Thus NATO contracts may be governed by the chosen legal system as a whole and thereby become its creature.

2. Although agreements concluded with third persons may be governed and constructed in accordance with the national laws of a member country, NATO will, in principle, never recognize the exclusive jurisdiction of national tribunals and courts. NATO wants to go to arbitration in case of disputes.

The arbitration clause in NATO contracts

(a) Domestic and international contracts

3. Under the terms of article 24 (a) of the Ottawa Agreement, the North Atlantic Council is responsible for making provisions

> "for appropriate modes of settlement of disputes arising out of contracts or other disputes of a private character to which the organization is a party".

4. In pursuance of that same clause, the North Atlantic Treaty Council has decided (1962), in view of possible commercial disputes, that all arbitration clauses pertaining to contracts to be signed by the Secretary General or by his authority shall contain a provision according to which contracting parties consent that, unless otherwise agreed, the sole arbitrator or the third arbitrator shall be a professional magistrate.

(b) *Immunity from jurisdiction*

5. NATO's reason for which to go to arbitration in order to settle any differences it may have with the other contracting parties is essentially based on the fact that under the terms of article 5 of the Ottawa Agreement:

> "The organization, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case - the Secretary General - acting on behalf of the organization, may expressly authorize the waiver of this immunity."

6. This clause means that, as has been indicated, as a rule and in the normal course of events, the organization does not expect to submit its activities to the appraisement of the courts of member States. In the light of this position, it may be said that the waiver of the immunity would constitute a big exception.

7. Until now, such a waiver has not been decided. It is thought indeed that the arbitration proceedings instituted should offer NATO and other contracting parties every possible guarantee of impartiality and competence.

(c) Contracts with national authorities and with private opposing parties

8. A NATO arbitration clause has been inserted in contracts with private opposing parties as well as in contracts with national authorities.

(i) So, for example, the agreements between France (1955) and NATO and between the Kingdom of Belgium (1967 and 1971) and NATO on the concession of a plot of land in view of the construction of headquarters of the organization contained/contain an arbitration clause as follows:

"In the event of a dispute arising over any clause of the present concession agreement, the Belgian Government and the organization undertake, failing settlement by negotiation or by any other means agreed to by the parties, to abide by the decision of a tribunal composed of three arbitrators, one of whom is to be designated by the Secretray General of the organization, one by the Minister of Foreign Affairs of Belgium and the third chosen by the other two or, failing this, by the President of the International Court of Justice. Rulings of this tribunal shall be given by a majority decision."

(ii) The arbitration clause in contracts with private parties is generally inserted in contracts of a certain importance from political, financial, material or other viewpoint. Normally, no arbitration clause figures in contracts of minor importance (delivery, hiring and maintenance of materials, machines, etc.).

(d) Arbitration clause is not foreseen

9. When no arbitration clause is inserted in the contract, national legislation concerning the settlement of disputes might have been said to be applicable.

10. With regard to NATO's immunity of jurisdiction, the waiver of immunity could possibly be envisaged. However, until now - and as said before - such a waiver has not been decided.

(e) NATO Production and Logistics Organizations

11. The regulations for NATO Production and Logistics Organizations (NPLOs), contain a draft arbitration clause whereof the scope of application and wording is as follows:

"(a) The party instituting the arbitration proceedings shall advise the other party by registered letter, with official notice of delivery, of his desire to have recourse to arbitration. Within a period of thirty days from the date of receipt of this letter, the parties shall jointly appoint an arbitrator. In the event of failure to appoint an arbitrator, the dispute or disputes shall be submitted to an arbitration tribunal consisting of three arbitrators, one being appointed by NPLO, another by the contracting party, and the third, who shall act as President of the Tribunal, by these two arbitrators. Should one of the parties fail to appoint an arbitrator during the 15 days following the expiration of the first period of 30 days, or should the two arbitrators be unable to agree on the choice of the third member of the Arbitration Tribunal, within 30 days following the expiration of the said first period, the appointment shall be made, within 21 days, at the request of the party instituting the proceedings, by the Secretary General of the North Atlantic Treaty Organization.

"(b) Regardless of the procedure concerning the appointment of this Arbitration Tribunal, the third arbitrator will have to be of a nationality different from the nationality of the other two members of the Tribunal.

"(c) Any arbitrator must be of the nationality of any one of the member States of NATO and shall be bound by the rules of security in force within NATO.

"(d) Any person appearing before the Arbitration Tribunal in the capacity of an expert witness shall, if he is of the nationality of one of the member States of NATO, be bound by the rules of security in force within NATO; if he is of another nationality, no NATO classified documents or information shall be communicated to him.

"(e) An arbitrator who, for any reason whatsoever, ceases to act as an arbitrator, shall be replaced under the procedure laid down in the first paragraph of this article.

"(f) The Arbitration Tribunal will take its decisions by a majority vote. It shall decide where it will meet and, unless it decides otherwise, shall follow the arbitration procedures of the International Chamber of Commerce in force at the date of the signature of the present contract.

"(g) The awards of the arbitrator or of the Arbitration Tribunal shall be final and there shall be no right of appeal or recourse of any kind. These awards shall determine the apportionment of the arbitration expenses."

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 5

Please list (with references) any judicial decisions given by domestic courts or awards of arbitral tribunals regarding the contractual capacity of your organization.

Veuillez donner la liste (accompagnée de références) de toutes les décisions de justice rendues par des tribunaux nationaux ou de toutes les sentences arbitrales relatives à la capacité de contracter de votre organisation.

Enumere (con referencias) toda decisión judicial adoptada por un tribunal nacional, o todo laudo de un tribunal arbitral, tocantes a la capacidad contractual de su organización.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No existe.

AFRICAN CIVIL AVIATION COMMISSION

None.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Aucune.

CARIBBEAN COMMUNITY

There have been no judicial decisions given by domestic courts or awards of arbitral tribunals regarding the contractual capacity of this organization.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Néant.

COMMONWEALTH SECRETARIAT

There have been no judicial decisions concerning the contractual capacity of the Commonwealth Secretariat.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

Néant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Por el momento, no existe ninguna.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There are no judicial decisions or arbitral awards regarding the contractual capacity of CMEA.

EUROPEAN COMMUNITIES

The contractual capacity of the European Communities has never been contested in courts of law or arbitral tribunals.

INTERNATIONAL SUGAR AGREEMENT

None.

INTERNATIONAL WHALING COMMISSION

None.

NORTH ATLANTIC TREATY ORGANIZATION

See reply to question 4.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Tribunal administratif de Paris, 2 juillet 1979, Banque populaire de l'Ouest (BPO).

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Aún no se ha dado ninguna decisión de ese tipo.

Question 6

CAPACITY TO ACQUIRE AND DISPOSE OF IMMOVABLE PROPERTY

Is this capacity recognized to your organization? What problems, if any, has it encountered in this connection?

CAPACITE D'ACQUERIR ET D'ALIENER DES BIENS IMMOBILIERS

Cette capacité est-elle reconnue à votre organisation? Avez-vous rencontré des problèmes à cet égard? Lesquels?

CAPACIDAD DE ADQUIRIR Y ENAJENAR BIENES IMMUEBLES

¿Se reconoce esa capacidad a su organización? ¿Con qué dificultades, si las hubiere, ha tropezado su organización en esa esfera?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Sí. Ninguna dificultad.

AFRICAN CIVIL AVIATION COMMISSION

Yes, without any problem (article I of the headquarters agreement).

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Annexe I, article premier de la Convention ainsi que divers accords cités dans les réponses aux questions antérieures.

CARIBBEAN COMMUNITY

Yes (see article 20 of the Treaty and article 63 of the annex to the Treaty). No problems have been encountered to date.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui (art. premier de l'accord de siège). Les locaux de la Commission se trouvent dans un immeuble mis à la disposition par le Gouvernement français et que la Commission centrale partage avec des administrations nationales.

COMMONWEALTH SECRETARIAT

The capacity is recognized. No particular problems have been encountered.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

Cette capacité est reconnue au Conseil de l'Europe aux termes de l'article premier de l'Accord général.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Esta capacidad de la organización está reconocida en el artículo 1 del Convenio sobre Privilegios e Inmunidades de la Sede y Funcionarios del Consejo Oleícola Internacional.

Hasta la fecha, la organización no ha tropezado con ninguna dificultad en esa esfera.

COUNCIL FOR MUTUAL ASSISTANCE

The right of CMEA to own immovable property is recognized.

EUROPEAN COMMUNITIES

This capacity is granted to the European Communities pursuant to the provisions reproduced in answer to question 2. No problems have been encountered.

INTERNATIONAL SUGAR AGREEMENT

Capacity to acquire and dispose of movable and immovable property is recognized in article 5 of ISA, 1977, and article 3 of the headquarters agreement. No problems have been encountered, but the organization has not sought to acquire immovable property.

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 2, states: "It [IWC] shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property ...".

We have encountered no problems in this connection.

NORTH ATLANTIC TREATY ORGANIZATION

Article 4 of the Ottawa Agreement stipulates that the organization whall have the capacity to acquire and dispose of movable and immovable property. NATO headquarters (Brussels, Belgium) and headquarters of the different subsidiary bodies (all over the member countries) dispose of the necessary immovable property in terms of "site agreements" concluded with the Government of the country concerned as well as in these of lease contracts concluded with (private) third parties.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Yes (article 1 of Supplementary Protocol No. I).

No problems have been encountered.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

"Tanto el Tratado General, como los demás instrumentos de integración guardan silencio acerca de los atributos que como persona jurídica tiene la Secretaría Permanente, con lo cual se apartan de lo que se estila en estas materias. Esta omisión es tanto más difícil de explicar por cuanto la precisa determinación de los actos que la SIECA podría realizar como sujeto de derecho habría contribuido a perfeccionar su personalidad y a facilitar sus relaciones con terceros. Si bien es cierto que en la práctica la indeterminación aludida no ha sido un obstáculo insuperable para el desempeño de sus funciones, en más de une oportunidad ha dado lugar a interpretaciones restrictivas que, aunque carentes de todo valor, se hubieran podido evitar con la sola inclusión en el Tratado General de una norma que se ocupara de la materia.

"Sin embargo, es indudable que la Secretaría Permanente, tanto por habérsele conferido la condición de persona jurídica, como por ser el producto de la voluntad de los cinco Estados centroamericanos, puede realizar todos los actos de la vida civil que son capaces de ejecutar sujetos de derecho de su misma naturaleza, pues al no haberse limitado su personalidad a campos específicos, debe entenderse que fue intención de los gobiernos dotarla de las

más amplias facultades, y que puede por lo tanto contratar, adquirir bienes muebles e inmuebles, disponer de ellos y entablar procedimientos judiciales y administrativos." 4/

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Oui.

4/ Gautama Fonseca y Dante Ramírez: "Los Organos del Tratado General de Integración Económica Centroamericana". En: La Dimensión Jurídica de la Integración, pág. 448. BID/INTAL, Buenos Aires, 1973.

Question 7

Has your organization acquired or disposed of any immovable property?

Votre organisation a-t-elle acquis ou aliéné des biens immobiliers?

¿Ha adquirido o enajenado su organización bienes inmuebles de algún tipo?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Ha adquirido bienes inmuebles.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Oui - bâtiment du siège, divers établissements.

CARIBBEAN COMMUNITY

No.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

The Secretariat has acquired immovable property.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

El Consejo Oleícola Internacional no ha adquirido ni enajenado bienes inmuebles de ningún tipo desde la instalación de su sede en España en diciembre de 1959.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The CMEA building in Moscow is the property of CMEA.

EUROPEAN COMMUNITIES

The European Communities have acquired immovable property in Brussels (office building, rue de la Loi 120) and Overijse (Centre Omnisport), as well as in Paris, Lisbon, Washington, Ottawa and Canberra (office buildings or residences of heads of European Communities delegations).

INTERNATIONAL SUGAR AGREEMENT

We have not acquired ownership of immovable property; we lease our offices.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

7. Two agreements, for instance, have been concluded between NATO and the Kingdom of Belgium on the concession to NATO of plots of land owned by the Belgian State and located in Brussels with a view to the establishment and use of the permanent headquarters of the organization.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The organization has acquired immovable property on several occasions (up to date, seven acquisitions).

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Sí, ha adquirido. Aún no ha enajenado, pero no parece haber obstáculo legal alguno para hacerlo.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Oui.

Question 8

CAPACITY TO ACQUIRE AND DISPOSE OF MOVABLE PROPERTY

Is this capacity recognized to your organization? What problems, if any, has it encountered in this connection?

CAPACITE D'ACQUERIR ET D'ALIENER DES BIENS MOBILIERS

Cette capacité est-elle reconnue à votre organisation? Avez-vous rencontré des problèmes à cet égard? Lesquels?

CAPACIDAD DE ADQUIRIR Y ANAJENAR BIENES MUEBLES

¿Se reconoce esa capacidad a su organización? ¿Con qué dificultades, si las hubiere, ha tropezado su organización en esa esfera?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Sí. Ninguna dificultad.

AFRICAN CIVIL AVIATION COMMISSION

Yes (article I of the headquarters agreement); so far, no problems.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Oui. Le problème rencontré est celui de la régularisation des taxes, lorsque les biens meubles ont été acquis en exemption ou remboursement de taxes, droits de douane (station Falkland, biens Ariane en Guyane).

CARIBBEAN COMMUNITY

Yes (see article 20 of the Treaty and article 63 (2) of the annex). No problems have been encountered.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui. Pas de problèmes.

COMMONWEALTH SECRETARIAT

The capacity is recognized. No particular problems have been encountered.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

Cette capacité est reconnue au Conseil de l'Europe à l'article premier de l'Accord général.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Sí, se reconoce esa capacidad a nuestra organización y no ha tropezado con ninguna dificultad hasta el momento en este sentido.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The right of CMEA to own movable property is recognized.

EUROPEAN COMMUNITIES

This capacity is granted to the European Communities pursuant to the provisions reproduced above in answer to question 2. No problems have been encountered.

INTERNATIONAL SUGAR AGREEMENT

Yes, in the same article 5 and article 3. No legal problems encountered.

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 2, states: "It [IWC] shall in particular have the capacity ... to acquire and dispose of movable ... property ...".

We have encountered no problems in this connection.

NORTH ATLANTIC TREATY ORGANIZATION

See article 4 of the Ottawa Convention. No problems have arisen in this field up till now.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Yes (article 1 of Supplementary Protocol No. I). No problems have been encountered.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Sí. No ha habido dificultades en esta esfera.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Oui.

Question 9

LICENSING AND REGISTRATION OF LAND VEHICLES, VESSELS, AIRCRAFT AND SPACECRAFT

Has your organization itself ever licensed or registered:

(a) Land vehicles;

(b) Vessels;

(c) Aircraft;

(d) Spacecraft?

PERMIS DE CIRCULATION ET IMMATRICULATION DE VEHICULES AUTOMOBILES, NAVIRES, AERONEFS ET ENGINS SPATIAUX

Votre organisation a-t-elle obtenu un permis de circulation ou une immatriculation pour :

a) Des véhicules automobiles;

b) Des navires;

c) Des aéronefs;

d) Des engins spatiaux?

MATRICULATION Y REGISTRO DE VEHICULOS TERRESTRES, EMBARCACIONES, AERONAVES Y NAVES ESPACIALES

Indique si su organización ha matriculado o registrado alguna vez:

a) Vehículos terrestres;

b) Embarcaciones;

c) Aeronaves;

d) Naves espaciales.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

a) Ha matriculado únicamente vehículos terrestres.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

d) L'Agence immatricule les objets spatiaux qu'elle lance en application de la Convention des Nations Unies sur l'immatriculation des objets lancés dans l'espace extra-atmosphérique en date du 26 novembre 1974. L'Agence a déclaré accepter les droits et obligations figurant dans cette convention, conformément aux dispositions de son article VII (déclaration d'acceptation de l'Agence, enregistrée aux Nations Unies le 2 janvier 1979). La question s'est toutefois posée de savoir si les termes mêmes de la Convention faisaient obligation à l'Agence de tenir un véritable registre des objets qu'elle envoie dans l'espace ("Etat de lancement" ne coïncidant pas nécessairement avec "Etat d'immatriculation"). Le Conseiller juridique des Nations Unies a répondu par l'affirmative à cette question.

CARIBBEAN COMMUNITY

(a) Yes.

(b) No.

(c) No.

(d) No.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

a) Véhicule automobile (voiture de service.

b) Non.

c) Non.

d) Non.

COMMONWEALTH SECRETARIAT

(a) Yes.

(b) No.

(c) No.

(d) No.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

L'organisation possède plusieurs voitures de service, dont la voiture officielle du Secrétaire général.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

a) Desde la instalación de su sede, se han efectuado matriculaciones de vehículos terrestres sin dificultad alguna.

b) Esta organización ha matriculado o registrado a nombre del Director Ejecutivo una embarcación el 31 de marzo de 1969, dada de baja al jubilarse el Director que la había solicitado.

c) No, ninguna.

d) No, ninguna.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

CMEA does not itself issue licences for transport vehicls, but has its own motor transport which is registered in the host country of the CMEA secretariat with the same status as the motor vehicles of foreign diplomatic missions.

EUROPEAN COMMUNITIES

The European Communities issues licence plates for land vehicles (EUR) in conformity with Belgian law. The aircraft of the Communities Aviation Club are licensed and registered under national law.

INTERNATIONAL COCOA ORGANIZATION

The answer is negative.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

None.

NORTH ATLANTIC TREATY ORGANIZATION

(a) Land vehicles: yes.

(b) Vessels: no.

(c) Aircraft: ownership and registration of aircraft are problems situated in the military field of NATO activities; precedents of registration of aircraft owned by an international organization do not seem to exist; so, registration by one of the member countries is the accepted solution.

(d) Spacecraft: no.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No, OECD itself does not license or register land vehicles, vessels, aircraft or spacecraft. The land vehicles owned by the organization are registered in the special diplomatic series attributed to the organization in France.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRATION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Ha matriculado vehículos terrestres.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

a) Non.

b) Non.

c) Non.

d) Non.

Question 10

CAPACITY TO INSTITUTE LEGAL PROCEEDINGS

Has your organization ever instituted legal proceedings before municipal courts? Who was the opposing party?

CAPACITE D'ESTER EN JUSTICE

Votre organisation a-t-elle déjà intenté des actions en justice devant des tribunaux nationaux? Quelle était la partie adverse?

CAPACIDAD DE ENTABLAR PROCEDIMIENTOS JUDICIALES

¿Ha entablado alguna vez su organización procedimientos judiciales ante tribunales municipales? ¿Quién era la parte contraria?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

Never.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

No.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

No, but it possesses the capacity to do so in most if not all member States.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

Très exceptionnellement, il est arrivé à l'organisation de renoncer à son immunité de juridiction sur décision du Comité des ministres pour intenter une action devant une juridiction nationale.

Il s'agissait d'une action pour rupture de contrat par un expert-consultant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

El Gobierno español reconoce la personalidad jurídica del Consejo Oleícola Internacional y su capacidad para entablar procedimientos judiciales. Hasta el momento, no se ha entablado ningún procedimiento judicial ante tribunal alguno.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

CMEA has not instituted proceedings before the domestic courts.

EUROPEAN COMMUNITIES

1. The European Communities have frequently been a party to legal proceedings before municipal courts, mostly as defendant in personnel cases.

2. The Communities' capacity to institute legal proceedings before municipal courts has been recognized in bilateral agreements by States outside the European Community on whose territory the Communities have established a permanent representation.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL COCOA ORGANIZATION

The answer is negative.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

1. Court proceedings have not been initiated at NATO's initiative, since thereby it would have renounced on its immunity from national jurisdiction, which is foreseen under the Ottawa Agreement.

2. Once a NATO subsidiary body situated in Belgium acted as a plaintiff claiming damages in a criminal case brought before the "Conseil de guerre" (Military Tribunal) against a military staff member having misappropriated funds out of the limits of his assigned tasks and in violation thereof.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No, with the exception of cases where the organization intervenes in a court proceeding to claim reimbursement of amounts paid to an official subsequent to injury suffered as the result of an accident caused by a third party.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 11

B. INTERNATIONAL LEGAL PERSONALITY

TREATIES AND TREATY MAKING CAPACITY

Has your organization concluded treaties within the meaning of article 2 (a) of the 1969 Vienna Convention on the Law of Treaties and, if so, what has been considered the legal basis for so doing?

B. PERSONNALITE JURIDIQUE INTERNATIONALE

TRAITES ET CAPACITE DE CONCLURE DES TRAITES

Votre organisation a-t-elle conclu des traités au sens de l'alinéa a) de l'article 2 de la Convention de Vienne de 1969 sur le droit des traités et, dans l'affirmative, sur quelle base juridique?

B. PERSONALIDAD JURIDICA INTERNACIONAL

TRATADOS Y CAPACIDAD DE CONCERTAR TRATADOS

¿Ha celebrado su organización tratados que se ajusten a lo dispuesto en el inciso a) del artículo 2 de la Convención de Viena de 1969 sobre el derecho de los tratados, y, en caso afirmativo, qué es lo que se ha considerado como fundamento jurídico para hacerlo?

ACUERDO DE CARTAGENA

(Commission of the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

1. Although there is no express provision in the AFCAC Constitution conferring AFCAC with international legal personality, such personality can be implied from the different provisions enabling AFCAC to perform certain international activities and in the practice carried by AFCAC under such provisions in the international sphere.

2. Article I of the Constitution refers to AFCAC as an autonomous body; article 4.2 thereof assumes the power of AFCAC to conclude bilateral and multilateral arrangements with other intergovernmental organizations like the Organization of African Unity (OAU) and the International Civil Aviation Organization (ICAO).

3. In practice, AFCAC has acted as if it enjoys international legal personality. It has concluded the following agreements with Governments and intergovernmental organizations:

(a) Agreement with the French Government Fonds d'Aide et de Coopération on the financing of the first phase of the AFCAC feasibility study on optimum development of air services in Africa (21 July 1982);

(b) Working arrangements with ICAO (1 January 1978);

(c) Agreement with OAU establishing AFCAC as a specialized agency of OAU (11 May 1978);

(d) Co-operation agreement with the Arab Council of Civil Aviation (12 March 1984);

(e) The headquarters agreement with the Government of Senegal (10 September 1974);

(f) Agreement on fellowships with the Egyptian National Training Institute (8 February 1982).

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Oui. Selon l'article XIV de la Convention, l'Agence peut coopérer avec des Etats membres, non membres, organisations internationales, et conclure des accords à cet effet.

CARRIBEAN COMMUNITY

Yes. The legal basis is article 20 (3) of the Treaty.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui. La base légale est la Convention révisée pour la navigation du Rhin, et particulièrement son article 45 bis.

COMMONWEALTH SECRETARIAT

No.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference on Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Nuestra organización no ha celebrado ningún tratado que se ajuste al texto de la Convención de Viena de 1969, artículo 2, apartado a).

EUROPEAN COMMUNITIES

The fact that you ask this question presupposes you consider that international organizations can conclude treaties within the meaning of article 2 (a) of the 1969 Vienna Convention, when they are entitled to conclude such an agreement "as a State". The legal basis for the Community to conclude treaties is either a specific article of the Treaties, e.g. articles 113 and 228 of the Treaties, or an implied power in the Treaties.

In fact, the European Communities participate in a great number of such international agreements. About 30 of them have come in force up to March 1984.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

CMEA has concluded a number of treaties within the meaning of article 2 (a) of the 1969 Vienna Convention on the Law of Treaties. The legal basis for concluding such treaties has been considered to be the provisions of the CMEA charter and general international law on the recognized international legal personality of inter-State organizations.

INTERNATIONAL SUGAR AGREEMENT

The only agreement we have concluded is the headquarters Agreement with the United Kingdom (see answer to question 1 (a) above). The present specific authority is paragraph (2) of article 5 of the 1977 ISA.

INTERNATIONAL COCOA ORGANIZATION

The answer is negative.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

1. NATO is an organization of States created by treaty. The States concerned acting collectively have been able to exercise their capacities to conclude treaties through NATO. Thus, NATO has concluded treaties with different member States on various subjects (status of personnel, social security, use of premises, etc.).

2. If one admits that law governing treaties should apply mutatis mutandis to agreements concluded by public organizations of States, it can be said that NATO has concluded treaties within the meaning - sensu lato - of article 2 (a) of the Vienna Convention.

3. The legal basis is the Ottawa Agreement, article 4.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Assuming that treaties within the meaning of article 2 (a) of the 1969 Vienna Convention on the Law of Treaties are considered for purposes of the questionnaire to cover agreements concluded between an international organization and a State or States, the reply to this question is affirmative. The legal basis for concluding such treaties is to be found in article 5 (c) of the Convention, which provides that "in order to achieve its aims, the organization may ... (c) enter into agreements with members, non-member States and international organizations". The conclusion of such agreements by the organization requires approval by the Council, as provided for in article 12 of the OECD Convention.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Desde nuestro punto de vista, el Convenio de Prerrogativas citado en la respuesta a la pregunta 1 a) es un Tratado entre la SIECA y un Estado, que se rige por el derecho internacional, tal como se reconoce en los considerandos 3 y 4 de dicho instrumento y en el segundo considerando del decreto que lo aprueba. Su fundamento jurídico es una norma consuetudinaria de derecho internacional y el artículo XXIII del Tratado General. Queda a salvo, desde luego, lo dispuesto en el artículo 3 de la Convención de Viena de 1969.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non. Les gouvernements ont seuls capacité pour conclure des traités dans le cadre de l'Union économique Benelux. Après signature, ceux-ci seront soumis à l'approbation parlementaire nationale dans les trois pays.

Question 12

Have any special problems arisen over the treaty-making capacity of your organization?

Est-ce que la capacité de conclure des traités de votre organisation a soulev des problèmes particuliers?

¿Se ha planteado algún problema concreto en relación con la capacidad de su organización para celebrar tratados?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No problems whatsoever.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

No special problems have arisen over the treaty-making capacity of the organization.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non. Il convient de signaler que les traités conclus dans le cadre de la Commission centrale et qui modifient la Convention de base doivent naturellement être soumis à ratification par les Etats.

COMMONWEALTH SECRETARIAT

The Secretariat is not considered as having a treaty-making capacity.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No se ha planteado ningún problema concreto en relación con la capacidad de poder celebrar tratados.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

Problems concerning the treaty-making capacity of CMEA have sometimes been mentioned in the press and in connection with negotiations between CMEA and the European Economic Community. There is no doubt about the treaty-making capacity of CMEA.

EUROPEAN COMMUNITIES

1. The European Communities' engagement in international relations has gradually become wider and diversified. Today, the Communities are active in bilateral relations as well as in the multilateral field, where the Communities participate in treaties and conferences.

2. Problems have arisen for the Communities where their status in international organizations, conferences or conventions did not take into account the Communities' competence. Sometimes the Communities have been asked to define where their competence ends and where member States' competence begins; in other cases, a simultaneous participation of one or more member States to the agreement has been requested.

3. See observations from the Commission of the European Economic Community on the question "Review of the multilateral treaty-making process" (12 July 1982).

INTERNATIONAL COCOA ORGANIZATION

The answer is negative.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 13

Does your organization consider itself bound by certain restrictions in the exercise of its treaty-making capacity, such as, for instance, (a) subject matter, (b) choice of parties, (c) other?

Votre organisation se considère-t-elle liée par certaines limites imposées à l'exercice de sa capacité de conclure des traités et touchant par exemple à a) l'objet du traité; b) au choix des parties; c) à d'autres considérations?

¿Se considera su organización obligada a respetar ciertas restricciones en el ejercicio de su capacidad para celebrar tratados, en lo que respecta, por ejemplo, a) a la materia, b) a la elección de las partes, o c) a otras cuestiones?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Il est évident que l'accord doit être conforme à la mission de l'Agence, qui est d'assurer et de développer, à des fins exclusivement pacifiques, la coopération entre Etats européens dans les domaines de la recherche et de la technologie spatiales et de leurs applications spatiales.

CARIBBEAN COMMUNITY

Yes. Subject matter of a treaty is necessarily restricted by the objectives and functions of the organization.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Les limites sont celles découlant de l'objet du traité de base (voir la réponse à la question 11) et des compétences très largement définies, notamment à l'article 45 bis.

COMMONWEALTH SECRETARIAT

As under the reply to question 12 above.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

La CEPT est liée par l'esprit des dispositions de la Convention postale universelle et de la Convention internationale des télécommunications (art. 2 de l'arrangement).

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

La estructura del Convenio Internacional del Aceite de Oliva, 1979, no plantea las posibilidades restrictivas que se enumeran en esta pregunta.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

Any restrictions on the statutory treaty-making capacity of CMEA may derive only from understanding on the question among the member countries of CMEA.

INTERNATIONAL COCOA ORGANIZATION

The answer is negative.

INTERNATIONAL SUGAR AGREEMENT

This question has not arisen. We certainly would be bound by pertinence to the agreed objectives of ISA (article 1).

EUROPEAN COMMUNITIES

The treaty-making capacity of the European Communities covers the whole field of objectives defined by the European Communities treaties. In particular, whenever European Communities law has created, for the institutions of the Communities, powers within its internal system for the purpose of attaining a specific objective, the European Communities have authority to enter into international commitments necessary for the attainment of that objective, even in the absence of an express provision in that connection.

INTERNATIONAL WHALING COMMISSION

The question has not arisen.

NORTH ATLANTIC TREATY ORGANIZATION

NATO has never asked this question of itself. If the question concerning the treaty-making power may be answered, as has been done in connection with question 11, in a positive way, the thesis could be upheld that NATO has this power only in so far as the member States (or other States concerned) recognize the existence of the treaty-making power in one or other particular field.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The only restrictions by which the organization is bound in the exercise of its treaty-making capacity are those provided for in the OECD Convention itself. However, the scope of the organization's treaty-making capacity is limited by the very scope of competency of the organization as defined in the OECD Convention. Article 5 of the Convention provides that "in order to achieve its aims, the organization may ... (c) enter into agreements with members, non-member States and international organizations". The aims of OECD are set forth in article 1 of the Convention.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Sí, tanto en lo relacionado con la materia como en la elección de las partes. Téngase en cuenta que la SIECA es un organismo meramente técnico, que sirve de secretaría a los órganos de dirección y ejecución creados por el Tratado General (Consejo Económico y Consejo Ejecutivo, respectivamente) de los cuales depende y a quienes está supeditado.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 14

Has it ever entered into a treaty with a non-member State?

Votre organisation a-t-elle déjà conclu un traité avec un Etat non membre?

En alguna ocasión, ¿ha celebrado su organización algún tratado con un Estado no miembro?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

La organización como tal, no. Los países miembros conjuntamente y con la concurrencia de la organización, sí (convenios mixtos).

AFRICAN CIVIL AVIATION COMMISSION

The agreement with the French Government mentioned under question 11.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Oui.

CARIBBEAN COMMUNITY

Yes. There is an agreement with the Government of Mexico.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

No.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Nunca ha celebrado nuestra organización un tratado con un Estado no miembro.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There are a number of treaties in force between CMEA and countries not members of CMEA (Yugoslavia, Finland, Iraq, Mexico and Nicaragua).

EUROPEAN COMMUNITIES

The treaties with non-member States had been concluded by the European Communities by 31 December 1983.

The legal bases for so doing are the different provisions of the European Community treaties.

INTERNATIONAL COCOA ORGANIZATION

The answer is negative.

INTERNATIONAL SUGAR AGREEMENT

Only with the headquarters State, the United Kingdom, which was but is not now a member of ISO.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The organization has entered into treaties with two non-member States, i.e. the agreement between OECD and the Yugoslav Government on the participation of Yugoslavia in the work of the organization of 28 October 1961 and the exchange of letters between OECD and the Government of Mexico of 4 February 1982 on the establishment of a liaison committee between the Steel Committee of the organization and Mexico. However, several decisions of the Council of the organization are open to accession by non-member States and a number of such States

have acceded to these decisions. It is not obvious that the latter would fall within the scope of treaties as defined by article 2 (a) of the 1969 Vienna Convention on the Law of Treaties.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 15

Have any agreements on the status, privileges and immunities of your organization, including agreements for holding conferences, been entered into which were not registered or file and recorded with the United Nations Secretariat? If so, please supply texts.

Votre organisation a-t-elle déjà conclu des accords sur son statut juridique, ses privilèges et ses immunités, y compris des arrangements à l'occasion de conférences, qui n'ont pas été communiqués au Secrétariat de l'Organisation des Nations Unies pour enregistrement ou classement et inscription au répertoire? Dans l'affirmative, veuillez en fournir les textes.

¿Se ha concertado algún acuerdo sobre la condición jurídica, los privilegios y las inmunidades de su organización, incluidos los acuerdos relativos a la celebración de conferencias, que no hayan sido registrados en la Secretaría de las Naciones Unidas? En caso afirmativo, sírvase adjuntar los textos correspondientes.

ACUERDO DE CARTAGENA

(Commission for the Cartegena Agreement)

El Convenio de Privilegios e Inmunidades celebrado entre la Junta del Acuerdo de Cartgegena y el Gobierno del Perú.

AFRICAN CIVIL AVIATION COMMISSION

The headquarters agreement with the Government of the Republic of Senegal.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Oui, certains accords de coopération bilatéraux qui contiennent des dispositions sur les privilèges et immunités de l'Agence (accords avec Canada, Australie, Côte d'Ivoire, Norvège, Autriche).

CARIBBEAN COMMUNITY

Yes.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui. Il s'agit de l'accord de siège comportant également les privilèges et immunités accordés par le Gouvernement français. Il convient de remarquer qu'il ne s'agit pas là d'un accord général sur les privilèges et immunités dont les dispositions seraient applicables sur le territoire des autres Etats membres.

COMMONWEALTH SECRETARIAT

Agreements have been entered into with the host Government and with the Governments of the United Kingdom and Uganda (concerning in the latter two instances, observation of elections in Zimbabwe and Uganda respectively).

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Si, el convenio de sede con el Gobierno español al que se ha hecho anteriormente referencia.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There have been no cases of accession to the 1959 Convention.

EUROPEAN COMMUNITIES

Privileges and immunities for the European Communities are now governed by the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965. This Protocol was registered with the United Nations Secretariat on 31 January 1984. Previous texts were likewise registered (see United Nations Treaty Series, vol. 431, p. 242 (1962); vol. 452, p. 228 (1963); vol. 483, p. 298 (1963) and vol. 620, p. 292 (1968)). The Community has on various occasions been host for conferences such as the one in 1973 where a convention was adopted on "La création du Centre européen pour les prévisions météorologiques à moyen terme" conluded in Brussels on 11 October 1973. Another exemple is the yearly ministerial meeting between the Community and the African, Caribbean and Pacific States.

INTERNATIONAL SUGAR AGREEMENT

We do not know whether the headquarters agreement with the United Kingdom has been registered with the United Nations.

INTERNATIONAL WHALING COMMISSION

Headquarters agreement, exchange of notes.

NORTH ATLANTIC TREATY ORGANIZATION

The North Atlantic Treaty; the Ottawa Agreement.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Agreement on the status, privileges and immunities of the organization have not been registered or filed and recorded with the United Nations Secretariat.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Se ha concertado el Convenio de Prerrogativas, Inmunidades y Franquicias a favor de la Secretaría Permanente del Tratado General de Integración Económica Centroamericana (SIECA), el cual fue celebrado entre la SIECA y el Gobierno de la República de Guatemala, en la ciudad de Guatemala, con fecha 26 de junio de 1978. Dicho instrumento se aprobó mediante decreto-ley número 73-82, y fue ratificado por acuerdo gubernativo número 223-82, ambos de fecha 30 de agosto de 1982.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 16

INTERNATIONAL CLAIMS

Has your organization made any international claims against other subjects of international law?

RECLAMATIONS INTERNATIONALES

Avez-vous présenté des réclamations internationales contre d'autres sujets de droit international?

RECLAMACIONES INTERNACIONALES

¿Ha formulado su organización alguna reclamación internacional contra otros sujetos de derecho international?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

No.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

No.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No, la organización no ha formulado ninguna reclamación internacional.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

CMEA has not made any international claims against other subjects of international law.

EUROPEAN COMMUNITIES

The EEC Treaty and the EAEC Treaty provide in identical terms that the Commission of the Communities may proceed to the European Court of Justice in order to get a finding that a member State has failed to fulfil an obligation under the Treaty. The text of article 169 of the EEC Treaty and article 141 of the EAEC Treaty is the following:

> "If the Commission considers that a member State has failed to fulfil an obligation under this Treaty, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.
>
> "If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice."

There are about 125 judgments of the Court of Justice in cases brought by the Commission against member States pursuant to these rules.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 17

Has your Organization received any international claims against it from States or from international organizations?

Des réclamations internationales ont-elles été présentées contre votre organisation par des Etats ou par d'autres organisations internationales?

¿Ha recibido su organización alguna reclamación internacional en contra suya, formulada por un Estado o por una organización internacional?

ACUERDO DE CARTEGENA

(Commission for the Cartegena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

No.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

No.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Tampoco ha recibido la organización ninguna reclamación internacional formulada por un Estado o por una organización internacional.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

CMEA has not received any international claims against it from States or from other international organizations.

EUROPEAN COMMUNITIES

The Treaties provide for the possibility for member States to institute proceedings before the European Court of Justice for annulment of decisions or for failure to act against institutions of the Communities. The relevant provisions are the following:

Article 33, paragraph 1, of the ECSC Treaty

"The Court shall have juridiction in actions brought by a member State or by the Council to have decisions or recommendations of the high Authority declared void on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers. The Court may not, however, examine the evaluation of the situation, resulting from economic facts or circumstances, in the light of which the High Authority took its decisions or made its recommendations, save where the High Authority is alleged to have misused its powers or to have manifestly failed to observe the provisions of this Treaty or any rule of law relating to its application."

Article 173, paragraph 1, of the EEC Treaty and article 146, paragraph 1 of the EAEC Treaty:

"The Court of Justice shall review the legality of acts of the Council and the Commission other than recommendations or opinions. It shall for this purpose have jurisdiction in actions brought by a member State, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers."

Article 35 of the ECSC Treaty:

"Wherever the High Authority is required by this Treaty, or by rules laid down for the implementation thereof, to take a decision or make a recommendation and fails to fulfil this obligation, it shall be for States, the Council, undertakings or associations, as the case may be, to raise the matter with the High Authority.

"The same shall apply if the High Authority, where empowered by this Treaty, or by rules laid down for the implementation thereof, to take a decision or make a recommendation, abstains from doing so and abstention constitutes a misuse of powers.

"If at the end of two months the High Authority has not taken any decision or made any recommendation, proceedings may be instituted before the Court within one month against the implied decision of refusal which is to be inferred from the silence of the High Authority on the matter."

Article 175, paragraph 1, of the EEC Treaty and article 148, paragraph 1 of the EAEC Treaty:

"Should the Council or the Commission, in infringement of this Treaty, fail to act, the member States and the other institutions of the Community may bring an action before the Court of Justice to have the infringement established."

There have been about 45 cases brought by member States against institutions of the Communities.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 18

What steps have you taken (other than by insurance) to avoid or mitigate any liability which might be incurred by your organization?

Quelles mesures avez-vous prises (en dehors des assurances) pour dégager ou limiter la responsabilité que pourrait encourir votre organisation?

¿Qué medidas ha adoptado usted (aparte de la contratación de un seguro) para evitar o mitigar responsabilidad en que pueda haber incurrido su organización?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Ninguna.

AFRICAN CIVIL AVIATION COMMISSION

None.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Certaines clauses ont été insérées dans les accords/contrats relatifs notamment à la fourniture de services ou d'avis.

Arrangement Conférence spatiale européenne (phase 3 bis) avec Eutelsat intérimaire. L'Agence ne peut offrir une garantie de résultats, mais de moyens, c'est-à-dire de faire ses meilleurs efforts.

Accords Ariane Apex :

Contrats de consultance : le montant de la réparation éventuelle est limité au montant des honoraires perçus.

CARIBBEAN COMMUNITY

None.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Néant.

/...

COMMONWEALTH SECRETARIAT

No specific steps, apart from usual insurance policies and the arrangements made and understandings reached with the host State and other member States as to the privileges and immunities of the Secretariat and its staff.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Aucune.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OELICOLA INTERNACIONAL

(International Olive Oil Council)

Ninguna otra medida que no sea la contractual del seguro.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

CMEA has not taken any steps (other than by insurance) to avoid or mitigate any liability which it might incur.

EUROPEAN COMMUNITIES

1. The Treaties provide for liability of the Communities in certain cases. Jurisdiction in disputes relating to non-contractual liability lies with the Court of Justice of the European Communities.

2. The relevant provisions are the following:

Article 34 of the ECSC Treaty:

"If the Court declares a decision or recommendation void, it shall refer the matter back to the High Authority. The High Authority shall take the necessary steps to comply with the judgement. If direct and special harm is suffered by an undertaking or group of undertakings by reason of a decision or recommendation held by the Court to involve a fault of such a nature as to render the Community liable, the High Authority shall, using the powers

conferred upon it by this Treaty, take steps to insure equitable redress for the harm resulting directly from the decision or recommendation declared void and, where necessary, pay appropriate damages.

"If the High Authority fails to take within a reasonable time the necessary steps to comply with the judgement, proceedings for damages may be instituted before the Court."

Article 40, paragraphs 1 and 2, of the ECSC Treaty:

"Without prejudice to the first paragraph of article 34, the Court shall have jurisdiction to order pecuniary reparation from the Community, on application by the injured party, to make good any injury caused in carrying out this Treaty by a wrongful act or omission on the part of the Community in the performance of its functions.

"The Court shall also have jurisdiction to order the Community to make good any injury caused by a personal wrong by a servant of the Community in the performance of his duties. [...]

Article 215, paragraphs 1 and 2, of the EEC Treaty and article 188, paragraphs 1 and 2, of the EAEC Treaty:

"The contractual liability of the Community shall be governed by the law applicable to the contract in question.

"In the case of non-contractual liability, the Community shall, in accordance with the general principles common to the laws of the member States, make good any damage caused by its institutions or by its servants in the performance of their duties."

Article 178 of the EEC Treaty and article 151 of the EAEC Treaty:

"The Court of Justice shall have jurisdiction in disputes relating to compensation for damage provided for in the second paragraph of article 215."

3. There is no possibility to avoid or mitigate liability of the Communities.

INTERNATIONAL SUGAR AGREEMENT

No steps other than insurance since none have appeared to be needed.

INTERNATIONAL WHALING COMMISSION

None.

NORTH ATLANTIC TREATY ORGANIZATION

None.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The only specific steps which have been taken (other than by insurance) to avoid or mitigate any liability which might be incurred by the organization have been in the form of disclaimers included in most publications of the organization and in all sales contracts for magnetic tapes.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Ninguna.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Aucune mesure précise.

Question 19

PREMISES, PROPERTY, FUNDS AND ASSETS OF THE ORGANIZATION

INVIOLABILITY

Are the premises of your organization granted inviolability? Are its property, funds and assets immune from search, requisition, confiscation or expropriation? Are its papers and documents inviolable?

LOCAUX, BIENS, FONDS ET AVOIRS DE L'ORGANISATION

INVIOLABILITE

Les locaux de votre organisation jouissent-ils de l'inviolabilité? Les biens, fonds et avoirs de votre organisation sont-ils exempts de perquisition, réquisition, confiscation ou expropriation? Les papiers et documents de votre organisation sont-ils inviolables?

LOCALES, BIENES, FONDOS Y HABERES DE LA ORGANIZACION

INVIOLABILIDAD

¿Son inviolables los locales de su organización? ¿Son sus bienes, fondos y haberes immunes respecto de registro, requisición, confiscación o expropriación? ¿Son inviolables sus papeles y documentos?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

La sede de la Junta, sus bienes y archivos son inviolables (artículo 3 del Convenio).

AFRICAN CIVIL AVIATION COMMISSION

Yes (see art. 1, para. 7 and art. 5, paras. 1, 2 and 3 of the headquarters agreement).

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Oui (voir art. II et III de l'annexe I de la Convention).

CARIBBEAN COMMUNITY

Yes.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui (art. 7, 13 et 14).

COMMONWEALTH SECRETARIAT

Yes, in all aspects queried.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

1. Oui. Les articles 4 et 5 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe stipulent ce qui suit :

"Article 4

Les locaux et bâtiments du Conseil sont inviolables. Ses biens et avoirs, où qu'ils se trouvent et quel que soit leur détenteur, sont exempts de perquisition, réquisition, confiscation, expropriation ou de toute autre forme de contrainte administrative ou judiciaire.

"Article 5

Les archives du Conseil et, d'une manière générale, tous les documents lui appartenant ou détenus par lui sont inviolables où qu'ils se trouvent."

2. Ces dispositions sont complétées par l'Accord spécial relatif au siège du Conseil de l'Europe qui dispose en son article 3 que :

"Les locaux et bâtiments sont inviolables. Les agents ou fonctionnaires français ne peuvent pénétrer dans lesdits bâtiments et locaux pour y exercer leurs fonctions qu'avec le consentement du Secrétaire général et dans les conditions acceptées par celui-ci.

Sans qu'il puisse être porté atteinte aux dispositions de l'Accord général sur les privilèges et immunités, le Conseil veille à ce que les bâtiments et locaux du Conseil ne deviennent pas le refuge de personnes qui tenteraient d'échapper à une arrestation demandée en vertu d'un mandat

/...

régulier des autorités françaises ou qui chercheraient à se dérober à l'exécution d'un acte de procédure."

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

De conformidad con el Convenio de Sede, son inviolables todos los puntos que toca este apartado.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The premises of CMEA are inviolable. The property, assets and documents of CMEA enjoy, under article 2, paragraph 1, of the 1959 Convention, immunity from every form of administrative and legal process except in so far as in any particular case the Council has waived its immunity. This may be interpreted as immunity also from search, requisition, confiscation or expropriation. See also article III of the 1961 Agreement between CMEA and the Government of the USSR.

EUROPEAN COMMUNITIES

All questions have to be answered in the affirmative. Articles 1, 2 and 6 of the Protocol on the privileges and immunities of the European Communities, signed in Brussels on 8 April 1965, read as follows:

"Article 1

"The premises and buildings of the Communities shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Communities shall not be the subject of any administrative or legal measure of constraint without the authorization of the Court of Justice.

"Article 2

"The archives of the Communities shall be inviolable.

"Article 6

"For their official communications and the transmission of all their documents, the institutions of the Communities shall enjoy in the territory of each member State the treatment accorded by that State to diplomatic missions.

"Official correspondence and other official communications of the institutions of the Communities shall not be subject to censorship."

INTERNATIONAL SUGAR AGREEMENT

Articles 4 and 5 of the headquarters agreement relate to inviolability. The premises, papers and documents are inviolable. The answer is not equally simple with respect to the other items listed in this question, though article 13 provides that the organization may freely receive, acquire, hold and dispose of any kind of funds, currencies or securities. (See the pertinent articles of the agreement.)

INTERNATIONAL WHALING COMMISSION

Our premises have not been granted inviolability, nor are the property, funds and assets immune from search, requisition, confiscation or expropriation. However, the headquarters agreement, article 4, states: "The archives of the Commission shall be inviolable. The term 'archives' includes all records, correspondence, documents, manuscripts, photographs, films and recordings belonging to or held by the Commission and to all information contained therein".

NORTH ATLANTIC TREATY ORGANIZATION

Articles 6 and 7 of the Ottawa Agreement stipulate:

"Article 6

"The premises of the organization shall be inviolable. Its property and assets, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of interference.

"Article 7

"The archives of the organization and all documents belonging to it or held by it shall be inviolable, wherever located."

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Yes (arts. 3 and 4 of supplementary Protocol No. I).

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

El artículo II del convenio de prerrogativas, inmunidades y franquicias entre la SIECA y el Gobierno del país huésped prescribe lo siguiente:

"Artículo II. Los locales, archivos y documentos de la secretaría serán inviolables. Los haberes y bienes de la secretaría, dondequiera que se encuentren y en poder de quienquiera que sea, gozarán de inmunidad contra

allanamiento, requisición, confiscación y expropiación y contra toda forma de interferencia, ya sea de carácter ejecutivo, administrativo, judicial o legislativo. También serán inviolables los documentos y bienes que se hallen en su posesión, aunque no le pertenezcan."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Oui (voir art. 38 et 95 du Traité d'union).

Question 20

What legal controversies, if any, have arisen regarding granting or non-observance of the inviolability of the premises, or of the immunities of the property and assets, of your organization?

A quelles difficultés d'ordre juridique a donné lieu, le cas échéant, la reconnaissance ou la non-reconnaissance de l'inviolabilité des locaux de votre organisation ou des immunités de ses biens et avoirs?

¿Qué controversias jurídicas, si las hubiere, han surgido respecto de la concesión o la inobservancia de la inviolabilidad de los locales de su organización, o por lo que hace a las inmunidades de los bienes y haberes de ésta?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Ninguna.

AFRICAN CIVIL AVIATION COMMISSION

None.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Aucune.

CARIBBEAN COMMUNITY

None.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Aucune.

COMMONWEALTH SECRETARIAT

None.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Aucune.

CONSEIL DE L'EUROPE

(Council of Europe)

Aucune.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No ha surgido ninguna controversia jurídica respecto de la concesión o la inobservancia de la inviolabilidad de los locales de nuestra organización así como en lo que se refiere a las inmunidades de los bienes y haberes de ésta.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No legal controversies have arisen in pratice regarding the granting or non-observance of the inviolability of the premises of CMEA or of the immunities of its property and assets.

EUROPEAN COMMUNITIES

As yet no legal controversies have arisen regarding granting or non-observance of the inviolability of the premises, or of the immunities of the property and assets, of the European Communities.

INTERNATIONAL SUGAR AGREEMENT

No legal controversies, except some limited differences with respect to free convertibility of currencies. The UK monetary authorities asserted several years ago the requirement for licensing, but they never denied a requested license. The issue was never resolved since it was of no pratical significance and the licensing requirements were withdrawn in 1979 and have not been reinstituted.

INTERNATIONAL WHALING COMMISSION

None.

NORTH ATLANTIC TREATY ORGANIZATION

No legal controversies have arisen.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

None.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Ninguna.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Pas de remarques.

Question 21

Have any legal controversies arisen regarding the non-recognition of the inviolability of the archives and documents of your organization?

A quelles difficultés d'ordre juridique a donné lieu, le cas échéant, la non-reconnaissance de l'inviolabilité des archives et des documents de votre organisation?

¿Ha surgido alguna controversia jurídica con respecto al no reconocimiento de la inviolabilidad de los archivos y documentos de su organización?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Ninguna.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

No.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Néant.

COMMONWEALTH SECRETARIAT

No.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Aucune.

CONSEIL DE L'EUROPE

(Council of Europe)

Aucune.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No ha surgido ninguna controversia jurídica respecto al no reconocimiento de la inviolabilidad de los archivos y documentos de nuestra organización.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No legal controversies have arisen in pratice regarding the non-recognition of the inviolability of the archives and documents of CMEA.

EUROPEAN COMMUNITIES

As yet no legal controversy has arisen regarding the non-recognition of the inviolability of the archives and documents of the European Communities.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Ninguna.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 22

Does your organization have the power to adopt regulations superseding domestic law within the organization's premises? In the affirmative, on what topics have such regulations been adopted?

Votre organisation a-t-elle le pouvoir d'adopter des règlements qui prévalent sur le droit national à l'intérieur des locaux de l'organisation? Dans l'affirmative, sur quels sujets portent les textes ainsi adoptés?

¿Está facultada su organización para aplicar en su interior normas que deroguen las leyes nacionales? En caso afirmativo, ¿sobre qué base se han adoptado tales normas?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Sí, con base en el Acuerdo de Cartagena.

AFRICAN CIVIL AVIATION COMMISSION

Please see article 1, paragraphs 5 and 6, of the headquarters agreement.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. L'article XXII.1 de l'annexe I de la Convention demande à l'Agence de coopération "en tout temps avec les autorités compétentes des Etats membres en vue de faciliter une bonne administration de la justice, d'assurer l'observation des règlements de police et de ceux qui concernent la manipulation d'explosifs et de matières inflammables, la santé publique et l'inspection du travail ou autres lois nationales de nature analogue, et d'empêcher tout abus des privilèges, immunités et facilités".

2. Par exemple, l'Accord ESTEC : "Le gouvernement conserve le droit de prendre toute mesure nécessaire dans l'intérêt de la sécurité de l'Etat". Le Directeur du Centre est tenu d'autoriser à pénétrer une personne qui possède un mandat délivré par le Procureur général près la Cour de Justice de La Haye, qui est un procureur ou un juge d'instruction.

3. Dans cet esprit, l'Agence édicte des règlements internes en matière d'accès au site, de sécurité/incendie des locaux, etc. De même, la réglementation applicable au personnel est totalement indépendante et exclusive de tout droit d'origine nationale.

CARIBBEAN COMMUNITY

Yes. Article 2 (2) of the headquarters agreement. National insurance surcharge not paid.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui. La Commission centrale a le droit d'édicter des règlements destinés à faciliter, à l'intérieur de ses bâtiments et locaux, le plein exercice de ses attributions.

COMMONWEALTH SECRETARIAT

Not specifically, although, of course, in respect of policy and administrative matters (e.g. staff rules and regulations) the secretariat is not bound by domestic law.

CONSEIL DE L'EUROPE

(Council of Europe)

Oui. L'article 2 de l'Accord spécial relatif au siège du Conseil de l'Europe stipule que "le Conseil de l'Europe a le droit d'édicter des règlements destinés à faciliter, à l'intérieur de ses bâtiments et locaux, le plein exercice de ses attributions".

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Nuestra organización puede en su interior aplicar normas que deroguen las leyes nacionales y se basan en lo que a bienes, fondos y haberes del Consejo se refiere en el Convenio de Sede y vienen reguladas por los artículos 11, 12, 13 y 14 del mismo.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

CMEA has the power to adopt regulations, effective within the premises of the organization, that are different from domestic regulations. Such regulations have been adopted, inter alia, with respect to the working conditions of members of the CMEA secretariat, the financial and auditing activities of the CMEA secretariat, archive work and internal documentation.

EUROPEAN COMMUNITIES

Within the framework of the Protocol and the right to internal auto-organization the European Communities can adopt regulations on internal security and safety.

INTERNATIONAL SUGAR AGREEMENT

The organization may have such power pursuant to the articles of the headquarters agreement on inviolability, though this would be limited by article 23, which relates to co-operation in respect of police and fire regulations, etc. There has been no need to test the interpretation of these articles.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

1. The Ottawa Agreement states the inviolability of premises as a general principle; it does not deal specifically with the question of the conditions under which domestic law may, in one way or another, receive application within those premises (e.g. access of local authorities - crimes committed in premises, etc.).

2. It is clear that NATO will look for co-operation with the appropriate authorities in facilitating the proper administration of law and justice.

3. The principle that the "lex situs" may cease to be applicable because the premises are granted inviolability is handled with utmost reasonableness and caution.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

1. Yes. Such regulations have been adopted, for instance, in the field of labour law, by the adoption of staff regulations pursuant to article 11 of the OECD Convention superseding domestic labour law.

2. Moreover, application of the provisions of supplementary Protocol No. I has the following pratical consequences:

Labour Law

3. The organization does not consider itself bound by labour law provisions of the host country. For example, it does not provide information in response to requests from the labour inspectorate (number of employees, balance-sheet, etc.) or from revenue authorities; it does not contribute to the widow's insurance provided for under social security legislation; it is not bound by legislative or regulatory provisions in France concerning workers' rights.

Publications

4. The organization is not bound by copyright provisions concerning publications edited in France (however, it spontaneously provides information concerning all its publications).

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

La organización goza de inmunidad contra todo procedimiento judicial, en virtud de lo dispuesto en el artículo I del Convenio de Prerrogativas, Inmunidades y Franquicias. En base a lo expresado, la SIECA ha sostenido ante los tribunales de trabajo de Guatemala - y así le ha sido reconocido - que no está sometida a las leyes y tribunales laborales guatemaltecos. En tal sentido, sus reglamentos internos no derogan pero sí prevalecen sobre la legislación nacional.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 23

Does your organization have the right to display or use (a) a flag, name, official emblem or seal; (b) the flags of member States? Please mention any problem that may have arisen in this respect.

Votre organisation a-t-elle le droit d'arborer ou d'utiliser a) son drapeau, son nom, son emblème officiel ou son sceau; b) les drapeaux d'Etats membres? Veuillez mentionner les problèmes qui ont pu se poser à cet égard.

¿Tiene derecho su organización a exhibir o utilizar a) una bandera, nombre, emblema oficial o sello, o bien b) los pabellones de los Estados miembros? Exponga todo problema que se haya planteado en esa esfera.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Sí: a) Nombre;

b) Emblema oficial y sello;

c) Pabellones de los países miembros.

AFRICAN CIVIL AVIATION COMMISSION

Yes, with no problem at all.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Sans que le droit soit reconnu dans un texte, l'Agence utilise un sigle et dispose d'un drapeau. De même, l'Agence déploie les drapeaux de ses Etats membres (mais non pas ceux des membres associés).

De même la réglementation du personnel (statut, règlement, pensions, etc.) est totalement indépendante et exclusive de tout droit d'origine nationale.

CARIBBEAN COMMUNITY

a) Yes.

b) Yes.

No problems have arisen in this respect.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

La Commission centrale arbore son drapeau et utilise son sceau. Aucune difficulté ne s'est posée à cet égard.

COMMONWEALTH SECRETARIAT

The secretariat does enjoy the privilege to have and use its own flag, name, official emblem and seal; and it uses and displays flags of all member States. No particular problems have arisen.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Oui a) et b).

CONSEIL DE L'EUROPE

(Council of Europe)

a) Oui.

b) Oui.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

1. Nuestra organización sí tiene derecho a exhibir y utilizar una bandera en nombre del Consejo Oleicola Internacional y un emblema o sello "label de garantía". Les preciso en este sentido, que el Consejo Oleicola Internacional en aplicación de las disposiciones del artículo 6 ter del Convenio de París para la protección de la propiedad industrial (revisado en Lisboa el 31 de octubre de 1958), disposiciones que extendían a las organizaciones internacionales la protección de sus banderas, emblemas, protección hasta entonces reservada a los países, procedió a la comunicación internacional de sus signos distinctivos por la Organización mundial de la propiedad intelectual en Ginebra. Esta comunicación a los países miembros de la Unión de París tuvo lugar el 6 de abril de 1962.

2. Nunca se han planteado problemas en este sentido.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

CMEA has the right to use its name, official emblem and seal. The flags of member States are flown or displayed on appropriate occasions (for example, during meetings of CMEA bodies) at the CMEA building and in the meeting rooms.

EUROPEAN COMMUNITIES

The European Communities have the right to display and use a flag, name, official emblem and seal. They have also the right to display the flags of the member States. No problem has arisen in this respect.

INTERNATIONAL SUGAR AGREEMENT

(a) Yes. Article 7 of the headquarters agreement.

(b) No specific right, but might not be necessary on the absence of any prohibition. The question has never arisen.

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 5, states: "The Commission shall be entitled to display its flag and emblem on the premises and means of transport of the Commission and of its Secretary." No problems have arisen.

NORTH ATLANTIC TREATY ORGANIZATION

1. A NATO flag and emblem have been adopted by the North Atlantic Council in October 1953. The character and nature of the flag and emblem have been described as follow:

> "Azure, a thin circle argent, thereon a four-pointed star - the compass. The line of the circle intersected by the points of the star. The star gyronny argent and azure, the azure fimbriated argent, the fimbriation tapering to the points of the star. Beyond the points of the star, radiating towards but not quite up to the edges of the flag, four thin lines argent. The lines in fess are longer than those in pale."

2. The circle is the symbol of unity and the compass rose suggests the common direction towards peace taken by the member nations of the Atlantic Alliance. The blue background represents the Atlantic Ocean.

3. The NATO flag and label belong of course to its exclusive patrimony. Unauthorized use of flag, label and name is improper and illegal, and might be subject to legal action. Indeed, criminal law of the member countries contains measures of protection against such unauthorized use (e.g. punishable by fine or/and imprisonment). On the other hand civilian law generally offers possibility to sue for damages.

4. Although such unauthorized use has been established in different countries, it has never given rise to legal action.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

This right is not specifically provided for in the basic texts but the organization displays and uses its name and emblem publicly and in official publications. The organization has no flag or official seal. It displays the flags of member States within its premises. Problems have never arisen in this respect.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

La SIECA carece de bandera o emblema oficial. En celebraciones especiales, tal como el 15 de septiembre (fecha de la independencia de todos los Estados miembros, exhibe las banderas nacionales de todos ellos. No ha tenido problemas.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

a) Oui.

b) Oui.

Question 24

IMMUNITY FROM LEGAL PROCESS AND EXECUTION

To what extent, if any, is immunity from legal process and immunity from execution recognized to the premises, property, funds and assets of your organization?

IMMUNITE DE JURIDICTION ET D'EXECUTION

Dans quelle mesure, si c'est le cas, l'immunité de juridiction et l'immunité d'exécution ont-elles été reconnues aux locaux, biens, fonds et avoirs de votre organisation?

INMUNIDAD RESPECTO DE LOS MANDAMIENTOS Y EJECUCIONES JUDICIALES

¿Se renonoce a los locales, bienes, fondos y haberes de su organización inmunidad respecto de los mandamientos judiciales y de la ejecución de éstos, y, en caso afirmativo, en qué grado?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

La Junta y sus bienes gozan de inmunidad de jurisdicción, salvo renuncia expresa. Sin embargo, la renuncia a la inmunidad no puede extenderse a forma alguna de ejecución (art. 1 del Convenio).

AFRICAN CIVIL AVIATION COMMISSION

Please see the headquarters agreement.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. L'Agence bénéficie de l'immunité de juridiction et d'exécution (annexe I, art. IV.1, de la Convention) sauf :

a) Dans la mesure où, par décision du Conseil, elle y renonce expressément dans un cas particulier;

b) En cas d'action civile intentée par un tiers pour les dommages résultant d'un accident causé par un véhicule à moteur appartenant à l'Agence ou circulant pour son compte, ou en cas d'infraction à la réglementation de la circulation automobile intéressant un tel véhicule;

c) En cas d'exécution d'une sentence arbitrale;

d) En cas de saisie ordonnée par décision des autorités judiciaires, sur les traitements versés par l'Agence.

2. Les accords d'établissements y ajoutent les différends relatifs à l'interprétation ou à l'application des dispositions des actes notariés constitutifs du droit de superficie ou bien encore les différends relatifs à un dommage causé par l'organisation, ou à un dommage impliquant le personnel ou les experts de l'organisation et pour lequel le ou les intéressés pourraient se réclamer de l'immunité de juridiction si cette immunité n'a pas été levée, lorsque la somme contestée n'excède pas un certain montant.

CARIBBEAN COMMUNITY

Article 4, paragraphs 1 and 2, of the headquarters agreement.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

L'article 12 dispose que la Commission centrale, ses biens et avoirs où qu'ils se trouvent et quel que soit leur détenteur, jouissent de l'immunité de juridiction et de l'immunité d'exécution. Cet article englobe les locaux, les biens, fonds et avoirs de la Commission centrale y compris le siège même de la Commission qui, d'après l'article 3, comprend les bâtiments et locaux ainsi que les terrains, cours et jardins y attenants, affectés à l'usage d'un de ses organes ou d'un de ses services.

COMMONWEALTH SECRETARIAT

As referred to in answers 1 (a) and (b) above, there is a difference in the obligations undertaken by the United Kingdom as host State, and the obligations undertaken by other member States; and further there is no uniformity as to the type and extent of immunity granted by the member States.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Les dispositions pertinentes de l'Accord général sur les privilèges et immunités du Conseil de l'Europe sont les suivantes :

"Article 3

Le Conseil, ses biens et avoirs, quels que soient leur siège et leur détenteur, jouissent de l'immunité de juridiction, sauf dans la mesure où le Comité des ministres y a expressément renoncé dans un cas particulier. Il est toutefois entendu que la renonciation ne peut s'étendre à des mesures de contrainte et d'exécution.

Article 4

Les locaux et bâtiments du Conseil sont inviolables. Ses biens et avoirs, où qu'ils se trouvent et quel que soit leur détenteur, sont exempts de perquisition, confiscation, expropriation ou de toute autre forme de contrainte administrative ou judiciaire."

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

El Consejo Oleícola Internacional, sus bienes y haberes, dondequiera que se hallen, disfrutan de la inmunidad de jurisdicción, salvo en la medida en que el Consejo renuncie expresamente a ella en un caso determinado o si esta renuncia resultare de la cláusulas de un contrato. Queda entendido, sin embargo, que se necesitará una nueva renuncia para las medidas de ejecución. Los locales del Consejo Oleícola Internacional son inviolables. No podrá cumplimentarse ninguna resolución judicial, incluso el embargo de bienes privados, en estos locales, sin la autorización del Director.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The property, assets and documents of CMEA enjoy, under the 1959 Convention, immunity from every form of administrative and legal process except in so far as in any particular case the Council has waived its immunity. Immunity from administrative and legal process should be understood to include immunity from legal jurisdiction and execution.

EUROPEAN COMMUNITIES

See reply to question 19.

INTERNATIONAL SUGAR AGREEMENT

Immunity is given under the headquarters agreement, primarily article 8, except as expressly waived and with respect to certain motor vehicle cases and arbitration awards as specified in the article.

INTERNATIONAL WHALING COMMISSION

None.

NORTH ATLANTIC TREATY ORGANIZATION

Article 5 of the Ottawa Agreement grants the immunity of legal process in most general terms ("property and assets, wheresoever located and by whomsoever held").

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The organization, its property and assets wherever located and by whomsoever held, enjoy immunity from every form of legal process (art. 2 of Supplementary Protocol No. I).

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

El artículo I del Convenio de Prerrogativas, Inmunidades y Franquicias prescribe lo siguiente:

"Artículo I.

La Secretaría Permanente del Tratado General de Integración Económica Centroamericana, así como sus bienes y haberes en cualquier parte y en poder de cualquier persona, gozarán de inmunidad contra todo procedimiento judicial, a excepción de los casos en que renuncie expresamente a esa inmunidad. Se entiende, sin embargo, que esa renuncia no se extenderá a la ejecución del fallo para lo cual será necesaria una nueva renuncia."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Oui (voir art. 95 du Traité d'union).

Question 25

Have there been cases where the immunity from legal process has not been recognized by State authorities acting: (a) on a claim by the State itself; or (b) on a claim by a private citizen; or (c) in civil or criminal proceedings where testimony was sought from your organization? Distinguish in your reply between States Parties and States non-Parties to treaties providing for immunity.

Y-a-t-il eu des cas où votre immunité de juridiction n'a pas été reconnue par des autorités gouvernementales à l'occasion : a) d'une réclamation présentée par l'Etat en question; b) d'une réclamation présentée par un particulier; ou c) d'une affaire civile ou pénale dans laquelle votre organisation était citée comme témoin? Dans votre réponse, faites une distinction selon que les Etats étaient parties ou non à des traités prévoyant l'immunité.

Indique si ha habido casos en que la inmunidad respecto de los mandamientos judiciales no haya sido reconocida por las autoridades de un Estado en relación con: a) una reclamación del propio Estado; o b) una reclamación formulada por un particular, o bien c) en procedimientos civiles o penales en los que su organización prestara declaración. En su respuesta, establezca una distinción entre los Estados partes y los Estados no partes en los tratados en que se disponga la inmunidad.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No se han dado tales casos.

AFRICAN CIVIL AVIATION COMMISSION

None at all.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. L'immunité de juridiction de l'Agence a été contestée dans deux cas et reconnue dans ces deux cas par l'autorité judiciaire. Dans les deux cas il s'agissait de procès devant juridiction d'Etat membre.

2. Dans une affaire dite "Knight" la Frankfurt Labour Court a rendu un jugement en appel d'une décision du Darmstadt Labour Court qui reconnaissait l'immunité de juridiction à l'Agence. Le jugement de la Cour de Francfort faisait également droit à la demande d'immunité de l'Agence, mais suite à une argumentation sur le fond de l'affaire. Par conséquent, l'immunité n'a pas fait l'objet d'une pleine reconnaissance de principe.

3. A l'inverse, dans une affaire dite "Bellaton", la Cour d'appel de Paris a mis à néant un jugement rendu par le Conseil des prud'hommes de Paris qui déclarait recevable la demande d'un ancien agent en paiement d'indemnités contre l'Agence alors que cet ancien agent s'est vu deux fois refuser ces indemnités par la Commission de recours interne seule compétente pour en connaître. La Cour d'appel a ainsi entièrement fait droit à l'immunité de juridiction de l'Agence, affirmant que celle-ci n'avait pas entendu expressément renoncer à son immunité au seul motif qu'elle avait poursuivi l'ancien agent devant les tribunaux français en remboursement d'une somme indue. La Cour de cassation, sur pourvoi formé contre ce jugement par l'agent en question, a confirmé cette opinion de la Cour d'appel et a clairement indiqué que l'Agence, si elle pouvait bénéficier de l'immunité de juridiction, n'y renonçait pas du simple fait de son recours aux tribunaux judiciaires d'un Etat donné pour y réclamer la mise en exécution de ses droits.

CARIBBEAN COMMUNITY

There have been no cases where the immunity from legal process has not been recognized by State authorities.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Néant.

COMMONWEALTH SECRETARIAT

No. As indicated above, there is no treaty or other arrangement with respect to immunity with non-member States of the Commonwealth.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Nunca se ha planteado este problema.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There have been no cases in practice where the immunity of CMEA from legal jurisdiction has been invoked but has not been recognized by State authorities acting on any sort of claim.

EUROPEAN COMMUNITIES

There have been no cases where the limited immunity from legal process accorded by the article cited under question 19 has not been recognized by State authorities.

INTERNATIONAL SUGAR AGREEMENT

No; however, no such cases have arisen.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

Whenever invoked before tribunals of member countries the immunity from legal process has been recognized.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

(a) No.

(b) No. Two claims have been lodged with French Civil Courts by private citizens in the past. In the first case, the French "Cour de cassation" recognized in 1954 the unlimited immunity from legal process of the predecessor of OECD, OEEC and annulled the contrary "ordonnance rendue par le juge des référés du tribunal de la Seine". In the second case, the "Juge des référés du Tribunal de grande instance de Paris" declared that he had no legal authority in the matter because the organization had not waived its immunity.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Antes del Convenio sobre Prerrogativas hubo casos de no reconocimiento, en principio, de la inmunidad en acciones promovidas por particulares, tanto en tribunales laborales como en entidades administrativas del Estado sede.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 26

What action did you take in such instances? Did you ever make appearance in court or did you always take up the matter with the State authorities? Did you ever deem it advisable not to contest jurisdiction.

Quelle mesure avez-vous prise dans ces cas? Avez-vous comparu en justice ou avez-vous toujours réglé l'affaire avec les autorités gouvernementales? Vous est-il arrivé de ne pas contester la compétence de la juridiction saisie?

¿Cómo procedió usted en tales casos? ¿Compareció usted alguna vez ante un tribunal, o bien gestionó siempre la cuestión con las autoridades estatales? ¿Consideró usted alguna vez aconsejable no plantear la cuestión de jurisdicción?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No se han dado tales casos.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Affaires Bellaton et Knight.

L'Agence s'est faite représenter et a compétence sur la base de sa convention pour contester la compétence de la Cour.

CARIBBEAN COMMUNITY

Not relevant given the answer to question 25.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Sans objet.

COMMONWEALTH SECRETARIAT

Not applicable.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administration)

Néant.

CONSEJO OLEICOLA INTERNATIONAL

(International Olive Oil Council)

No se ha planteado este problema.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There was a case where CMEA, waiving its right to immunity, appeared as the owner of a vehicle (a motor car) in a legal hearing concerning a road accident.

EUROPEAN COMMUNITIES

See reply to question 25.

INTERNATIONAL SUGAR AGREEMENT

Not applicable. See reply to question 25.

INTERNATIONAL WHALING COMMISSION

Not applicable.

NORTH ATLANTIC TREATY ORGANIZATION

No action has had to be taken. National jurisdiction has always been contested.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

(c) No. Until now, the organization has always contested jurisdiction. The organization has not appeared before the Court but it has seized the French Foreign Office, through the French Permanent Mission to OECD, in order to invoke the organization's immunity.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

A requerimientos escritos de la organización, las autoridades administrativas concernidas y los tribunales guatemaltecos se han declarado incompetentes, respetando así la inmunidad de jurisdicción, tanto en las ramas judicial como administrativa.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Sans objet.

Question 27

WAIVER

Is waiver of the immunity from legal process or from execution by the organization expressly contemplated in the legal provisions on which the immunity is based?

RENONCIATION A L'IMMUNITE

Est-ce que les dispositions juridiques régissant l'immunité de votre organisation envisagent expressivement la renonciation par votre organisation à l'immunité de juridiction ou d'exécution?

RENUNCIA

¿Se prevé expresamente la renuncia a la inmunidad respecto de los mandamientos judiciales o de su ejecución por parte de la organización en las disposiciones jurídicas en que se basa dicha inmunidad?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Ver respuesta 24.

AFRICAN CIVIL AVIATION COMMISSION

See article 6, paragraphs 2 and 3 and article 7, paragraphs 2 to 6 of the headquarters agreement.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Oui. Voir article IV de l'annexe I de la Convention (réponse à la question 24).

CARIBBEAN COMMUNITY

Yes. Article 4, paragraph 1, of the headquarters agreement.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

L'article 12 prévoit que la Commission centrale peut expressément renoncer, dans un cas particulier, à son immunité de juridiction.

COMMONWEALTH SECRETARIAT

Yes. In the United Kingdom the following immunities and privileges (and waiver provisions) have been granted to the secretariat:

(a) To have a legal personality and immunity from suit and legal process except:

(i) When expressly waived;

(ii) In respect of motor accidents and motor traffic offences;

(iii) When arbitration proceedings are taken in relation to written contracts (this implies the insertion of a compulsory arbitration clause in all contracts entered into by the secretariat);

(b) To have inviolability of premises, archives and communications;

(c) To have relief from non-beneficial rates out of the United Kingdom Treasury Vote;

(d) Goods imported for official purposes to be exempt from all customs dues;

(e) To have immunity from direct taxes;

(f) Indirect taxes on substantial purchases for official purposes to be reimbursed, out of the Commonwealth Relations Office Vote, e.g. on furniture and furnishings, office supplies and British motor cars and road fuel duty on petrol used for official purposes. It is intended that the same treatment should be accorded to the secretariat as is accorded to the Office of a High Commissioner.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

1. La renonciation par l'organisation à l'immunité de juridiction est prévue à l'article 3 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe.

2. L'immunité d'exécution est absolue. Il ne peut y être renoncé (deuxième phrase de l'article 3).

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No se prevé expresamente ninguna renuncia a la inmunidad respecto de los mandamientos judiciales.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The possibility of waiver of immunity from administrative and legal process with respect to property, assets and documents is expressly provided for in the 1959 Convention (art. II, para. 1).

EUROPEAN COMMUNITIES

Article 1, sentence 3, of the Protocol provides that "the property and assets of the Communities shall not be subject of any administrative or legal measure of constraint without the authorization of the Court of Justice".

INTERNATIONAL SUGAR AGREEMENT

Yes. Article 8 (1) (a) of the headquarters agreement.

INTERNATIONAL WHALING COMMISSION

Not applicable.

NORTH ATLANTIC TREATY ORGANIZATION

The double answer is to be found in article 5 of the Ottawa Agreement, according to which:

> "The organization, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case the Chairman of the Council Deputies, acting on behalf of the organization, may expressly authorize the waiver of this immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution or detention of property."

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Waiver of immunity from legal process is contemplated in the first sentence of article 2 of Supplementary Protocol No. I. The second sentence of this provision stipulates, however, that it is understood that no waiver of immunity shall extend to any measure of execution.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Sobre esta materia, el Convenio suscrito por la SIECA con el Gobierno de Guatemala ha previsto lo siguiente:

"SECCION I
IMMUNIDADES, BIENES, EXENCIONES Y COMUNICACIONES

"Artículo I. La Secretaría Permanente del Tratado General de Integración Económica Centroamericana, así como sus bienes y haberes en cualquier parte y en poder de cualquier persona, gozarán de inmunidad contra todo procedimiento judicial, a excepción de los casos en que renuncie expresamente a esa inmunidad. Se entiende, sin embargo, que esa renuncia no se extenderá a la ejecución del fallo para lo cual será necesaria una nueva renuncia."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Sans objet.

Question 28

In what sort of cases has the immunity of your organization been waived? In cases where immunity was not waived, what steps did your organization take to eliminate the source of dispute (e.g. by negotiating settlements with contractors)? What has been the position as regards counter-claims related or unrelated when immunity was waived?

Dans quelle sorte d'affaires votre organisation a-t-elle renoncé à son immunité? Lorsque votre organisation n'y a pas renoncé, quelles mesures a-t-elle prises pour éliminer la cause du différend (par exemple, a-t-elle négocié un règlement avec des entrepreneurs)? Quelle a été la position adoptée en ce qui concerne les demandes reconventionnelles, liées ou non à la demande principale, lorsque votre organisation a renoncé à l'immunité?

¿En qué clase de casos se ha renunciado a la inmunidad de su organización? En los casos en que no se renunció a la inmunidad, ¿qué medidas adoptó su organización para eliminar el origen de la controversia (por ejemplo, mediante la negociación de arreglos con contratistas)? ¿Qué posición se adoptó en lo que respecta a contrarreclamaciones conexas o no conexas tras haberse renunciado a la inmunidad?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

En ningún caso.

AFRICAN CIVIL AVIATION COMMISSION

No cases. By negotiation.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

On citera en particulier les saisies sur salaires versés par l'Agence dans le cas où le membre du personnel ne paie pas la pension alimentaire à laquelle il a été condamné par un jugement de divorce, jugement définitif. Le membre du personnel est invité à exécuter le jugement en question. De même en matière de dettes.

CARIBBEAN COMMUNITY

The immunity of the organization has never been waived.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Néant.

COMMONWEALTH SECRETARIAT

No occasion has yet arisen in which the Secretary-General has been invited to consider a waiver of immunity.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

1. Très exceptionnellement, l'organisation a renoncé à son immunité de juridiction pour intenter une action devant une juridiction nationale pour rupture de contrat par un expert consultant. La question des demandes reconventionnelles ne s'est pas posée.

2. En règle générale, les différends sont réglés par voie de règlement d'accord amiable ou par la procédure d'arbitrage.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

En ningún caso se ha renunciado a la inmunidad de la organización.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

See answer 26. There have been no other cases where the question of the waiver of immunity arose in practice.

EUROPEAN COMMUNITIES

So far there have been no cases which would allow the question to be answered.

INTERNATIONAL SUGAR AGREEMENT

None.

INTERNATIONAL WHALING COMMISSION

Not applicable.

NORTH ATLANTIC TREATY ORGANIZATION

Question 1. See answer to question 10.

Question 2. See answer to question 3.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Never. Not applicable. Not applicable.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Hasta el momento no se ha presentado ningún caso semejante a los planteados.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Sans objet.

Question 29

Has your organization entered into any bilateral agreements obliging it to waive its immunity in specified circumstances?

Votre organisation a-t-elle conclu des accords bilatéraux l'obligeant à renoncer à son immunité dans des circonstances déterminées?

¿Ha concertado su organización algún acuerdo bilateral que la obligue a renunciar a su inmunidad en determinadas circunstancias?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Oui, dans des circonstances bien précises. Ainsi, l'article 8 de l'accord relatif au Centre européen d'opérations spatiales (ESOC) prévoit que l'organisation renoncera à son immunité de juridiction et d'exécution en cas de différend relatif à l'interprétation ou à l'application des dispositions du contrat visé à l'article 3 (contrat de location de terrain à bâtir), sauf si de l'avis du Conseil de l'organisation le différend met en cause une question de principe telle qu'il n'y a pas lieu de renoncer à l'immunité.

CARIBBEAN COMMUNITY

No.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Sans objet.

COMMONWEALTH SECRETARIAT

No.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES
ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No se ha concertado ningún acuerdo bilateral que obligue a renunciar a la inmunidad de la organización en determinadas circunstancias.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

CMEA has entered into no bilateral agreements on the waiver of immunity.

EUROPEAN COMMUNITIES

The European Communities have not entered into any bilateral agreements obliging them to waive immunity in specific circumstances.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRATION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

La renuncia a la que hace referencia el artículo I, transcrito en el numeral 27 del cuestionario, es optativa para la SIECA. De esa suerte, la institución perdería su inmunidad sólo en virtud de renuncia expresa por parte de ella. No se ha concertado ningún acuerdo bilateral que obligue a la renuncia de la inmunidad.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Sans objet.

Question 30

HOLDING, TRANSFER OR CONVERSION OF FUNDS, GOLD OR CURRENCY AND OPERATION OF ACCOUNTS

Are there any specific agreements, provisions in agreements concluded by your organization or provisions of domestic legislation dealing with the holding, transfer or conversion of funds, or operation of accounts in any currency by your organization?

DETENTION, TRANSFERT OU CONVERSION DE FONDS, D'OR OU DE DEVISES ET GESTION DE COMPTES

Votre organisation a-t-elle conclu des accords particuliers ou des accords contenant des dispositions particulières régissant les conditions dans lesquelles elle peut détenir, transférer ou convertir des fonds ou gérer des comptes en n'importe quelle monnaie, ou existe-t-il dans les législations nationales des dispositions à ce sujet?

TENENCIA, TRANSFERENCIA O CONVERSION DE FONDOS, ORO O DIVISAS Y ADMINISTRACION DE CUENTAS

¿Existen acuerdos concretos, disposiciones contenidas en acuerdos concertados por su organización o legislación nacional relativos a la tenencia, transferencia o conversión de fondos o la administración de cuentas en una moneda determinada por parte de su organización?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Artículo 4 del Convenio.

AFRICAN CIVIL AVIATION COMMISSION

Yes. See article 5 of the headquarters agreement.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

L'article XI de l'annexe I de la Convention stipule que l'Agence peut recevoir et détenir tous fonds, devises, numéraires ou valeurs mobilières; elle peut en disposer librement pour tous usages prévus par la Convention et avoir des comptes en n'importe quelle monnaie dans la mesure nécessaire pour faire face à ses engagements.

CARIBBEAN COMMUNITY

Article 5 of the headquarters agreement.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

En vertu de l'article 15, la Commission centrale peut détenir toutes devises et avoir des comptes en n'importe quelle monnaie, transférer librement ses fonds et convertir toutes devises.

COMMONWEALTH SECRETARIAT

No.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

L'article 6 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe stipule ce qui suit :

"Sans être astreint à aucun contrôle, réglementation ou moratoire financiers :

a) Le Conseil peut détenir toutes devises et avoir des comptes en n'importe quelle monnaie;

b) Le Conseil peut transférer librement ses fonds d'un pays dans un autre ou à l'intérieur d'un pays quelconque, et convertir toutes devises détenues par lui en toute autre monnaie;

c) Dans l'exercice des droits qui lui sont accordés en vertu des alinéas a) et b) ci-dessus, le Conseil de l'Europe tiendra compte de toutes représentations qui lui seraient faites par le gouvernement de tout membre dans la mesure où il estimera pouvoir y donner suite sans porter préjudice à ses intérêts."

/...

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

1. El Consejo Oleícola puede recibir y poseer fondos y divisas de todas clases y tener cuentas en cualquier moneda; transferir libremente a otro país los fondos y divisas de que disponga en el territorio español y viceversa.

2. Las autoridades españolas competentes prestan su ayuda y apoyo a la organización para sus operaciones de cambio y transferencias.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

Article VI of the 1961 agreement between CMEA and the Government of the USSR governs a number of matters concerning financial transactions and the use and operation by CMEA of accounts in roubles or other currencies.

EUROPEAN COMMUNITIES

By virtue of article 5 and article 12 (c) of the Protocol, officials and other servants of the Communities shall "in respect of currency or exchange regulations" be accorded the same facilities as are customarily accorded to officials of international organizations".

INTERNATIONAL SUGAR AGREEMENT

Yes, article 13 of the headquarters agreement; also article 53, paragraph (5), of the 1977 ISA, which makes certain funds exempt from foreign exchange restrictions in member States.

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 10, states: "The Commission may receive, acquire, hold and dispose of freely any kind of funds, currencies or securities".

NORTH ATLANTIC TREATY ORGANIZATION

Article 8 of the Ottawa Agreement stipulates:

"1. Without being restricted by financial controls, regulations or moratoria of any kind:

"(a) The organization may hold currency of any kind and operate accounts in any currency;

"(b) The organization may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency at the most favourable official rate of exchange for a sale or purchase as the case may be.

"2. In exercising its rights under paragraph 1 above, the organization shall pay due regard to any representations made by any member State and shall give effect to such representations in so far as it is practicable to do so."

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Yes. Article 5 of Supplementary Protocol No. I provides that:

"Without being restricted by financial controls, regulations or moratoria of any kind:

"(a) The organization may hold currency of any kind and operate accounts in any currency;

"(b) The organization may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency."

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRATION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. A este respecto, el artículo IV del Convenio de Prerrogativas, en su último párrafo establece lo siguiente:

"Artículo IV. ... Gozará, además, de las mismas facilidades respecto a disposiciones cambiarias que el país concede a las misiones diplomáticas acreditadas en Guatemala."

2. Las disposiciones cambiarias que rigen este tipo de transacciones en la legislación guatemalteca son:

a) El Decreto del Congreso de la República No. 203 (Ley Monetaria), de fecha 29 noviembre de 1955;

b) Acuerdo Gubernativo No. 192, del 23 de abril de 1980, (Reglamento de administración del régimen de emergencia en las transferencias monetarias internacionales por movimientos de capitales);

c) Regulaciones de la Junta Monetaria (adiciones al Acuerdo No. 192) con fecha 14 de septiembre de 1980.

3. De conformidad con los instrumentos citados, las facilidades cambiarias que el Gobierno de Guatemala otorga a las misiones diplomáticas acreditadas en el país son del orden siguiente:

a) Poder tener fondos, oro o divisa corriente de cualquier clase y llevar sus cuentas en cualquier divisa:

"Negociación de oro y divisas

(Decreto 203)

Artículo 20. Solamente el Banco de Guatemala podrá negociar oro amonedado o en barras y divisas extranjeras en el territorio de la República, con cualquier persona o entidad no bancaria.

Se exceptúan únicamente:

a) Las operaciones que efectúen los agentes diplomáticos y los cónsules de carrera del extranjero en Guatemala, en el ejercicio de sus funciones oficiales;"

b) A su vez, el Acuerdo Gubernativo No. 192, en su artículo 18 prescribe:

"La Junta Monetaria podrá establecer un régimen especial para las operaciones cambiarias que efectúen las misiones diplomáticas y organismos de cooperación internacional en el ejercicio de sus funciones oficiales."

c) Además, el artículo 21 del mismo decreto, exime a las misiones diplomáticas de la obligación de declarar y vender al Banco de Guatemala o a cualquiera de los bancos habilitados:

i) Las divisas provenientes de actividades realizadas en el país;

ii) Las divisas que por cualquier otro concepto perciban las personas o entidades radicadas en Guatemala.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 31

Has your organization encountered any specific legal problem concerning these topics?

Votre organisation a-t-elle eu des problèmes juridiques particuliers dans ce domaine?

¿Ha tropezado su organización con algún problema jurídico concreto en relación con esos temas?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Lorsqu'un Etat membre est amené à instituer un contrôle des changes, il est parfois nécessaire de clarifier la situation de l'Agence et des membres de son personnel.

CARIBBEAN COMMUNITY

No specific legal problems concerning these topics have been encountered.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

No.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES
ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

La organización no ha tropezado con ningún problema jurídico concreto en relación con esos temas.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

CMEA has not encountered any specific legal problems concerning these topics.

EUROPEAN COMMUNITIES

No.

INTERNATIONAL SUGAR AGREEMENT

None in headquarters state; difficulties in obtaining transfer of funds from a few member States, though in no case has the legal right to transfer been challenged.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Hasta el momento no se ha presentado ningún problema.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 32

EXEMPTION FROM TAXATION

To what degree, if any, is your organization granted exemption from taxation and under what legal foundation: treaty, domestic legislation, judicial decisions?

EXONERATION D'IMPOT

Votre organisation bénéficie-t-elle d'une exonération d'impôt? Si c'est le cas, dans quelle mesure est-elle exonérée et sur quelle base juridique : traité, législation nationale, décisions judiciaires?

EXENCION DE TRIBUTACION

¿Está su organización exenta de tributación, y, en caso afirmativo, en qué grado? ¿En qué fundamento jurídico se basa tal exención (tratado, legislación nacional, decisiones judiciales)?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Sí, en los términos de los artículos 5 y 6 del Convenio.

AFRICAN CIVIL AVIATION COMMISSION

See article 5 of the headquarters agreement.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. Sur la base de l'annexe I de sa convention (art. V.1), l'Agence, ses biens et revenus sont exonérés des impôts directs.

2. Dans différents accords particuliers conclus par l'Agence avec des pays tiers, cette question fait l'objet de dispositions particulières, par exemple l'accord concernant la coopération entre le Gouvernement du Canada et l'Agence, entré en vigueur le 1er janvier 1979, article VIII.2 :

"2. Le Canada accorde à l'Agence les privilèges suivants :

a) Les produits importés ou exportés par l'Agence ou pour son compte et strictement nécessaires pour l'exercice de ses activités officielles sont exonérés de tous droits de douane et autres impôts ou taxes et de toutes prohibitions et restrictions à l'importation ou à l'exportation;

/...

b) L'Agence a droit à la remise ou au remboursement du montant des droits et impôts perçus sur les achats importants faits par elle ou pour son compte et strictement nécessaires pour l'exercice de ses activités officielles;

c) L'Agence, ses biens et ses revenus, sont exonérés des impôts directs;

d) Les traitements et émoluments versés par l'Agence aux membres de son personnel sont exonérés de l'impôt national sur le revenu, sauf pour les citoyens canadiens ayant leur résidence permanente ou habituelle au Canada."

L'accord entre le Gouvernement de la Côte d'Ivoire et l'Agence relatif à l'installation et à l'utilisation de moyens de contrôle aux fins du programme de lanceur Ariane, entré en vigueur le 23 avril 1982, article 6 :

"1. En matière de droit d'entrée, le Gouvernement exempte l'Agence de tous droits, taxes de toute nature, cautions financières ou autres droits d'effets équivalents pour l'installation et le fonctionnement de la station Ariane. L'Agence peut notamment importer ou exporter, librement à tout moment en exemption de tous droits de douane, cautions financières, tous équipements, matériels nécessaires à l'installation et au fonctionnement de la station Ariane, sous réserve que les équipements et matériels soient repris dans la comptabilité matière de la station.

2. En matière de fiscalité intérieure, l'Agence est soumise à tous les impôts, contributions, droits et taxes indirects ainsi qu'aux droits d'enregistrement prévus par le Code général des impôts ivoirien. L'Agence n'exerce aucune activité commerciale; en conséquence, celle-ci n'est assujettie ni à la patente, ni à l'impôt sur les bénéfices industriels et commerciaux, ni à l'impôt sur les bénéfices non commerciaux."

CARIBBEAN COMMUNITY

Under article 4 of the headquarters agreement, the property of the organization is granted exemption from taxation.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Article 16 de l'accord de siège.

COMMONWEALTH SECRETARIAT

Domestic legislation. See answer 24 above as to the position in the United Kingdom and other Commonwealth member States.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Non.

CONSEIL DE L'EUROPE

(Council of Europe)

1. Le Conseil de l'Europe bénéficie de l'exonération de tout impôt direct en vertu de l'article 7 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe qui se lit comme suit :

"Le Conseil, ses avoirs et autres biens sont exonérés :

a) De tout impôt direct; toutefois, le Conseil ne demandera pas l'exonération des impôts, taxes ou droits qui ne constituent que la simple rémunération de services d'utilité publique;"

2. En outre, l'article premier de l'Accord complémentaire à l'Accord général dispose ce qui suit :

"Bien que le Conseil de l'Europe ne revendique pas, en principe, l'exonération des droits d'accise et des taxes à la vente entrant directement dans le prix des biens mobiliers ou immobiliers, cependant, quand il effectue pour son usage officiel des achats importants dont le prix comprend des droits et taxes de cette nature, le Gouvernement français prendra, chaque fois qu'il lui sera possible, les dispositions administratives appropriées en vue de la remise ou du remboursement du montant de ces droits et taxes."

3. Les modalités d'application étaient jusqu'en 1967 le système de la remise auquel a été substitué le système du remboursement.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

1. El Consejo Oleícola está exento de todos los impuestos o gravámenes similares que recaigan sobre la propiedad, ocupación, construcción o adaptación de terrenos o edificios que sean de su propiedad, así como de los impuestos y gravámenes que recaigan directamente sobre los ingresos que por cualquier título el Consejo Oleícola perciba o sobre los otros bienes que sean de su pertenencia.

2. Se exime al Consejo Oleícola del pago de todos los derechos y tasas, exceptuando los que correspondan a servicios prestados.

3. Está exento del pago de impuestos u otros derechos de cualquier clase que se perciban a causa de la importación o exportación de los bienes que se importen en territorio español o se exporten del mismo por el Consejo Oleícola y que estén o hayan estado destinados a sus fines. Sin embargo, no se incluyen en esta excepción los derechos que con el carácter de pago de servicios prestados perciben las administraciones de aduanas.

4. Sin embargo, los objetos que se importen en franquicia no pueden ser cedidos en territorio español más que a título excepcional y en las condiciones que fijarán, de común acuerdo, el Consejo Oleícola y las autoridades españolas competentes. En estos casos, deberán abonarse los derechos de toda clase a que estén sujetos dichos objetos.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

Under article II, paragraph 2, of the 1959 Convention, CMEA is exempt from all direct taxes and duties levied either by State or by local authorities. This exemption does not apply to charges for public utility and similar services. See also article VI, paragraph 3, of the 1961 agreement between CMEA and the Government of the USSR.

EUROPEAN COMMUNITIES

Article 3 of the Protocol reads as follows:

"The Communities, their assets, revenues and other property shall be exempt from all direct taxes.

"The Governments of the member States shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Communities make, for their official use, substantial purchases the price of which includes taxes of this kind. These provisions shall not be applied, however, so as to have the effect of distorting competition within the Communities.

"No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services."

INTERNATIONAL SUGAR AGREEMENT

Fairly wide exemption as set forth in the headquarters agreement, based on article 5 of the 1977 ISA, and on the headquarters agreement and the United Kingdom legislation on which it is based (see answer to question 1 (a) above).

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 6 (1), states: "Within the scope of its official activities, the Commission and its property and income shall be exempt from all direct taxes".

NORTH ATLANTIC TREATY ORGANIZATION

The answers to these questions are to be found in the following articles of the Ottawa Agreement.

"Article 9

"The organization, its assets, income and other property shall be exempt:

"(a) From all direct taxes; the organization will not, however, claim exemption from rates, taxes or dues which are no more than charges for public utility services;

"(b) From all customs duties and quantitative restrictions on imports and exports in respect of articles imported or exported by the organization for its official use; articles imported under such exemption shall not be disposed of, by way either of sale or gift, in the country into which they are imported except under conditions approved by the Government of that country;

"(c) From all customs duties and quantitative restrictions on imports and exports in respect of its publications.

"Article 10

"While the organization will not as a general rule claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless, when the organization is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, member States will whenever possible make the appropriate administrative arrangements for the remission or return of the amount of duty or tax."

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Pursuant to articles 6 (a) and 7 of Supplementary Protocol No. I, the organization, its assets, income and other property are exempt from all direct taxation and the members of the organization will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of excise duties or taxes on the sale of movable and immovable property paid (or to be paid) by the organization at the time of settling important purchases for official use.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. Este privilegio se encuentra normado tanto en el Tratado General de Integración Económica Centroamericana como en el Convenio de Prerrogativas, Inmunidades y Franquicias en favor de SIECA.

2. Respecto al Tratado General, el artículo XXIII, en su último párrafo, estatuye: "... Los funcionarios de la Secretaría gozarán de inmunidad diplomática. Los demás privilegios diplomáticos se otorgan únicamente a la Secretaría y al Secretario General".

3. En el artículo III del Convenio de Prerrogativas se prescribe:

"Artículo III. La Secretaría, así como sus bienes, ingresos y otros haberes, estarán:

a) Exentos de todo impuesto o contribución directa, entendiéndose, sin embargo, que la Secretaría no podrá reclamar exención alguna por dicho concepto que, de hecho, constituya una remuneración por servicios públicos;

b) Exentos de derechos de aduana y cualesquiera otros gravámenes, prohibiciones y restricciones que pesen sobre los artículos que importe o exporte para su uso oficial. Se entiende, sin embargo, que los artículos que se importen libres de derechos no se podrán vender en el país, sino conforme a las condiciones convenidas con el Gobierno de Guatemala;

c) Exentos de derechos de aduana, prohibiciones y restricciones respecto a la importación y exportación de sus publicaciones."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

L'exemption fiscale de l'Union économique Benelux est basée d'une part sur le Traité d'Union, articles 39 et 95 déjà cités et d'autre part sur une circulaire du Ministère des finances du 3 janvier 1978.

Question 33

What is the exact nature of the impositions from which your organization is exempt: direct taxation?

Quelle est la nature exacte des impôts dont votre organisation est exonérée : s'agit-il d'impôts directs?

¿Cuál es la naturaleza exacta de las imposiciones de que su organización está exenta? ¿(Tributación directa)?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Véase respuesta a la pregunta 32.

AFRICAN CIVIL AVIATION COMMISSION

AFCAC, its belongings, reserves and other property are exempted from direct taxation in accordance with article 5, paragraph 4, of the headquarters agreement.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Voir question 32.

CARIBBEAN COMMUNITY

The organization is exempt from both direct and indirect taxation except where taxes are in fact no more than charges for public utilities services.

COMMONWEALTH SECRETARIAT

In the United Kingdom, the memorandum provides for the secretariat to enjoy various fiscal privileges - immunity from direct taxes; exemption from customs duty on goods imported for official purposes; relief from non-beneficial rates; and reimbursement of indirect taxes on substantial purchases for official purposes, including British motor cars and petrol used for official purposes. The schedule to the Act provides for the secretariat to be exempted from income tax and capital gains tax, and from the general rate to the same extent as a diplomatic mission [i.e. it is liable to pay "charges levied for specific services rendered" - schedule 1, Diplomatic Privileges Act 1964, article 34(e)]. The secretariat is also exempted from import duties on goods which it imports directly and which are necessary for its official use (subject to compliance with conditions prescribed by the Commissioners of Customs and Excise).

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Voir réponse à la question 32.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Voir réponse à la question 32.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Tributación directa.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

See answer 32.

EUROPEAN COMMUNITIES

See answer 32.

INTERNATIONAL SUGAR AGREEMENT

Yes, see artice 9 of the headquarters agreement.

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 6(1) continues: "Direct taxes include income tax, capital gains tax, corporation tax and municipal rates levied on the premises of the Commission with the exception of the proportion which, as in the case of diplomatic missions, represents payments for specific services rendered".

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

All direct taxes.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. Exención de impuestos directos sobre sus activos, ingresos o bienes.

2. Exención de derechos arancelarios y de restricciones aduaneras a la importación y exportación de artículos necesarios para uso oficial.

3. Exención de derechos de aduana, prohibiciones y restricciones respecto a la importación y exportación de sus publicaciones.

NORTH ATLANTIC TREATY ORGANIZATION

See reply to question 32.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Il s'agit de fiscalité indirecte.

Question 34

Does the exemption from taxation extend to excise duties and taxes on the sale of movable and immovable property included in the price to be paid. Please elaborate on any distinction which relevant provisions may introduce as to the applicability of the exemption: v.a.t., "important purchases", "real estate purchases", "purchase of premises", "purchases exceeding certain amount", etc.

Cette exonération d'impôt s'étend-elle aux droits de régie et aux taxes sur les ventes qui entrent dans le prix des biens mobiliers et immobiliers? Veuillez donner des détails sur toute distinction qui serait établie par les dispositions relatives à l'applicabilité de l'exonération : taxe à la valeur ajoutée, "achats importants", "achats immobiliers", "achats de locaux", "achats dépassant un certain montant", etc.

La exención de tributación, ¿abarca los impuestos indirectos y sobre el consumo por la venta de bienes muebles e inmuebles que estén incluidos en el precio que se haya de pagar? Exponga detalladamente toda distinción que pueda establecerse, en virtud de disposiciones pertinentes, en cuanto a la aplicabilidad de la exención: por ejemplo, "compras importantes", "adquisiciones de bienes raíces", "compra de locales", "compras por un valor superior a determinada cantidad", etc.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

La exención de los tributos comprende todo tributo directo, los derechos de aduana y toda clase de tributos que gravan los actos o contratos para la adquisición de inmuebles.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. L'Agence bénéficie soit d'exemption soit de remboursement du montant des taxes ou droits (taxe à la valeur ajoutée) qui grèvent des achats ou services d'un montant important, strictement nécessaires pour l'exercice des activités officielles de l'Agence (art. V.2, annexe I de la Convention).

2. Ce principe fait l'objet de dispositions détaillées prises par les Etats membres à l'occasion des accords d'établissement ou par échange de lettres ad hoc.

3. Des dispositions figurent également dans certains accords conclus entre l'Agence et des Etats non membres (cf. accords avec Canada, Autriche, Norvège, Côte d'Ivoire).

4. A titre d'exemple, l'accord entre la République d'Autriche et l'Agence signé le 17 octobre 1979 prévoit à son article 7:

"1) La République d'Autriche accorde les privilèges suivants :

a) Si l'Agence effectue des achats ou utilise des services d'un montant important et ne peut obtenir d'exonération de la taxe sur les ventes en vertu de la réglementation nationale, uniquement parce que les exportations n'ont pas effectivement lieu, cette taxe lui sera remboursée. Le remboursement s'effectue en application des dispositions pertinentes qui régissent les remboursements de la taxe sur les ventes aux représentations diplomatiques installées en Autriche.

b) L'Agence, ses biens et ses revenus sont exonérés des impôts directs.

c) Les membres du personnel de l'Agence bénéficient de l'exemption fiscale pour leurs traitements, émoluments, indemnités et pensions perçus au titre de leurs services présents ou passés dans le cadre de l'Agence; cette exemption s'étend aux allocations versées aux membres de leur famille.

d) Les objets importés ou exportés par l'Agence ou pour son compte pour l'exercice de ses activités officielles sont exemptés des droits et taxes d'entrée et de sortie ainsi que de toutes interdictions et restrictions d'importation."

5. En ce qui concerne la notion de "montant important" devant être prise en compte pour l'application de l'article 5 (2) de l'annexe I à la Convention, les autorités fiscales françaises ont retenu un chiffre minimum de 250 francs, s'agissant du remboursement de la taxe sur la valeur ajoutée grevant les biens ou les services. Ce remboursement pourra toutefois intervenir sur des factures d'un montant individuel inférieur à la limite de 250 francs pourvu que ces factures soient regroupées par opérations de nature identique.

6. Le principe du remboursement sur pièces justificatives, sans constituer une réelle remise en cause des privilèges et immunités accordés par ces Etats membres à l'Organisation, n'en constitue pas moins une atteinte indirecte à la portée réelle de ces privilèges. En effet, la disparité des procédures administratives nationales de remboursement, l'allongement des délais, l'interprétation de certaines dispositions fiscales (par exemple, notion de "satisfaction des besoins personnels" excluant le remboursement, ou, a contrario, de "besoins administratifs") ont soulevé des difficultés et, à certains moments, ont lourdement pesé sur la trésorerie de l'organisation. De nombreux problèmes juridiques ont été soulevés à cette occasion, et ont donné lieu à une importante correspondance de rappel auprès des autorités nationales.

7. L'Accord entre l'Organisation européenne de recherches spatiales et le Gouvernement de la République italienne concernant l'Institut européen de recherches spatiales (ESRIN) signé le 23 juin 1970 stipule, en son article 16, que l'organisation et ses biens seront exonérés de tout impôt, taxe et contribution directe exigibles par quelque autorité étatique ou locale italienne que ce soit. Suit une liste d'exemption de divers impôts spécifiques. L'échange de lettres, signé le même jour entre ledit gouvernement et l'organisation et portant interprétation de certaines dispositions de l'Accord, stipule que les dispositions

du titre V de l'accord (privilèges et immunités) ne peuvent en rien limiter le champ d'application du Protocole sur les privilèges et immunités de l'ESRO, également signé par ce gouvernement. L'accord ESRIN du 23 juin 1970 n'a cependant été ratifié par le Parlement italien qu'au cours de l'année 1978, retardant d'autant son entrée en vigueur et la pleine application de ses dispositions. Toutefois, une loi promulguée en 1973 a permis aux firmes italiennes, contractantes de l'ESRO, de bénéficier d'une exonération de droits sur la valeur ajoutée, à condition que les montants en cause soient supérieurs à 300 000 lires. Le changement de nom de l'organisation en 1975 (l'ASE succédant à l'ESRO et au CECLES) puis l'entrée en vigueur en octobre 1980 de la Convention ASE qui officialisait juridiquement ce changement de nom n'ont pas non plus facilité la mise en oeuvre de ces dispositions.

CARIBBEAN COMMUNITY

Yes, except for the restriction mentioned under question 33. No other restrictions are placed on the exemption.

COMMONWEALTH SECRETARIAT

As under 33 above.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Voir réponse à la question 32.

CONSEIL DE L'EUROPE

(Council of Europe)

Voir réponse à la question 32.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Contestada en la pregunta 32.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The privilege mentioned in answer 32 does not extend, within the meaning of article II, paragraph 2, of the 1959 Convention, to duties and taxes included in the sales price.

EUROPEAN COMMUNITIES

See under question 32.

INTERNATIONAL SUGAR AGREEMENT

Yes, see artice 9.

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 6(2), states: "The Commission shall be afforded a refund of car tax and value added tax paid on the purchase of new motor cars of United Kingdom manufacture, and, where readily identifiable, value added tax paid on the supply of goods or services of substantial value, necessary for the official activities of the Commission. In this connection it is envisaged that claims for refunds will be made only in respect of goods or services supplied on a recurring basis or involving considerable quantities of goods or involving considerable expenditure such as furnishing of the premises of the Commission. No refund shall be made in respect of any claim for goods or services where the value of the goods or services does not amount in the aggregate to 100 sterling or more."

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

1. Yes. On real estate purchases and occupancy in France, the organization is exempt (remission) from:

- Droits d'enregistrement;
- Taxes professionnelle, d'habitation et foncière; taxe locale d'équipement;
- One exception: for purchases, the organization is subject to "droit de timbre" (this tax is not a very costly one and is based on the creation of the material document acknowledging the transfer of ownership).

2. On movable property: VAT

Pursuant to article 7 of Supplementary Protocol No. I, OECD was able to purchase movable goods with the remission of VAT between 1964 and 1967. Since then, an administrative arrangement has been established whereby the French authorities refund the amount of VAT which is included in the price paid by the organization. On "important purchases" the refund of VAT is limited to purchases of 250 francs or more.

3. On services the organization is also entitled to claim the return of VAT on services rendered to it for its official use (leasing, renting, etc.).

4. On leases, in France, the organization is exempt from the "droit au bail".

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

La SIECA debe pagar el impuesto sobre el valor agregado (IVA) (impuesto interno indirecto sobre los consumos y por la venta de bienes muebles) en todas sus compras realizadas dentro del territorio guatemalteco, sin importar el monto o cuantía de las mismas. No debe tributar cuando se trate de importaciones, conforme inciso b) del artículo III citado.

NORTH ATLANTIC TREATY ORGANIZATION

See reply to question 32.

Question 35

If the foregoing question is answered totally or partially in the affirmative, what procedure is followed in order to apply the exemption in practice: immediate deduction upon verification of your organization's credentials? Administrative arrangements for the remission or return of the amount of duty or tax? Other? Has the application of this procedure ever given use to legal difficulties?

Si vous avez répondu par l'affirmative à tout ou à partie de la question précédente, veuillez décrire les modalités d'application de l'exonération : déduction immédiate sur vérification des pouvoirs de votre organisation, arrangements administratifs en vue de la remise ou du remboursement du montant des droits ou taxes? Autres dispositions? L'application de ces modalités a-t-elle jamais soulevé des difficultés juridiques?

Si la pregunta precedente ha sido contestada total o parcialmente en forma afirmativa, indique qué procedimiento se utiliza para aplicar la exención en la práctica (deducción inmediata tras verificar las credenciales de su organización; disposiciones administrativas para el reembolso o devolución de la suma correspondiente al derecho o impuesto; etc.). La aplicación del procedimiento del caso, ¿ha planteado alguna vez dificultades de índole jurídica?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Deducción o liberación inmediata, procedimiento que no ha suscitado dificultades.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

L'Agence présente un ensemble de factures à l'administration des finances compétente. Cette dernière vérifie l'admissibilité de la requête : "montant important", "activités officielles". Il faut noter le retard, parfois très important, mis par certains Etats membres pour rembourser le montant des taxes (cas ESRIN).

CARIBBEAN COMMUNITY

Immediate deduction upon verification of the organization's credentials and administrative arrangements for refund of the duty or tax are procedures followed in practice. The application of this procedure has not given rise to legal difficulties.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Remboursement du montant de la TVA payé. Aucune difficulté. Le seuil minimum des achats importants est de 250 francs.

COMMONWEALTH SECRETARIAT

A combination of immediate deduction upon verification of the secretariat's credentials (in the purchase of motor vehicles, for instance), and administrative arrangements for the remission or return of the amount of duty or tax (in the purchase of petrol, for instance). Apart from the normal administrative delays, the procedure has not given rise to legal difficulties.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Voir réponse à la question 32.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

El procedimiento que se utiliza para aplicar la exención en la práctica es presentar las credenciales que atestiguan la exención de tributación por parte de la organización.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

See answer 34.

EUROPEAN COMMUNITIES

Immediate deduction upon verification of European Community credentials is practised in Belgium, France, Italy, Luxembourg and the Netherlands. The Federal Republic of Germany, Denmark, Greece, Ireland and the United Kingdom refund the amounts collected.

INTERNATIONAL SUGAR AGREEMENT

Administrative arrangements for remissions; no difficulties in principle.

INTERNATIONAL WHALING COMMISSION

1. In respect of value added tax the Commission submits a quarterly claim to the United Kingdom Foreign and Commonwealth Office for a refund of the tax paid in the previous three months. The claim has to be substantiated by the provision of copies of paid invoices showing the amount of VAT on each transaction and of bank statements demonstrating that full payment including VAT was made for each item by the Commission.

2. Refund of car tax is not applicable at the present time.

3. In respect of the proportion of municipal rates levied on the premises of the Commission representing payment for specific services rendered the total charge is paid initially by the United Kingdom Treasury and the appropriate proportion recovered from the Commission subsequently.

4. These procedures have never given rise to legal difficulties.

NORTH ATLANTIC TREATY ORGANIZATION

As is generally the case for other international organizations the fiscal immunities of NATO may be considered under three heads:

(a) Exemption from direct taxation;

(b) Exemption from customs duties and prohibitions and restrictions;

(c) Exemption where practicable from excise duties and sales taxes.

Problems issuing out of financial and fiscal matters are settled in different administrative ways according to the domestic law of the different member States. Thus the practice which has been established shows an extreme variety of methods and ways used to solve these problems. No procedure, however, has ever given rise to legal difficulties brought to arbitration.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

1. On real estate: immediately, at the time of purchase.

2. On movable property: administrative arrangements for the refund of the amount of VAT.

3. On services: same procedure as for movable property.

4. On leases: immediately.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Por las razones expresadas en el punto 34 no existe ningún procedimiento aplicable, salvo cuando se trata de importaciones, respecto de las cuales hay que obtener una "franquicia" gubernamental, contra cuya presentación no se cobra el tributo.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Il s'agit dans ce cas de nos applications de la législation fiscale directement au moment de l'achat. L'application de cette procédure n'a jamais posé de problèmes juridiques.

Question 36

Are public utility services expressly excluded from the exemption from taxation?

Les services d'intérêt public sont-ils expressément exclus du bénéfice de l'exonération d'impôts?

¿Están excluidos expresamente los servicios públicos de la exención de tributación?

ACUERDO DE CARTAGENA

(Comission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No mention in the headquarters agreement.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Impôts, taxes, droits, qui ne constituent que la simple rémunération de *services d'utilité publique*, ne font pas l'objet de remboursement ou d'exemption (art. VII.3 de l'annexe I à la Convention).

CARIBBEAN COMMUNITY

Yes (see question 33).

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

As under 33 above.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Oui.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

El Consejo Oleícola Internacional está exento del pago de todos los derechos y tasas exceptuando los que correspondan a servicios prestados.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

See answer 32.

EUROPEAN COMMUNITIES

Article 3, paragraph 3, expressly excludes public utility services from the exemption from taxation.

INTERNATIONAL SUGAR AGREEMENT

The tax exemption for municipal rates (local taxes) does not apply to that proportion of the rates that represents payment for specific services rendered (e.g. water, trash disposal).

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

See article 9 of the Ottawa Agreement, section (a), second part.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Yes, pursuant to article 6 (a) of Supplementary Protocol No. I.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

El artículo III, literal a), del Convenio de Prerrogativas, Inmunidades y Franquicias, literalmente dice:

"Artículo III. La Secretaría, así como sus bienes, ingresos y otros haberes estarán:

a) Exentos de todo impuesto o contribución directa; entendiéndose, sin embargo, que la Secretaría no podrá reclamar exención alguna por dicho concepto que, de hecho, constituya una remuneración por servicios públicos;"

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Sans objet.

Question 37

Have disputes ever arisen with State authorities regarding the interpretation of any of the terms whereby your organization is granted exemption from taxation?

L'interprétation des dispositions aux termes desquelles votre organisation bénéficie d'une exonération a-t-elle provoqué des différends avec les autorités gouvernementales?

¿Han surgido controversias con las autoridades estatales respecto de la interpretación de alguna de las condiciones en cuya virtud su organización está exenta de tributación?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No, never.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Il peut arriver que se produisent des doutes sur le lien entre l'achat ou le service en question et le but d'activités officielles de l'Agence.

CARIBBEAN COMMUNITY

No.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

No dispute has arisen with respect to the exemption from taxation of the secretariat itself. But arrangements in respect of the taxation of the secretariat's diplomatic staff and the way personal allowances are credited are presently under discussion between the United Kingdom authorities and the secretariat.

/...

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No ha surgido ninguna controversia respecto a la interpretación de alguna de las condiciones en cuya virtud la organización está exenta de tributación.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No disputes have arisen between CMEA and State authorities regarding the interpretation of the terms under which CMEA is exempt from taxation.

EUROPEAN COMMUNITIES

No disputes have arisen with State authorities regarding the interpretation of the terms whereby the European Communities are granted exemption from taxation.

INTERNATIONAL SUGAR AGREEMENT

The United Kingdom Government has contended that the employees' contribution to the social security scheme of the United Kingdom is not a direct tax and therefore is payable. ISO has considered it direct taxation and has not paid the tax.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Sí.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 38

EXEMPTION FROM CUSTOMS DUTIES AND FROM IMPORTS AND EXPORTS RESTRICTIONS AND PROHIBITIONS

To what degree, if any, is your organization granted exemption from customs duties and from imports and exports restrictions and prohibitions, and under what legal foundation: treaty, national legislation, judicial decisions?

EXONERATION DES DROITS DE DOUANE AINSI QUE DES RESTRICTIONS ET PROHIBITIONS CONCERNANT LES IMPORTATIONS ET LES EXPORTATIONS

Votre organisation est-elle exonérée des droits de douane ainsi que des restrictions et prohibitions visant les importations et exportations et, si c'est le cas, dans quelle mesure et sur quelle base juridique : traités, législation nationale, décisions judiciaires?

EXENCION DEL PAGO DE DERECHOS ARANCELARIOS Y DE LAS RESTRICCIONES Y PROHIBICIONES IMPUESTAS A LA IMPORTACION Y A LA EXPORTACION

¿Está su organización exenta del pago de derechos arancelarios y de las restricciones y prohibiciones impuestas a la importación y a la exportación, y, de ser así, en qué grado? ¿En qué fundamento jurídico se basa tal exención: tratado, legislación nacional, decisiones judiciales?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Según el artículo 5 del Convenio en mención, la organización está exenta de los derechos de aduana, así como de las prohibiciones y restricciones a la importación y exportación salvo, en lo que a exportaciones se refiere, aquellas que estén terminantemente prohibidas por la legislación del Perú.

AFRICAN CIVIL AVIATION COMMISSION

In accordance with article 5, paragraph (a) of the headquarters agreement, AFCAC is exempted from all dues and taxes, other than taxes for services provided levied by the Government of Senegal, and from all prohibitions, import and export restrictions concerning items imported by AFCAC for its exclusive and official use. However, it is understood that the items imported "duty free" will not be sold on the Senegalese territory unless this is done in accordance with the terms as agreed by the Government.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. Les produits importés ou exportés par l'Agence ou pour son compte, et strictement nécessaires pour l'exercice de ses activités officielles, sont exonérés de toutes taxes et tous droits d'importation ou d'exportation et de toutes prohibitions et restrictions à l'importation ou à l'exportation (art. VI de l'annexe I de la Convention).

2. Des dispositions similaires se retrouvent aussi dans certains accords avec des Etats non membres (Canada, Autriche, voir l'accord avec la Côte d'Ivoire, art. 6.1, reproduit au point 32 ci-dessus).

CARIBBEAN COMMUNITY

Under the headquarters agreement the property of the Caribbean Community is exempt from customs duties and prohibitions and restrictions on imports in respect of articles imported or exported by the Community for its official use; and customs duties and other levies and prohibitions and restrictions in respect of the import, sale and export of its publications.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui, sur la base de l'article 17 de l'accord de siège.

COMMONWEALTH SECRETARIAT

See answer 33 above.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

En vertu de l'article 7 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe,

"le Conseil, ses avoirs, revenus et autres biens sont exonérés :

...

b) De tous droits de douane, prohibitions et restrictions d'importation et d'exportation, à l'égard des articles destinés à son usage officiel; les articles ainsi importés en franchise ne seront pas vendus sur le terrtoire du pays dans lequel ils auront été introduits, sauf à des conditions agréées par le gouvernement de ce pays;

c) De tous droits de douane, prohibitions et restrictions d'importation et d'exportation à l'égard de ses publications."

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

El Consejo Oleícola Internacional está exento del pago de impuestos u otros derechos de cualquier clase que se perciban a causa de la importación o exportación de los bienes que se importen en territorio español o se exporten del mismo por el Consejo Oleícola y que estén o hayan estado destinados a sus fines. Sin embargo, no se incluyen en esta excepción los derechos que con el carácter de pago de servicios prestados perciben las administraciones de aduanas.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

Under article II, paragraph 3, of the 1959 Convention, CMEA is exempt from customs duties and restrictions on imports or exports of articles intended for official use. See also article VI, paragraph 3, of the 1961 agreement between CMEA and the Government of the USSR.

EUROPEAN COMMUNITIES

Article 4 of the Protocol provides:

"The Communities shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for their official use: articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the Government of that country.

"The Communities shall also be exempt from any customs duties and any prohibitions and restrictions on imports and exports in respect of their publications."

INTERNATIONAL SUGAR AGREEMENT

See article 10 of headquarters agreement.

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 7, states:

"(1) Goods whose import or export by the Commission is necessary for the exercise of its official activities shall be exempt from all customs duties and other charges (except mere payments for services) and from all prohibitions and restrictions on import or export.

"(2) The Commission shall be accorded a refund of the customs duty and value added tax paid on the importation of hydrocarbon oils purchased by it and necessary for the exercise of its official activities."

NORTH ATLANTIC TREATY ORGANIZATION

See articles 9 and 10 of the Ottawa Agreement.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Full exemption in respect of articles imported or exported by the organization for its official use has been granted pursuant to article 6 (b) of Supplementary Protocol No. I.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Sí. En el artículo III, literales b) y c), del Convenio de Prerrogativas, Inmunidades y Franquicias se prescribe lo siguiente:

"Artículo III. La Secretaría, así como sus bienes, ingresos y otros haberes, estarán:

...

b) Exentos de derechos de aduana y cualesquiera otros gravámenes, prohibiciones y restricciones que pesen sobre los artículos que importe o exporte para su uso oficial. Se entiende, sin embargo, que los artículos que se importen libres de derechos no se podrán vender en el país, sino conforme a las condiciones convenidas con el Gobierno de Guatemala;

c) Exentos de derechos de aduana, prohibiciones y restricciones respecto a la importación y exportación de sus publicaciones."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Sur la base de la législation belge, l'importation de biens par le Secrétariat général de l'Union, pour son usage officiel, est exonéré de la taxe sur la valeur ajoutée (TVA).

Question 39

Is the concept "for official use of the organization" of any relevance in the determination of the items enjoying the exemptions dealt with under this heading? If the answer is in the affirmative, have difficulties ever arisen as to whether or not a given import or export was for the official use of the organization? How were such difficulties resolved?

La notion d'"usage officiel de l'organisation" sert-elle de critère pour déterminer les articles qui bénéficient des exonérations visées dans la présente rubrique? Dans l'affirmative, la question de savoir si un article est importé ou exporté pour l'usage officiel de l'organisation a-t-elle jamais causé des difficultés? Comment ces difficultés ont-elles été résolues?

El concepto "para uso oficial de la organización", ¿influye en modo alguno en la determinación de las partidas a las que se aplican las exenciones reseñadas? En caso afirmativo, ¿han surgido alguna vez dificultades en cuanto a si una determinada partida de importación o exportación era para uso oficial de la organización? ¿Cómo se resolvieron tales dificultades?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Las franquicias se han concedido exclusivamente para el cumplimiento de las finalidades propias de la organización y su aplicación no ha suscitado dificultad.

AFRICAN CIVIL AVIATION COMMISSION

Yes. No difficulties ever arisen.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. Oui. L'article VI de l'annexe I à la Convention stipule : "Les produits importés ou exportés par l'Agence ou pour son compte, et strictement nécessaires pour l'exercice de ses activités officielles, sont exonérés de toutes taxes et tous droits d'importation ou d'exportation et de toutes prohibitions et restrictions à l'importation ou à l'exportation".

2. La mise en oeuvre de cette disposition a soulevé, suivant les cas, des problèmes d'interprétation et l'Agence procède régulièrement, notamment dans le cas d'achats ou importations effectués par ses sous-contractants, à la délivrance d'attestations officielles que ces achats (biens ou services) sont effectués dans le cadre de ses programmes officiels approuvés. Pour la préparation de certains programmes nécessitant des transferts fréquents d'instrumentation scientifique, l'Agence a procédé par négociation directe avec les autorités fiscales pour l'obtention de formules d'importation temporaire sans caution de garantie.

CARIBBEAN COMMUNITY

Yes. No difficulties have arisen.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Le critère utilisé est celui des marchandises destinées à la satisfaction des buts poursuivis par la Commission centrale. Ce critère n'a pas posé de difficultés.

COMMONWEALTH SECRETARIAT

Yes. No difficulties have arisen.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Voir réponse à la question 38.

CONSEIL DE L'EUROPE

(Council of Europe)

Oui.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No han surgido dificultades en cuanto a si una partida determinada de importación o exportación era para uso oficial de la organización.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The concept "for official use" is expressly provided for (see answer 38). No difficulties have arisen in practice as to the interpretation of the term "for official use".

EUROPEAN COMMUNITIES

See under question 38. So far no difficulties have arisen.

INTERNATIONAL SUGAR AGREEMENT

Yes (see art. 10); no difficulties.

INTERNATIONAL WHALING COMMISSION

Yes, but no difficulties have arisen.

NORTH ATLANTIC TREATY ORGANIZATION

Generally speaking article 10 of the Ottawa Agreement is interpreted and applied in the different member States so as to accord the organization tax exemption in the supply of goods and services necessary for its official activities and which are supplied on a recensing basis or involve more or less considerable quantities of goods on considerable expenditure.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Yes (see reply to question 38). No difficulties.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No ha habido dificultades en la interpretación y aplicación del concepto "para uso oficial de la organización".

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 40

How often have customs duties or prohibitions and restrictions been imposed on official imports and exports? If prohibitions and restrictions were imposed, what reasons were given by the State concerned?

Quelle est la fréquence des cas où des droits de douane ou des prohibitions et des restrictions ont été imposés à l'égard d'articles importés ou exportés par votre organisation pour son usage officiel? Si des prohibitions et des restrictions ont été imposées, quelles raisons ont été données par l'Etat intéressé?

¿Con qué frecuencia se han impuesto derechos arancelarios o prohibiciones y restricciones a las importaciones y exportaciones oficiales? Si se impusieron prohibiciones y restricciones, ¿qué razones adujo el Estado del caso?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Las franquicias de la organización se rigen por el Convenio de Privilegios e Inmunidades.

AFRICAN CIVIL AVIATION COMMISSION

Never imposed.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. Il est arrivé que des difficulés surgissent parfois aux postes douaniers (formulaires incomplets, etc., cautions imposées). Les cas de restrictions réelles sont cependant restés rares.

2. Il est nécessaire alors d'intervenir par l'intermédiaire de la délégation ou de déterminer des arrangements intérimaires ad hoc.

CARIBBEAN COMMUNITY

There have been no cases.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Aucune restriction ou prohibition n'ont été imposées.

COMMONWEALTH SECRETARIAT

No customs duties or prohibitions and restrictions have been imposed on official imports and exports.

CONFÉRENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Voir réponse à la question 38.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No se han impuesto prohibiciones y restricciones en esta materia.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There have been no cases where customs duties or prohibitions and restrictions have been imposed on the import or export of articles intended for official use.

EUROPEAN COMMUNITIES

As yet no customs duties or prohibitions and restrictions have been imposed on official imports and exports.

INTERNATIONAL SUGAR AGREEMENT

Never. No problems.

INTERNATIONAL WHALING COMMISSION

Never.

NORTH ATLANTIC TREATY ORGANIZATION

No particular problems have arisen in this field; all member States indicated to NATO (exchange of notes, written note, information about domestic law and its applicability or not to the organization) in which way articles 9 and 10 could be made applicable in their territory.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

There have been some occasions where customs duties have been imposed on official imports where the necessary documents were not obtained in advance but these cases did not result from a refusal to recognize the organization's rights.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No se han impuesto derechos arancelarios ni prohibiciones o restricciones de importación o exportación oficiales.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Pas de problèmes.

Question 41

Have you entered into standing arrangements with State authorities regarding the non-imposition or automatic refund of customs duties? When customs duties have been imposed, have you usually secured a refund? What practice do you follow when customs duties have been already paid by the importer?

Votre organisation a-t-elle conclu des arrangements permanents avec des autorités gouvernementales en ce qui concerne l'exemption des droits de douane ou leur remboursement automatique? Lorsque des droits de douane ont été perçus, avez-vous généralement été remboursé? Quelle est la pratique suivie par votre organisation lorsque les droits de douane ont déjà été payés par l'importateur?

¿Ha concertado usted acuerdos permanentes con autoridades estatales respecto de la no imposición o el reembolso automático de derechos arancelarios? Cuando se han impuesto tales derechos, ¿ha logrado usted, por regla general, que se le reembolsaran? ¿Qué providencias toma usted cuando el importador ya ha pagado derechos arancelarios?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No ha celebrado tales acuerdos.

AFRICAN CIVIL AVIATION COMMISSION

Never occurred.

CARIBBEAN COMMUNITY

No standing arrangements have been made with the State authorities regarding the non-imposition or automatic refund of customs duties. When customs duties have been imposed a refund is usually secured. When customs duties have already been paid by the importer, the duty-paid price is applicable except in the case of gasoline.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Exemption des droits de douane en vertu d'un arrangement administratif permanent. Il n'y a pas eu de remboursement dans la pratique.

COMMONWEALTH SECRETARIAT

Not applicable.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Voir réponse à la question 38.

CONSEIL DE L'EUROPE

(Council of Europe)

L'exemption des droits de douane est fondée sur l'article 7 de l'Accord général.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No hemos concertado acuerdo de ninguna clase con las autoridades estatales en este aspecto.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

See answer 38. In practice, there are no difficulties connected with the imposition of customs duties.

EUROPEAN COMMUNITIES

See under question 38.

INTERNATIONAL SUGAR AGREEMENT

Yes. Long-standing administrative arrangement for duty-free entry.

INTERNATIONAL WHALING COMMISSION

No standing arrangements have been entered into, and we have had no duties imposed. The final situation has not arisen.

NORTH ATLANTIC TREATY ORGANIZATION

See answer to question 40.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Yes, standing arrangements exist regarding the non-imposition or automatic refund of customs duties (i.e. an agreed procedure). Yes, where customs duties have been imposed and already paid by the importer, these are refunded under an agreed procedure.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Sobre lo primero: existe el Convenio de Prerrogativas que establece las exenciones sobre derechos arancelarios; respecto a lo segundo: si las compras se hacen en plaza y el importador ya satisfizo los derechos, se puede obtener una franquicia y endosarla al importador, quien descuenta el valor de los derechos pagados.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 42

What arrangements have you made with States regarding sales of imported articles? Were such arrangements made on an ad hoc or standing basis?

Quels arrangements avez-vous conclus avec les gouvernements en ce qui concerne la vente des articles importés? S'agit-il d'arrangements ad hoc ou permanents?

¿Qué acuerdos ha concertado usted con autoridades estatales respecto de la venta de artículos importados? ¿Se concertaron tales acuerdos en forma temporal o permanente?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Ninguno.

AFRICAN CIVIL AVIATION COMMISSION

The practice is to write to the Ministry of Foreign Affairs seeking authorization.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. Les biens acquis par l'Agence en exemption ou remboursement de taxes, ou importés hors droits de douane ne peuvent être vendus ou cédés qu'aux conditions fixées par les Etats membres qui ont accordé les exonérations (art. IX.1, annexe I de la Convention).

2. Les conditions de la cession de certains biens importés sur le territoire de la Guyane française (liquidation des activités du CECLES) ont été définies par des échanges de lettre entre l'Agence et les services fiscaux français. Ces conditions peuvent se résumer ainsi :

a) Déclaration de cession aux services fiscaux;

b) La valeur devant servir de base au calcul du montant des droits sera celle de la marchandise au jour de la déclaration de mise à la consommation (valeur de réalisation du matériel);

c) Seuls des droits de douane sont perçus par l'autorité fiscale.

3. Ces biens avaient été "importés" en Guyane en exonération totale de la taxe d'"octroi de mer" s'appliquant à ce département. Les archives de l'ex-CECLES étant insuffisamment complètes pour préciser l'origine exacte et la propriété successive de certains matériels, l'administration fiscale française a procédé à une enquête

sur ce point avant de dresser une liste des biens devant être soumis à imposition lors de la cession.

4. Ces discussions et échanges de lettres sont menés sur une base ad hoc.

CARIBBEAN COMMUNITY

The only arrangements have been made with the host country and these are of standing regulations.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Néant.

COMMONWEALTH SECRETARIAT

So far there has been no need for the secretariat to make such arrangements.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Voir réponse à la question 38.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Los artículos que se importen en franquicia no podrán ser cedidos en territorio español más que a título excepcional y en las condiciones que fijarán, de común acuerdo, el Consejo Oleícola Internacional y las autoridades españolas competentes. En estos casos, deberán abonarse los derechos de toda clase a que estén sujetos dichos objetos.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

Under article IX, paragraph 2, of the 1961 agreement between CMEA and the Government of the USSR, articles and materials imported by the Council from other countries and scarce material and articles supplied to the Council in the USSR may not be sold by it in the USSR without the consent of the competent organs.

EUROPEAN COMMUNITIES

1. By virtue of article 4 of the Protocol, articles imported shall:

"not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the Government of that country."

2. No arrangements have been made about this matter.

INTERNATIONAL SUGAR AGREEMENT

No arrangements other than article 12 of the headquarters agreement.

INTERNATIONAL WHALING COMMISSION

The situation has not arisen.

NORTH ATLANTIC TREATY ORGANIZATION

See answer to question 40.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Articles imported under exemption from custom duties will not be sold in the country in which they were imported except under conditions agreed with the Government of that country (art. 6 (b)) of Supplementary Protocol No. I).

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

A tenor del artículo III, literal b), del Convenio de Prerrogativas, Inmunidades y Franquicias, "los artículos que se importen libres de derechos no se podrán vender en el país, sino conforme a las condiciones convenidas con el Gobierno de Guatemala". Hasta el presente, no se han convenido tales condiciones.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Sans objet.

Question 43

Are there restrictions or prohibitions as to the sale or other ways of transferring property of items imported by your organization with the benefit of exemptions dealt with under this heading?

Est-ce que des restrictions ou des prohibitions sont imposées sur la vente ou d'autres formes de cession d'articles importés par votre organisation grâce aux exonérations visées dans la présente rubrique?

¿Existen restricciones o prohibiciones que afecten a la venta u otras formas de transferir la propiedad de bienes importados por su organización con las exenciones a que se ha hecho referencia?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

La transferencia y reposición en determinados casos se sujetan a los reglamentos correspondientes del país miembro sede.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

L'article IX.1 de l'annexe I à la Convention stipule que les biens acquis conformément à l'article V ou importés conformément à l'article VI ne peuvent être vendus ou cédés qu'aux conditions fixées par les Etats membres qui ont accordé les exonérations.

CARIBBEAN COMMUNITY

Yes. If an article is imported duty free and is disposed of within three years of purchase, duty becomes payable.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

There are no restrictions or prohibitions as such; and the secretariat has not yet been involved in the resale or transfer of property imported free of duty. However, if such property were to be resold or transferred it is understood that arrangements will have to be made for the appropriate duty to be paid to the United Kingdom authorities.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Voir réponse à la question 38.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Contestada anteriormente.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

See answer 42.

EUROPEAN COMMUNITIES

See under question 38.

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 9, states: "Goods which have been acquired under article 6 [exemption from taxes] or imported under article 7 [exemption from customs duties] of this Agreement shall not be given away, sold, hired out or otherwise disposed of unless the appropriate authorities have been notified in advance and any necessary duties and taxes paid".

INTERNATIONAL SUGAR AGREEMENT

See question 42 above.

NORTH ATLANTIC TREATY ORGANIZATION

See answer to question 40.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

La venta podrá realizarse, pero conforme a las condiciones que se convengan con el Gobierno de Guatemala, las cuales aún no han sido establecidas.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Sans objet.

Question 44

Are publications and other cultural materials such as films, photographs, prints and recordings subject to normal exemptions from duties and from prohibition and restriction on imports and exports? Does any special régime exist in their respect? More favourable, or less favourable?

Les publications et les autres documents à caractère culturel, tels que les films, photographies, épreuves et enregistrements, sont-ils ordinairement exonérés des droits de douane ainsi que des prohibitions et restrictions imposées à l'égard des articles importés ou exportés? Existe-t-il un régime spécial dans ce domaine? Est-il plus favorable ou moins favorable?

Las publicaciones y demás material de índole cultural, como por ejemplo, películas, fotografías, impresos y grabaciones, ¿están sujetos a las exenciones normales de derechos y de prohibiciones y restricciones impuestas a las importaciones y exportaciones? ¿Están sometidos tales artículos a un régimen especial, ya sea éste más favorable o desfavorable?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Gozan de las exenciones normales y no están sometidas a régimen especial.

AFRICAN CIVIL AVIATION COMMISSION

In accordance with article 5(b) of the headquarters agreement, AFCAC is exempted from all dues and taxes, other than taxes for services provided levied by the Government of Senegal, and from all prohibitions, import and export restrictions concerning publications and cinema films which AFCAC imports or produces in the framework of its official activities.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

La circulation des publications et autres matériels d'information expédiés par l'Agence ou à celle-ci n'est soumise à aucune restriction (art. X, annexe I de la Convention). Aucun régime particulier n'existe.

CARIBBEAN COMMUNITY

Yes. No special régime exists in this respect.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

En vertu de l'article 17, les publications conformes à la mission de la Commission centrale sont exonérées de tout droit de douane et des taxes sur le chiffre d'affaires et ne sont pas soumis à prohibition ou restrictions.

COMMONWEALTH SECRETARIAT

No special régime - subject to duty exemptions like other importations of the secretariat.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Voir réponse à la question 38.

CONSEIL DE L'EUROPE

(Council of Europe)

Voir article 7 c) de l'Accord général.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Las publicaciones y demás material de índole cultural están sujetas a las exenciones normales en la materia.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There is no special CMEA import and export régime of duties or export and import prohibitions in respect of publications and other cultural materials, such as films, photographs and so forth.

EUROPEAN COMMUNITIES

See under question 38. No special régime exists.

INTERNATIONAL SUGAR AGREEMENT

The question has not arisen for ISO since we do not normally import or export any of these things except publications and we have had no problems with these, which are covered by article 15 of the headquarters agreement and an administrative arrangement (see 41 above).

INTERNATIONAL WHALING COMMISSION

Normal exemptions apply.

NORTH ATLANTIC TREATY ORGANIZATION

See article 9 (c) of the Ottawa Agreement.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Publications are exempt from customs duties and from prohibition and restriction on imports and exports pursuant to article 6 (c) of Supplementary Protocol No. I.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. El artículo III, literal c), del Convenio de Prerrogativas, Inmunidades y Franquicias prescribe lo siguiente:

"Artículo III. La Secretaría, así como sus bienes, ingresos y otros haberes, estarán:

...

c) Exentos de derechos de aduana, prohibiciones y restricciones respecto a la importación y exportación de sus publicaciones."

2. Siguen, pues, el régimen general de sus demás bienes importados.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Le régime normal est applicable.

Question 45

Have licences ever been required for the import and export of those materials and, if so, have any difficulties arisen over the granting of such licences?

Des licences ont-elles jamais été exigées pour l'importation et l'exportation de ces documents, et, dans l'affirmative, avez-vous eu des difficultés à obtenir ces licences?

¿Se han necesitado alguna vez licencias para la importación y exportación de ese material, y, de ser así, ha surgido alguna dificultad para la concesión de tales licencias?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No.

CARIBBEAN COMMUNITY

Yes, but no difficulties have arisen.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Voir réponse à la question 38.

COMMONWEALTH SECRETARIAT

No licences required.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Sí, se han solicitado licencias para la importación y exportación de este material y nunca ha surgido dificultad para la concesión de las mismas.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

Licences have not been required in practice for the import and export of the materials mentioned (see question 44).

EUROPEAN COMMUNITIES

See under question 44.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

Not arisen.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Sans objet.

Question 46

FACILITIES IN RESPECT OF COMMUNICATIONS

Please indicate whether there exist conventional or domestic legislation privileges or any other kind of legal foundation whereby your organization is granted facilities in respect of communications.

FACILITES DE COMMUNICATION

Veuillez indiquer si votre organisation jouit de facilités de communication en vertu de privilèges conventionnels, de dispositions de la législation nationale ou de tout autre texte juridique.

FACILIDADES EN LA ESFERA DE LAS COMUNICACIONES

¿Indique si existen privilegios convencionales o derivados de la legislación nacional, o cualquier otra clase de fundamento jurídico, en cuya virtud se faciliten las comunicaciones de su organización?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Los privilegios rigen en virtud del artículo 7 del Convenio.

AFRICAN CIVIL AVIATION COMMISSION

Facilities in respect of communications are provided in the headquarters agreement (art. 4, paras. 1-5).

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. L'article XII de l'annexe I de la Convention déclare :

"1. Pour ses communications officielles et le transfert de tous ses documents, l'Agence bénéficie d'un traitement non moins favorable que celui accordé par chaque Etat membre aux autres organisations internationales.

2. Aucune censure ne peut être exercée à l'égard des communications officielles de l'Agence, quel que soit le moyen de communication utilisé."

2. Il faut ajouter l'article X : "La circulation de publications et autres matériels d'information expédiés par l'Agence ou à celle-ci n'est soumise à aucune restriction."

/...

CARIBBEAN COMMUNITY

Under the headquarters agreement (art. 3 (2)) the Community is immune from censorship of its official correspondence and other communications.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

La Commission centrale jouit des facilités de communication en vertu de l'article 21 de l'Accord, avec le bénéfice du traitement aussi favorable que celui accordé par le Gouvernement français aux autres organisations internationales.

COMMONWEALTH SECRETARIAT

Under the Commonwealth Secretariat Act 1966 (U.K.), the secretariat enjoys the same inviolability of communications as a diplomatic mission.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

L'article 8 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe dispose ce qui suit :

"Le Comité des ministres et le Secrétaire général bénéficient sur le territoire de chaque membre, pour leurs communications officielles, d'un traitement au moins aussi favorable que le traitement accordé par ce membre à la mission diplomatique de tout autre gouvernement.

La correspondance officielle et les autres communications officielles du Comité des ministres et du secrétariat ne pourront être censurées."

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

El Gobierno español concede al Consejo Oleícola para sus comunicaciones postales, telefónicas, telegráficas, radiográficas y radiofototelegráficas un trato de favor análogo al que se dispensa a los demás gobiernos y a sus misiones diplomáticas en materia de prioridad, tarifas y tasas sobre la correspondencia, comunicaciones telefónicas, telegráficas y otras.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

Under article III of the 1959 Convention, CMEA enjoys, in the territory of each member country of the Council, treatment not less favourable than that enjoyed by diplomatic missions in that country in the matter of priorities, rates and taxes on post, cable and telephone communications. See also article V, paragraph 1, of the 1961 agreement between CMEA and the Government of the USSR.

EUROPEAN COMMUNITIES

By virtue of article 6 of the Protocol, the European Communities enjoy the treatment accorded to diplomatic missions:

"Article 6

"For their official communications and the transmission of all their documents, the institutions of the Communities shall enjoy in the territory of each member State the treatment accorded by that State to diplomatic missions.

"Official correspondence and other official communications of the institutions of the Communities shall not be subject to censorship."

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 11, states: "The circulation of publications and other information material sent by or to the Commission shall not be restricted in any way".

INTERNATIONAL SUGAR AGREEMENT

Article 14 of the headquarters agreement provides for unrestricted communications, though not facilities. As an exception, installation and use of a wireless transmitter (which we do not have) would be subject to approval.

NORTH ATLANTIC TREATY ORGANIZATION

Article 11 of the Ottawa Agreement.

"1. No censorship shall be applied to the official correspondence and other official communications of the organization.

"2. The organization shall have the right to use codes and to despatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges diplomatic couriers and bags.

"3. Nothing in this article shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a member State and the Council acting on behalf of the organization."

No legal disputes have arisen.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Facilities in respect of communications are provided for in article 8 of Supplementary Protocol No. I.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. Los privilegios de la SIECA relacionados con el principio de la "libertad de comunicaciones", están consagrados en el artículo IV del Convenio de Prerrogativas, Inmunidades y Franquicias. El citado artículo dice así:

"Artículo IV. La Secretaría disfrutará, para su comunicaciones oficiales, en el territorio de la República de un trato no menos favorable que el otorgado por el Gobierno a las misiones diplomáticas acreditadas en Guatemala, en lo que respecta a las prioridades, tarifas e impuestos aplicables a la correspondencia, cablegramas, telegramas, radiogramas, telefotos, comunicaciones telefónicas y otras comunicaciones, como también a las tarifas de prensa para las informaciones destinadas a la prensa y la radio ...."

2. Son aplicables también, en esta materia, las disposiciones de la Convención de Viena sobre Relaciones Diplomáticas (18 de abril de 1961), ratificada por el Gobierno de Guatemala el 17 de septiembre de 1963.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non. Aucun régime spécial de faveur n'a été accordé à l'Union économique Bénélux.

Question 47

Does the legal institution of "the most favoured-national clauses" play any part in the determination of the extent of facilities granted?

La mise en oeuvre de la "clause de la nation la plus favorisée" joue-t-elle un rôle dans la détermination de l'étendue des facilités accordées?

La institución jurídica constituida por la cláusula de "nación mas favorecida", ¿influye en modo alguno en la determinación del grado de las facilidades brindadas?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Sí, en el sentido de que tales facilidades no pueden ser menos favorables que aquellas que otorga el Gobierno peruano a cualquier misión diplomática.

AFRICAN CIVIL AVIATION COMMISSION

According to paragraph 1 of the headquarters agreement, the Government of Senegal grants to AFCAC for its postal, telephone, telegraphic, radio-telegraphic and radiophoto-electric links a treatment as favourable as that granted to diplomatic missions concerning tariff priority, tariffs and taxes on mail, cables, telegrams, radiotelegrams, telephone communications and other communications as well as for press tariffs for information published in press media or radio-broadcasted.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Voir réponse 46.

CARIBBEAN COMMUNITY

Yes. Paragraph 1 of article 3 provides that the Community shall enjoy, in respect of its official communications treatment not less favourable than accorded by the host Government to any other Government, international organizations or foreign diplomatic mission in the host country.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Voir réponse à la question 46.

COMMONWEALTH SECRETARIAT

No.

CONSEIL DE L'EUROPE

(Council of Europe)

Oui.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The most-favoured-nation clause (see answer 46) plays a part in determining the extent of facilities granted.

EUROPEAN COMMUNITIES

The legal institution of "the most-favoured-national clauses" does not play a part in the determination of the extent of facilities granted.

INTERNATIONAL SUGAR AGREEMENT

Unknown since there is no issue.

INTERNATIONAL WHALING COMMISSION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Yes.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Como se observa en la respuesta anterior, el artículo IV del Convenio de Prerrogativas, Inmunidades y Franquicias establece que: "La Secretaría disfrutará, para sus comunicaciones oficiales, en el territorio de la República, de un trato no menos favorable que el otorgado por el Gobierno a las misiones diplomáticas acreditadas en Guatemala ...".

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Voir réponse à la question 46.

Question 48

Please elaborate on whether the facilities granted to your organization refer to one, or more of the following matters: priority in communications, rates and taxes on mails, cables, radiograms, telephotos, telephone calls and press rates for information to the press and radio.

Veuillez préciser si les facilités accordées à votre organisation ont trait à une ou plusieurs des questions suivantes : priorité pour les communications, tarifs et taxes sur le courrier, les cablogrammes, télégrammes, radiotélégrammes, téléphotos et communications téléphoniques et tarifs de presse pour les informations à la presse et à la radio.

Explique en detalle si las facilidades concedidas a su organización abarcan uno o más de los siguientes aspectos: prioridad de las comunicaciones, tarifas e impuestos correspondientes a cartas, telegramas, radiogramas, telefotos, llamadas telefónicas y tarifas de prensa para información a la prensa y a la radio.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Las facilidades se refieren a contribuciones, tarifas e impuestos sobre correspondencia, cables, telegramas, radiogramas, teléfonos, telefotos y otras comunicaciones, según el artículo 7 del Convenio en mención.

AFRICAN CIVIL AVIATION COMMISSION

Yes, see question 47 above.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. Priorité dans les communications. Par exemple, l'article 4.2 de l'Accord entre le Royaume des Pays-Bas et l'Agence sur la création du Centre européen de technologies spatiales (ESTEC) prévoit :

"2. Le Gouvernement assurera à l'organisation l'usage des fréquences radioélectriques nécessaires aux opérations du Centre. Ces fréquences seront choisies par l'organisation en accord avec les autorités compétentes néerlandaises et en conformité avec les règlements de l'Union internationale des télécommunications. Les autorités compétentes néerlandaises se chargeront de faire les démarches sur les plans national et international.

L'organisation jouira de la même protection que celle qui est assurée aux radiocommunications de l'Etat en matière d'interférence nuisible provoquée par des émissions de radiocommunications placées sous son contrôle et, autant que possible, par les appareils et installations électriques situés à l'extérieur du Centre.

/...

Le Gouvernement fera de son mieux, en conformité avec les règlements de l'Union internationale des télécommunications, pour faire éliminer toute interférence nuisible causée par des émissions de radiocommunications qui ne sont pas placées sous son contrôle."

2. Ou encore, les articles 12 et 13 de l'Accord concernant la station de localisation de télémesure et de télécommande de l'Agence à Redu (Belgique) :

"Article 12

La Belgique autorisera l'organisation à utiliser les fréquences radioélectriques nécessaires à l'exercice de ses fonctions définies à l'article 1, paragraphe 1. Ces fréquences seront choisies par l'organisation en conformité avec les règlements de l'Union internationale des télécommunications et avec l'accord des autorités belges responsables en la matière. Ces dernières se chargeront des démarches nationales et internationales nécessaires.

Article 13

1. La Belgique s'engage à prendre toutes les mesures nécessaires pour éliminer toutes perturbations provenant d'une émission de radiocommunication placée sous son contrôle.

2. La Belgique s'engage à prendre toutes les mesures nécessaires pour qu'aucune installation susceptible d'engendrer des perturbations radioélectriques gênantes dans les bandes de fréquence utilisées par l'organisation ne puisse être réalisée au voisinage de la station, dans les zones définies ci-après :

Dans ce but, elle s'engage à ce que :

a. Aucune nouvelle construction ne soit autorisée à l'intérieur d'une zone définie au point I de l'annexe III, excepté toutefois les constructions qui ne seraient pas de nature à apporter une gêne quelconque et au sujet desquelles l'organisation aurait préalablement donné son accord;

b. Dans la zone circulaire définie au point II de l'annexe III, toute autorisation relative à la construction de bâtiments industriels, de lignes électriques aériennes à haute tension, de lignes de chemin de fer électrique ou toute autre installation électrique, sera subordonnée à l'accord des autorités belges responsables en matière de perturbations radioélectriques; les autorisations ne seront pas données, en principe, sans consultation préalable de l'organisation.

3. La Belgique s'engage à ce que les autorités belges compétentes en matière de perturbations radioélectriques résolvent, dans les limites des possibilités techniques, et sans frais pour l'organisation, tous les problèmes que poserait l'élimination des perturbations gênantes produites par les appareils et installations électriques utilisés dans les zones indiquées ci-dessus."

/...

CARIBBEAN COMMUNITY

The facilities do not refer to any of the listed catagories.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Il est fait référence à la correspondance officielle et les autres communications officielles. Cette notion n'a pas donné lieu à difficultés.

COMMONWEALTH SECRETARIAT

Special facilities are granted to the Secretariat in respect of communications when these are requested, principally in respect of State priority telephone calls.

CONSEIL DE L'EUROPE

(Council of Europe)

Oui.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

La respuesta a esta pregunta va implícita en la 46.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

See answer 46.

EUROPEAN COMMUNITIES

See under question 46.

INTERNATIONAL SUGAR AGREEMENT

Article on communications (14) does not relate to any of these questions except in the sense that communication is unrestricted.

INTERNATIONAL WHALING COMMISSION

None.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Facilities refer to priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications and press rates for information to the press and radio.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

A tenor del artículo IV del Convenio de Prerrogativas celebrado con el Gobierno de Guatemala, las facilidades que se confieren a la SIECA en el campo de las comunicaciones se equiparan a las de las misiones diplomáticas y se refieren a las cuestiones siguientes: prioridad de las comunicaciones; tratamiento privilegiado respecto a las tarifas e impuestos que cause la utilización de los correos, sean éstos cartas, telegramas, radiogramas, telefotos y llamadas telefónicas; tratamiento privilegiado respecto a las tarifas e impuestos de prensa para las informaciones destinadas a la prensa y la radio.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Voir réponse à la question 46.

Question 49

Is the concept of "official" correspondence or communications expressly referred to in the determination of the facilities or freedom granted to your organization. If so, has it ever lent itself to difficulties of interpretation or aroused legal disputes?

Est-il fait expressément référence à la notion de correspondance ou de communication "officielle" pour déterminer l'étendue des facilités ou libertés dont jouit votre organisation? Dans l'affirmative, cette expression a-t-elle soulevé des difficultés d'interprétation ou donné lieu à des conflits juridiques?

En la determinación de las facilidades o libertades concedidas a su organización, ¿se hace referencia expresa al concepto de correspondencia o comunicaciones "oficiales"? En caso afirmativo, ¿se ha prestado alguna vez dicho concepto a dificultades de interpretación o bien se han planteado controversias jurídicas al respecto?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Sí, se hace referencia expresa a "comunicaciones oficiales", concepto que no ha planteado dificultades ni controversias.

AFRICAN CIVIL AVIATION COMMISSION

Yes, please see article 4, paragraphs 2 and 3. Neither difficulties nor legal disputes.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

Yes (see article 46). It has not lent itself to difficulties of interpretation or aroused legal disputes.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Voir réponse à la question 48.

COMMONWEALTH SECRETARIAT

No formalities have been worked out on the matter. However, there have been no difficulties experienced so far.

CONSEIL DE L'EUROPE

(Council of Europe)

Oui. Pas de difficultés d'interprétation ni de conflits juridiques.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Sí, se hace referencia expresa al concepto de correspondencia o comunicaciones "oficiales". No se han planteado controversias jurídicas al respecto.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The concept of "official" correspondence or communications is not expressly referred to.

EUROPEAN COMMUNITIES

See under question 46. Article 6 of the Protocol has never lent itself to difficulties of interpretation and has never aroused legal disputes.

INTERNATIONAL SUGAR AGREEMENT

Yes; no.

INTERNATIONAL WHALING COMMISSION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Yes. This has never led to difficulties.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. El artículo IV del Convenio de Prerrogativas, Inmunidades y Franquicias establece, expresamente, que el disfrute de los privilegios referente a comunicaciones comprende a las que sean de índole oficial: "La Secretaría disfrutará, para sus comunicaciones oficiales ...".

2. No han surgido ni dificultades de interpretación ni controversias jurídicas entre la SIECA y el Gobierno de Guatemala relativas a la aplicación del concepto de "correspondencia o comunicaciones oficiales".

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Voir réponse à la question 46.

Question 50

Is it recognized to your organization the right to use codes in its communications?

Votre organisation a-t-elle le droit d'employer des codes pour ses communications?

¿Se reconoce a su organización el derecho a utilizar claves en sus comunicaciones?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Sí.

AFRICAN CIVIL AVIATION COMMISSION

Yes.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Cette question ne s'est jamais posée.

CARIBBEAN COMMUNITY

Yes. The Community has the right to use codes.

COMMONWEALTH SECRETARIAT

There has been no determination as to the right to use codes in communications, and the need has not yet arisen.

CONSEIL DE L'EUROPE

(Council of Europe)

Pas de mention explicite de l'utilisation de codes dans les dispositions pertinentes de l'Accord général qui se réfère au "traitement accordé par ce membre à la mission diplomatique de tout autre gouvernement", lequel comprend le droit de faire usage de codes.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Sí, se reconoce expresamente al Consejo Oleícola International el derecho a utilizar claves en sus comunicaciones.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The right to use codes is not expressly mentioned.

EUROPEAN COMMUNITIES

The institutions of the European Communities have the right to use codes in their communications.

INTERNATIONAL SUGAR AGREEMENT

Yes.

INTERNATIONAL WHALING COMMISSION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Supplementary Protocol No. I does not refer explicitly to the right of the organization to use codes in its communications. On the other hand, article 8 of Supplementary Protocol No. I foresees that the organization shall enjoy in the territory of each member, for its official communications, treatment not less favourable than that accorded by the Government of that member to any other Government, which comprises also the right to use codes (cf. art. 27.1 of the Vienna Convention on Diplomatic Relations).

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Este derecho no está contemplado expresamente en las disposiciones del Convenio celebrado entre el Gobierno de Guatemala y la SIECA. No obstante, en aplicación del "trato no menos favorable" que el otorgado a la misiones diplomáticas, y en vista de que Guatemala ha ratificado la Convención de Viena sobre Relaciones Diplomáticas, tendría plena aplicación el artículo 27, numeral 1, de dicho instrumento, que prescribe lo siguiente:

"1. El Estado receptor permitirá y protegerá la libre comunicación de la misión para todos los fines oficiales, pudiendo emplear todos los medios de comunicación adecuados, entre ellos los correos diplomáticos y los mensajes en clave o en cifra."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Voir réponse à la question 46.

Question 51

Does your organization avail itself of couriers or unaccompanied bags in its communications? If the answer is in the affirmative:

(a) What provisions govern their functioning?

(b) What is the status of the courier and the status of the bag, their prerogatives, their immunities? Would you characterize them as "diplomatic" couriers and bags or "consular" couriers and bags? Other? Please elaborate.

(c) Has the organization ever encountered any difficulty relative to its dispatching of couriers and bags?

Votre organisation utilise-t-elle pour ses communications des courriers ou des valises non accompagnées? Dans l'affirmative :

a) Quelles dispositions régissent leur fonctionnement?

b) Quel est le statut juridique du courrier et de la valise, leurs prérogatives et leurs immunités? Ont-ils, selon vous, un caractère "diplomatique" ou "consulaire" ou appartiennent-ils à une autre catégorie encore? Veuillez donner des détails.

c) Votre organisation a-t-elle jamais rencontré de difficultés pour l'envoi de courriers et de valises?

¿Utiliza su organización correos o valijas no acompañadas en sus comunicaciones? En caso afirmativo:

a) ¿Qué disposiciones rigen su funcionamiento?

b) ¿Qué condición jurídica tienen el correo y la valija, y cuáles son sus prerrogativas e inmunidades? ¿Los caracterizaría usted como correos y valijas "diplomáticos" o "consulares" o de otra índole? Sírvase dar una respuesta pormenorizada.

c) ¿Ha tropezado alguna vez su organización con dificultades para el despacho de correos y valijas?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Sí utiliza, de conformidad con el artículo 8 del Convenio, la aceptación de los demás países miembros y las prácticas al respecto, todo lo cual da a las valijas el carácter de diplomáticas. No se ha tropezado con dificultad alguna en el despacho.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

L'Agence n'a pas obtenu l'établissement d'un "courrier diplomatique". Dans certains cas, les bagages circulent porteurs d'une étiquette d'identification, accompagnés de formulaires douaniers mis au point avec le concours des autorités nationales.

CARIBBEAN COMMUNITY

(a) Yes.

(b) All matters raised here are governed by the Vienna Convention on Diplomatic Relations.

(c) No difficulties have been encountered.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

Not as a rule, and no special provisions have been made for these matters. No difficulties have been experienced. However, in appropriate circumstances, the use of couriers and bags may be resorted to. While the Secretariat has no experience to go by, it is likely that it would characterize couriers and bags as diplomatic.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

El Consejo Oleícola Internacional tiene autorizado el uso de valijas para su correo, pero hasta el momento no ha hecho uso de esta prerrogativa.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

1. Under article V, paragraph 3, of the 1961 agreement between CMEA and the Government of the USSR, at the request of the Secretary of the Council, the competent organs of the USSR shall make available to the Council, in accordance with the rules and rates in force in the USSR, the diplomatic courier service used by the USSR for communication with its diplomatic representatives in other countries.

2. For the dispatch of correspondence from and to the USSR the Council may use special couriers who, while carrying out their official duties, have the same privileges and immunities in the USSR as diplomatic couriers.

EUROPEAN COMMUNITIES

See under question 46. As regards third countries privileges and immunities concerning couriers and unaccompanied bags are attributed de jure or de facto. Details may vary from country to country; no difficulties have been encountered.

INTERNATIONAL COCOA ORGANIZATION

The answer is negative.

INTERNATIONAL WHALING COMMISSION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No. The organization has never availed itself of the possibility of using couriers or unaccompanied bags in its communications.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

La SIECA no utiliza correos o valijas no acompañadas en sus comunicaciones.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Voir réponse à la question 46.

Question 52

Has censorship by State authorities ever been applied to official or other correspondence and communications of your organization?

La correspondance et les communications officielles ou autres de votre organisation ont-elles jamais été censurées par les autorités de l'Etat hôte?

La corespondencia y las comunicaciones oficiales y de otra índole de su organización, ¿han sido sometidas a censura por las autoridades estatales?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No, never.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

No.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

No.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

La correspondencia y las comunicaciones oficiales y de otra índole de nuestra organización nunca han sido sometidas a censura por las autoridades estatales.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There have been no cases where State authorities have applied censorship to correspondence of CMEA.

EUROPEAN COMMUNITIES

See under question 46.

INTERNATIONAL COCOA ORGANIZATION

The answer is negative.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No hay indicios que hagan presumir la existencia de la censura en cuestión.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Voir réponse à la question 46.

Question 53

Do the provisions granting facilities of communications to your organization allow for restrictions based on security considerations on the part of State authorities? Has any agreement in this connection ever been considered by your organization?

Les dispositions relatives aux facilités de communication accordées à votre organisation comportent-elles certaines restrictions que les autorités de l'Etat hôte justifieraient en invoquant des considérations de sécurité? Votre organisation a-t-elle jamais envisagé de conclure un accord à cet égard?

Las disposiciones en cuya virtud se conceden facilidades de comunicación a su organización, ¿permiten restricciones basadas en consideraciones de seguridad por parte de las autoridades estatales? ¿Ha examinado su organización la posibilidad de concertar algún acuerdo a ese respecto?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Le principe général est que les privilèges et immunités sont accordés pour assurer le meilleur fonctionnement de l'Agence et que cette dernière doit coopérer avec les autorités compétentes, notamment en matière de sécurité.

CARIBBEAN COMMUNITY

Yes, but only after consultation with the Secretary-General.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Néant.

COMMONWEALTH SECRETARIAT

There are no provisions on the facilities on communications, and there are no restrictions based on security considerations. There has been no agreement on the subject.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No existen restricciones basadas en consideraciones de seguridad por parte de las autoridades estatales en lo que respecta a facilidades de comunicación.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The relevant agreements do not provide for restriction of CMEA communications facilities based on security considerations on the part of State authorities (see answer 46). CMEA has not given this matter any special consideration.

EUROPEAN COMMUNITIES

The provisions granting facilities of communications to the European Communities do not allow for restrictions based on security considerations on the part of State authorities. No agreement in this connection has ever been considered by the European Communities.

INTERNATIONAL COCOA ORGANIZATION

The answer is negative.

INTERNATIONAL WHALING COMMISSION

No; not arisen.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No está expresamente contemplado y, al presente, no parece ser necesario concertar ningún acuerdo al respecto.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Voir réponse à la question 46.

Question 54

Has your organization ever been involved in legal disputes or other difficulties concerning communications matters?

Votre organisation a-t-elle jamais été partie à des différends d'ordre juridique en matière de communication ou a-t-elle rencontré d'autres difficultés à cet égard?

¿Se ha visto envuelta alguna vez su organización en controversias jurídicas, o bien ha tropezado con otro tipo de dificultades en lo que respecta a las comunicaciones?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No, never.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

No.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

No.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Hasta el momento ninguna.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

CMEA has not been involved in legal disputes or other difficulties concerning communication matters.

EUROPEAN COMMUNITIES

The European Communities have never been involved in legal disputes or other difficulties concerning communication matters.

INTERNATIONAL COCOA ORGANIZATION

The answer is negative.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Voir réponse à la question 46.

Question 55

OFFICIALS OF THE ORGANIZATION

Immunity from legal process

To what extent, if any, and by what criterion is immunity from legal process recognized to officials of your organization for acts performed by them?

FONCTIONNAIRES DE L'ORGANISATION

Immunité de juridiction

L'immunité de juridiction est-elle reconnue aux fonctionnaires de votre organisation pour les actes accomplis par eux? Si c'est le cas, dans quelle mesure cette immunité leur est-elle reconnue et en vertu de quels critères?

FUNCIONARIOS DE LA ORGANIZACION

Inmunidad respecto de los mandamientos judiciales

¿Se reconoce a los funcionarios de su organización la inmunidad respecto de los mandamientos judiciales en relación con sus actuaciones, y, en caso afirmativo, en qué medida se les reconoce tal inmunidad y en virtud de qué criterio?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Sí, de acuerdo con los artículos 10, 12, 13 y 18 del Convenio de Privilegios e Inmunidades en el siguiente orden y grado:

a) Miembros de la Junta: inmunidades iguales a las que se conceden a los embajadores extranjeros;

b) Director-Secretario: inmunidades iguales a las que se conceden a los ministros plenipotenciarios extranjeros;

c) Funcionarios de categoría internacional de la Junta y representantes y funcionarios internacionales asesores: inmunidades de que gozan los miembros del cuerpo diplomático que no son jefes de misión.

Las inmunidades no amparan a los miembros de la Junta, Director-Secretario o funcionarios internacionales que sean nacionales del Perú.

AFRICAN CIVIL AVIATION COMMISSION

Please see articles 6 and 7 of the headquarters agreement.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Selon l'article XVI.a. de l'annexe I de la Convention, les membres du personnel de l'Agence jouissent de l'immunité de juridiction pour les actes, y compris leurs paroles et écrits, accomplis dans l'exercice de leurs fonctions (sauf dans le cas d'infraction à la réglementation de la circulation des véhicules à moteur).

CARIBBEAN COMMUNITY

Under article 8 (c) of the headquarters agreement, officials of the Community are immune from legal process of any kind in respect of words spoken or written and of all acts performed by them in their official capacity. Such immunity continues although the official concerned has ceased to be an official of the Community.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui. S'appliquent en l'espèce les articles 23 et 24.

COMMONWEALTH SECRETARIAT

See paragraphs 32 to 34 of the study by Professor Read (pp. 6 and 7).

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

En vertu de l'article 18 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe,

"Les agents du Conseil de l'Europe

a) Jouissent de l'immunité de juridiction pour les actes accomplis par eux, y compris leurs paroles et écrits en leur qualité officielle et dans la limite de leurs attributions."

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Los funcionarios del Consejo Oleícola gozarán de inmunidad jurisdiccional por los actos oficiales que realicen, exceptuando los funcionarios que tengan la nacionalidad española.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

Under article V, paragraph 2 (a), of the 1959 Convention, officials of the Council are, on the territory of each member country of the Council, immune from legal and administrative process in respect of all acts performed by them in their official capacity.

EUROPEAN COMMUNITIES

By virtue of article 12 (a) of the Protocol, officials and other servants of the Communities shall,

> "subject to the provisions of the treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Communities and, on the other hand, to the jurisdiction of the Court in disputes between the Communities and their officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office."

INTERNATIONAL SUGAR AGREEMENT

See articles 17, 18 and 19 of the headquarters agreement.

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 14, states:

> "Staff members [the Secretary, the Executive Officer and all persons appointed or recruited for full-time employment with the Commission and subject to its staff regulations, other than experts and persons recruited locally or assigned to hourly rates of pay]:
>
> "(a) Shall have (even after they have left the service of the Commission) immunity from jurisdiction in respect of acts done by them in the exercise of their functions, including words written or spoken ...".

NORTH ATLANTIC TREATY ORGANIZATION

1. Article 18 of the Ottawa Agreement stipulates that:

"Officials of the organization agreed upon under article 17 shall:

"(a) Be immune from legal process in respect of words spoken or written and of acts done by them in their official capacity and within the limits of their authority;"

2. Article 22 precises that:

"Privileges and immunities are granted to officials and experts in the interest of the organization and not for the personal benefit of the individuals themselves. The Chairman of the Council Deputies shall have the right and the duty to waive the immunity of any official or insert in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the organization."

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Immunity from legal process is recongnized for officials of OECD "in respect of things done by them in their official capacity" (art. 14 (a) of Supplementary Protocol No. I)

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. La sección II del Convenio de Prerrogativas, Inmunidades y Franquicias celebrado entre el Gobierno de Guatemala y la SIECA regula todo lo concerniente a exenciones y prerrogativas que se reconocen a los funcionarios de la Secretaría Permanente.

2. Respecto a la inmunidad relacionada con los mandamientos judiciales, el artículo VII, literal a), del mencionado Convenio dispone lo siguiente:

"Artículo VII. Los funcionarios y los técnicos contratados a que se refiere el artículo anterior, sea cual fuere su nacionalidad, gozarán dentro del territorio del país de las siguientes prerrogativas e inmunidades:

a) Inmunidad de procesos civiles, laborales y administrativos por cualquier acto ejecutado en cumplimiento de actividades propias de la Secretaría, que será mantenida aun después de terminada su vinculación con la SIECA, salvo que la SIECA renuncie a tal inmunidad;"

3. Es del caso señalar que el Convenio establece dos categorías o rangos de funcionarios y técnicos que desempeñen sus actividades en la Secretaría, en base a la nacionalidad que ellos ostenten. De esta manera, existen dos regímenes especiales en materia de inmunidades y privilegios, dependiendo de si se es nacional de la República de Guatemala o no.

4. Tomando en cuenta lo expresado, los funcionarios y los técnicos que no sean de nacionalidad guatemalteca, además de la inmunidad prescrita en el artículo VII, literal a), transcrito anteriormente, gozan de otra inmunidad consagrada en el artículo VIII, literal a), que literalmente dice:

> "Artículo VIII. Los funcionarios y los técnicos contratados, que no sean de nacionalidad guatemalteca, gozarán dentro del territorio del país de la siguientes prerrogativas e inmunidades:
>
> "a) Inmunidad de arresto personal o detención por actos ejecutados en cumplimiento de actividades propias de la SIECA, salvo que ésta renuncie a tal inmunidad;"

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Seul le Secrétaire général qui jouit en Belgique de privilèges et immunités analogues à ceux accordés à un chef de mission diplomatique jouit également de l'immunité de juridiction. Celle-ci peut le cas échéant être levée par le Comité de ministres (art. 39 du Traité d'union).

Question 56

If the criterion to determine the existence of immunity is to have performed "an official act" or an act "in an official capacity", how broadly are those words used or interpreted? What acts do they actually cover?

Si l'immunité de juridiction est reconnue à un fonctionnaire en vertu du critère de l'"acte officiel" ou de l'acte accompli "dans l'exercice de fonctions officielles", dans quel sens, plus ou moins large, ces expressions sont-elles employées ou interprétées? Quels actes visent-elles au juste?

Si el criterio utilizado para determinar la existencia de inmunidad es el hecho de que se trata de "un acto oficial" o de un acto ejecutado "a título oficial", ¿con qué grado de amplitud se emplean o interpretan tales términos? ¿Cuáles son los actos que abarcan realmente?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Las inmunidades se otorgan exclusivamente en interés de la Junta, según el artículo 15 del Convenio.

AFRICAN CIVIL AVIATION COMMISSION

No problems whatsoever have been encountered so far, accordingly no interpretation of definition was given to the wording.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Il est difficile de répondre en l'absence de toute expérience en ce domaine. Il s'agirait, à titre indicatif, de signatures d'accords/contrats, de déclarations, conférences, articles.

CARIBBEAN COMMUNITY

See question 55. In "an official capacity" means in the performance of official duties i.e. duties the officer was contracted to perform.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the navigation of the Rhine)

Immunité de juridiction en leur qualité officielle et dans la limite de leurs attributions; sont exclues de l'immunité les infractions relatives à la réglementation de la circulation.

COMMONWEALTH SECRETARIAT

Immunity is from suit and legal process in respect of acts or omissions in the course of the performance of "official duties" (see p. 38 of the study). There is no policy as to the definition of this criterion and there has been no occasion calling for its interpretation.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Tous les actes accomplis dans l'exercice de leurs fonctions.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

El criterio entendido es por los actos oficiales que realicen.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The criteria for the application of immunity is the performance of acts "in their official capacity" (see answer 55). These acts include activities connected with the performance of official duties, including travel to and from work, official missions and so forth.

EUROPEAN COMMUNITIES

According to the judgment of the Court of Justice in the case 5/68:

"(a) The immunity from legal proceedings referred to in article 12 (a) of the Protocol on the Privileges and Immunities of the European Communities (art. 11 (a) of the Protocol on the Privileges and Immunities of EAEC) is intended to ensure that the official activity of the Community and of its servants is shielded from examination in the light of any criteria based on the domestic law of member States so that the Community may accomplish its task *in complete independence*.

"(b) The immunity from legal proceedings only covers acts which, by their nature, represent a participation of the person entitled to the immunity in the performance of the tasks of the institution to which he belongs; in this respect there is no necessity to distinguish between the actual exercise of normal duties or those prescribed under the Staff Regulations and an act performed on the occasion of the exercise of those duties if the position is that the act in question serves directly for the accomplishment of the Community task."

INTERNATIONAL SUGAR AGREEMENT

See article 18; the issue of interpretation has never arisen.

INTERNATIONAL WHALING COMMISSION

We have not had occasion to test the interpretation.

NORTH ATLANTIC TREATY ORGANIZATION

It may be said that, in conformity with the international administrative jurisprudence, the Secretary General's power to decide whether these two conditions apply, is, in view of its specific character which necessarily involves relations between the organization and a third party, completely beyond the control of the Administrative Tribunal. (Jurado case, ILO Tribunal)

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

All acts related to the execution of functions.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Hasta el presente no se ha dado ningún caso de aplicación o interpretación de dicho concepto.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Pas de spécification détaillée.

Question 57

What legal controversies, if any, have arisen regarding the immunity of officials in respect of official acts?

L'immunité de juridiction des fonctionnaires pour leurs actes officiels a-t-elle donné lieu à des controverses juridiques et, dans l'affirmative, sur quoi portaient-elles?

¿Ha surgido alguna controversia jurídica en relación con la inmunidad de los funcionarios respecto de la ejecución de actos oficiales?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

See question 56 above.

CARIBBEAN COMMUNITY

None.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

COMMONWEALTH SECRETARIAT

None.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No ha surgido ninguna controversia jurídica en relación con la inmunidad de los funcionarios respecto de la ejecución de actos oficiales.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No legal controversies have arisen regarding the interpretation of the immunity of officials.

EUROPEAN COMMUNITIES

In the same case (5/68) the Court of Justice ruled that

"driving a motor vehicle cannot be covered by immunity from legal proceedings save in the exceptional cases in which this activity cannot be carried out otherwise than under the authority of the Community and by its own servants".

INTERNATIONAL SUGAR AGREEMENT

None.

INTERNATIONAL WHALING COMMISSION

None.

NORTH ATLANTIC TREATY ORGANIZATION

None.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

None.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No ha surgido controversia alguna a este respecto.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 58

Has the organization ever accepted a definition of official acts in a system of domestic law when it might not otherwise have considered an act as one forming part of official duties, e.g., transit to and from duty? Conversely, have State authorities accepted the organization's definition of official acts where it might differ from that established in domestic law?

Est-il arrivé que votre organisation accepte une définition des actes officiels correspondant à celle d'un système de droit national alors qu'elle n'aurait autrement pas considéré un acte comme faisant partie de fonctions officielles, par exemple le fait pour un fonctionnaire de se rendre à son travail ou d'en revenir? Inversement, est-il arrivé que des autorités gouvernementales acceptent une définition des actes officiels différents de celle qui était reconnue par leur droit interne?

¿Ha aceptado la organización una definición de acto oficial en una determinada legislación nacional en casos en que, de otro modo, tal vez no habría considerado que un acto dado formara parte de las tareas de índole oficial, como, por ejemplo, los traslados necesarios para el cumplimiento del servicio? A la inversa, ¿han aceptado las autoridades estatales la definición de actos oficiales formulada por la organización en los casos en que difiera de la establecida en la legislación nacional?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

See question 56 above.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

L'article XV de l'annexe I de la Convention de l'Agence se réfère, en ce qui concerne le Directeur général, aux agents diplomatiques de rang comparable.

CARIBBEAN COMMUNITY

There does not appear to be any divergence of views between the organization and the State on the definition of an "official act".

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Pas de précédent.

COMMONWEALTH SCRETARIAT

The situations postulated have not arisen.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No la ha aceptado.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No problems or disagreements between CMEA and State authorities have arisen out of the determination of the nature of any acts performed by CMEA officials "in their official capacity".

EUROPEAN COMMUNITIES

The concept of official acts of the European Communities is exclusively defined by European Community authorities.

INTERNATIONAL SUGAR AGREEMENT

No, no issues.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

First part of the question: No.

Second part of the question: No individual cases have had to be examined.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No, no definition exists.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No se ha presentado ningún caso que se refiera a las situaciones señaladas en esta pregunta.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 59

EXEMPTION FROM TAXATION

A. On earnings with the organization (salaries and emoluments)

To what degree, if any, are officials of your organization granted by State authorities exemption from taxation over their earnings with the organization?

EXONERATION D'IMPOT

A. Exonération visant les traitements et émoluments versés par l'organisation

Les traitements et émoluments versés par votre organisation à ses fonctionnaires sont-ils exonérés d'impôt et, si c'est le cas, dans quelle mesure?

EXENCION DE TRIBUTACION

A. Respecto de los ingresos obtenidos en la organización (sueldos y emolumentos)

¿Están los funcionarios de su organización exentos por las autoridades estatales de tributación sobre sus ingresos obtenidos en la organización, y, en caso afirmativo, en qué medida?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Sí, plenamente.

AFRICAN CIVIL AVIATION COMMISSION

AFCAC officials, except nationals of Senegal, are fully exempted from taxation over their earnings with the organization.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

L'article XVIII, paragraphe 1 de l'annexe I de la Convention : les traitements et émoluments versés par l'Agence aux membres de son personnel sont exempts d'impôts nationaux sur le revenu, l'Agence ayant institué une "taxe interne". Toutefois les Etats membres se réservent la possibilité de faire état de ces traitements et émoluments pour le calcul du montant de l'impôt à percevoir sur les revenus d'autres sources (règle dite du "taux effectif").

CARIBBEAN COMMUNITY

Officials of the Community are exempt from any form of direct taxation on salaries and remuneration.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Les agents son exonérés de tout impôt sur les traitements et émoluments de la Commission centrale à l'exclusion des pensions et rentes. Cette exonération pour les ressortissants de l'Etat hôte est liée à la fixation d'un impôt interne (art. 31, par. 2).

COMMONWEALTH SECRETARIAT

See paragraphs 32 to 34 (pp. 6 and 7) of the study.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Oui. En vertu de l'article 18 de l'Accord général, "les agents du Conseil de l'Europe : ... b) sont exonérés de tout impôt sur les traitements et émoluments versés par le Conseil de l'Europe;".

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Los funcionarios del Consejo Oleícola gozan en materia de impuestos sobre los sueldos y emolumentos percibidos del Consejo Oleícola Internacional de iguales exenciones que las disfrutadas en iguales condiciones por los funcionarios de las Naciones Unidas.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

1. Under article V, paragraph 2 (c), officials of the Council are, on the territory of each member country of the Council, exempt from direct taxes and duties on the salaries paid to them by the Council.

2. The tax exemptions do not apply to officials who are nationals of the country which is the seat of the organ of the Council in which they are employed (art. V, para. 5).

EUROPEAN COMMUNITIES

1. *By virtue of article 13 of the Protocol:*

"officials and other servants of the Communities shall be liable to a tax for the benefit of the Communities on salaries, wages and emoluments paid to them by the Communities, in accordance with the conditions and procedure laid down by the Council, acting on a proposal from the Commission.

"They shall be exempt from national taxes on salaries, wages and emoluments paid by the Communities."

2. The conditions and procedures indicated in paragraph 1 have been laid down in Council regulation No. 260/68.

INTERNATIONAL SUGAR AGREEMENT

Executive Director and staff are exempted from tax on their salaries under article 20 of the headquarters agreement.

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 16 (1), states: "The staff members of the Commission shall be subject to a tax imposed by the Commission for its benefit on salaries and emoluments paid by the Commission. From the date on which this tax is applied such salaries and emoluments shall be exempt from United Kingdom income tax ...".

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Officials of OECD are granted complete exemption from taxes over their earnings with the organization subject to the following exceptions:

(a) United States of America. No exemption from taxes on official earnings has been granted in respect of citizens of the United States. However, taxes paid are reimbursed to officials by the organization and the United States Government refunds these monies to the organization *pursuant to a* Tax Reimbursement Agreement concluded between OECD and the United States Government in 1976;

(b) Australia. A reservation has been made by the Government of Australia in respect of the granting of exemptions from taxes over official earnings as follows. Exemptions from taxes on salaries and emoluments of officials is granted in respect of service rendered outside Australia and service rendered in Australia "where the official is not a resident of Australia, within the meaning of the law of Australia or where the official is a resident of Australia within the meaning of that law but is not an Australian citizen and came to Australia solely for the purposes of performing duties of the office of the organization held by him";

(c) Canada. Exemption from taxes for officials concerned is granted by the Government of Canada subject to the following reservation: "Exemption from liability for any taxes or duties imposed by any law in Canada should not extend to a Canadian citizen resident or ordinarily resident in Canada";

(d) Japan. In concluding the agreement between the Government of Japan and OECD on privileges and immunities of the organization in Japan, exemptions from taxes over official earnings were made subject to the understanding that this "shall not preclude the Government of Japan and its local authorities to tax salaries and emoluments paid by OECD to the nationals of Japan in accordance with the provisions of the tax laws of Japan".

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Seul le Secrétaire général jouit de cette faveur. En outre, l'indemnité d'expatriation des membres néerlandais et luxembourgeois du secrétariat général n'est en fait pas imposée par l'Etat belge.

Question 60

Does the exemption cover only the salary "stricto sensu" or also other "emoluments" such as certain allowances, benefits, grants, indemnities, compensation or pensions?

L'exonération ne couvre-t-elle que le traitement stricto sensu ou d'autres "émoluments" (allocations, prestations, subventions, indemnités, réparations ou pensions)?

Tal exención, ¿abarca solamente el sueldo en sentido estricto, o también otros "emolumentos", como ciertas prestaciones, beneficios, subsidios, indemnizaciones, compensaciones o pensiones?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Abarca "sueldos y emolumentos".

AFRICAN CIVIL AVIATION COMMISSION

The exemption covers also all emoluments.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Emoluments.

CARIBBEAN COMMUNITY

The exemption also covers allowances paid by the Community.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the navigation of the Rhine)

L'exonération couvre le traitement "largo sensu".

COMMONWEALTH SECRETARIAT

As under 59 above.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

L'article 18 de l'Accord général vise l'exonération sur les traitements et émoluments versés par l'organisation.

INTERNATIONAL SUGAR AGREEMENT

"Salaries and emoluments", which covers all payments we make to the staff, including payments from the staff provident fund upon retirement or other separation. Pensions are not covered, but we do not have pensions.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The exemption from taxation accorded to officials of CMEA covers not only their salary "stricto sensu" but also all forms of allowances, benefits, bonuses and so forth.

EUROPEAN COMMUNITIES

See under question 59.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Esta exención se entiende solamente sobre los emolumentos.

INTERNATIONAL WHALING COMMISSION

Article 16:

"(1) ... but the Government shall retain the right to take these salaries and emoluments into account for the purpose of assessing the amount of taxation to be applied to income from other sources.

"(2) In the event that the Commission operates a system for the payment of pensions and annuities to its former staff members, the provisions of paragraph (1) of this article shall not apply to such pensions and annuities".

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The exemption from taxes for official earnings covers all salaries and emoluments paid by the organization to its officials. On the other hand, monies paid out to retired officials under the pension scheme of the organization are subject to national taxes; however, pursuant to article 42 of the Pension Scheme Rules adopted by the OECD Council the recipient of a pension is entitled to "the adjustment applying to the member country of the organization in which the pension and adjustment relating thereto are chargeable to income tax under the tax legislation in force in that country. The adjustment shall equal 50 per cent of the amount by which the recipient's pension would theoretically need to be increased were the balance remaining after deduction of the amount of national income tax or taxes on the total to correspond to the amount of the pension calculated in accordance with [the Pension Scheme] Rules."

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

La exención abarca también a los emolumentos e indemnizaciones pagadas por la SIECA, pero beneficia únicamente a los funcionarios o técnicos contratados que no sean de nacionalidad guatemalteca (artículo VII, literal c)): "Los funcionarios y los técnicos contratados, que no sean de nacionalidad guatemalteca, gozarán dentro del territorio del país de las siguientes prerrogativas e inmunidades: ... c) Exención de todo impuesto directo sobre sueldos, emolumentos e indemnizaciones pagas por la SIECA;".

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

L'exemption applicable au Secrétaire général couvre la salaire "stricto sensu". La pension du Secrétaire général est toutefois soumise au régime fiscal ordinaire.

Question 61

What particular taxes (e.g. personal income taxes, social security taxes including contributions to old age and health schemes, church and local taxes, fees for children's education) have been included under the exemption from taxation over the earnings with the organization?

Quels prélèvements fiscaux particuliers (par exemple l'impôt sur le revenu personnel, les prélèvements de sécurité sociale, y compris les cotisations aux plans d'assurance vieillesse et maladie, les contributions cultuelles et taxes locales, les droits de scolarité) sont compris dans les exonérations d'impôt en ce qui concerne les traitements et émoluments versés par votre organisation?

¿Qué impuestos en particular (por ejemplo, impuestos sobre la renta personal, o bien impuestos de seguridad social, incluidas las contribuciones a los seguros de vejez y de enfermedad, los impuestos especiales y locales y las tarifas por la educación de los hijos) han sido incluidos en la exención de tributación sobre los ingresos obtenidos en la organización?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Se menciona en particular el impuesto sobre la renta.

AFRICAN CIVIL AVIATION COMMISSION

All direct taxes are included (see para. (b) of article 7 of the headquarters agreement).

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Seulement l'impôt sur le revenu.

CARIBBEAN COMMUNITY

All taxes referred to.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Néant.

COMMONWEALTH SECRETARIAT

See question 59.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Seul l'impôt direct sur les traitements et émoluments versés par l'organisation est visé par l'exonération.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

En la exención de tributación sobre los ingresos obtenidos de la organización solamente se ha incluido el impuesto sobre la renta de las personas físicas.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The exemption from taxation covers all direct taxes and duties on salaries, including income tax, social insurance taxes, local and other taxes.

EUROPEAN COMMUNITIES

1. According to the judgement of the Court of Justice in the Case 6/60:

"The Protocol on the Privileges and Immunities of ECSC prohibits any measure by a member State imposing on an official of the Community any taxation, whether direct or indirect, which is based in whole or in part on the payment of the salary and emoluments to that official by the Community.

"Consequently the taking into account of this remuneration for the calculation of the rate applicable to other income of that person is also prohibited.

"The taking into account of this remuneration for the purpose of calculating the rate applicable to the income of the spouse of an official of the ECSC where the national legislation applicable provides for assessment on the joint income of the spouses is likewise prohibited."

2. The Court also ruled, in the Case 7/74, that

"(a) The second paragraph of article 13 of the Protocol on the Privileges and Immunities of the European Communities applies to the survivors' pension granted under the Staff Regulations of officials and other servants of the Communities to the widow of an official or other servant.

"(b) Since death duties are levied once only on an estate at the time of transmission, in so far as no discrimination is made between persons entitled under officials or servants of the Communities, and other taxpayers, they do not constitute 'national taxes on salaries, wages and emoluments paid by the Communities' mentioned in the second paragraph of article 13 of the Protocol on the Privileges and Immunities."

INTERNATIONAL SUGAR AGREEMENT

Personal income taxes on salaries and emoluments paid by ISO, social security of personnel not permanently residing in the United Kingdom.

INTERNATIONAL WHALING COMMISSION

Only personal income tax is included.

NORTH ATLANTIC TREATY ORGANIZATION

1. Article 19 of the Ottawa Agreement stipulates:

"Officials of the organization agreed under article 17 shall be exempt from taxation on the salaries and emoluments paid to them by the organization in their capacity as such officials. Any member State may, however, conclude an arrangement with the Council acting on behalf of the organization whereby such member State will employ and assign to the organization all of its nationals (except, if such member State so desires, any not ordinarily resident within its territory) who are to serve on the international staff of the organization and pay the salaries and emoluments of such persons from its own funds at a scale fixed by it. The salaries and emoluments so paid may be taxed by such member State but shall be exempt from taxation by any other member State. If such an arrangement is entered into by any member State and is subsequently modified or terminated, member States shall no longer be bound under the first sentence of this article to exempt from taxation the salaries and emoluments paid to their nationals."

2. Thus agreements have been concluded with two member States whereby these member States can employ and assign to NATO nationals who are to serve on the international staff, and will pay the salaries and emoluments of such persons from its own funds, on a scale fixed by it, and may tax salaries and emoluments so paid.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Only personal income taxes are included under the exemption from taxation over earnings with the organization.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. Exención de todo impuesto directo sobre sueldos, emolumentos e indemnizaciones pagadas por la SIECA, para los funcionarios y técnicos que no sean de nacionalidad guatemalteca.

2. Exención de cualquier impuesto directo sobre rentas procedentes de fuera de Guatemala, para los funcionarios y técnicos no guatemaltecos.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Voir réponse à la question 60.

Question 62

Have any questions arisen as to the meaning of the term "exemption from taxation" (e.g. exemption from filing a statement of earnings (income tax return), from including in the statement the exempt earnings from the organization, from including such earnings in the base for calculating the tax rate applicable to non-exempt income)?

Le sens à donner à l'expression "exonération d'impôt" a-t-il suscité des problèmes (par exemple, dispense d'établir une déclaration de revenu ou d'y inclure les revenus exonérés reçus de l'organisation, ou exclusion desdits revenus aux fins du calcul du taux d'imposition applicable aux revenus non exonérés)?

¿A surgido algún interrogante acerca del significado del término "exención de tributación" (por ejemplo, exención de presentar una declaración de ingresos (declaración del impuesto sobre la renta), de hacer constar en la declaración los ingresos exentos de impuestos obtenidos en la organización o de incluir tales ingresos en la base para calcular el tipo impositivo aplicable a los ingresos no exentos)?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No question has ever arisen.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Le membre du personnel joint à sa déclaration de revenu une attestation délivrée par l'Agence se référant à l'article XVIII de l'annexe I de la Convention. Lorsque le membre du personnel a des revenus d'autres sources que l'Agence, il porte dans sa déclaration de revenu le montant du traitement réellement perçu de l'Agence (montant de la taxe interne exclu - de même que la participation au Fonds de prévoyance).

CARIBBEAN COMMUNITY

No.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

En ce qui concerne les ressortissants de l'Etat hôte, les revenus du conjoint sont assimilés aux revenus autres que ceux versés à l'agent par la Commission et qui devront être pris en compte pour l'application du taux effectif [art. 31 2)]. Les revenus soumis à l'impôt interne sont ainsi mentionnés, sur la déclaration fiscale, parallèlement aux revenus non exonérés.

COMMONWEALTH SECRETARIAT

See question 59 above.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Solamente se hace constar en la declaración que el funcionario está exento de presentar la declaración de emolumentos de conformidad con lo dispuesto en el convenio de sede.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No questions have arisen as to the meaning of the term "exemption from taxation".

EUROPEAN COMMUNITIES

See question 61.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

In this field two rather well-known judgements have been passed.

(a) In 1962, the Belgian Cour de Cassation has decided that any emoluments of NATO civilian staff which are exempt from income tax should be excluded from the computation of total income for the purpose of fixation of tax rates due;

(b) In 1976, the Hoge Raad (High Council) of the Netherlands decided that a NATO invalidity pension cannot be taken into account for the purpose of fixation of tax rates due.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Some questions have arisen as to the meaning of the term "exemption from taxes". Officials employed in France file income tax returns but official income is entered as nil. Although French law provides for the inclusion of official income in the base for calculating the rate applicable to non-exempt income, the French authorities, taking into account the fact that the OECD Convention came into force prior to the promulgation of that law and given the provisions of Supplementary Protocol No. 2 to the OECD Convention, have taken measures whereby official earnings of OECD officials are not taken into account in the calculation of the rate applicable to non-exempt income. The question of the way of taking into account non-OECD income in refunding United States income taxes paid by officials is under consideration in the framework of talks concerning a possible new tax reimbursement agreement with the United States (see question 59).

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. Hasta el momento no ha surgido ningún interrogante o problema.

2. En materia tributaria las leyes de Guatemala prescriben lo siguiente:

"DECRETO LEY NUMERO 229
(Ley del impuesto sobre la renta)

...

"Artículo 2°. Excepciones. No están afectos a la presente Ley:

...

"h) Las personas que por ley o por contrato aprobado mediante ley, gocen de esa exención;

...

"ACUERDO NUMERO 16/72
"La Directora General de Rentas Internas
Considerando:

...

"Artículo 6°. Constituyen personas jurídicas no afectas total o parcialmente a la cuota anual de sociedades:

...

"h) Las personas que por ley o por contrato aprobado mediante ley, gocen de exención del impuesto sobre la renta, en la misma proporción en que lo estén para el citado impuesto;

"DECRETO LEY NUMERO 229
"(Ley del impuesto sobre la renta)

"Artículo 6°. 'Ingresos no afectos. No están afectos al impuesto sobre la renta, los ingresos que correspondan a:

...

"n) (Reformado por el artículo 3° del Decreto 96-70 del Congreso de la República), así: "Emolumentos que organismos internacionales, a los cuales esté adherida o integre la República, paguen a sus funcionarios o técnicos que vengan al país, para prestar servicios en el mismo por cuenta de dichos organismos".

"No están comprendidos en esta disposición los emolumentos que tales organismos paguen a su personal, cuando éste haya residido en la República, por más de seis meses antes de su contratación y en todo caso, los de guatemaltecos que presten sus servicios en el país. Respecto a lo dispuesto en el presente inciso y en el inciso m) anterior queda a salvo lo establecido en convenios internacionales vigentes.

"ACUERDO GUBERNATIVO
"REGLAMENTO DE LA LEY DEL IMPUESTO SOBRE LA RENTA

...

"Artículo 5°. Alcance de la exención legal y contractual. Las personas a que se refiere el inciso h) del artículo 2 de la Ley, deben registrarse en la Dirección General del Impuesto sobre la Renta, acompañando los documentos fehacientes en que conste que gozan de esa exención. Esta exención no las exime en ningún caso, del cumplimiento de las demás disposiciones de la Ley del Impuesto sobre la Renta, y de la ley que las exonera y apruebe el respectivo contrato.

...

"DECRETO DEL CONGRESO DE LA REPUBLICA DE GUATEMALA NUMERO 106-71
"LEY DEL MINISTERIO DE FINANZAS PUBLICAS

"Artículo 4°. Funciones y atribuciones. Compete al Ministerio de Finanzas Públicas la realización de las funciones y atribuciones siguientes:

...

"11) Tramitar y resolver en forma exclusiva las solicitudes de exoneración de impuestos, tasas y demás tributos fiscales otorgados conforme disposiciones legales, debiendo en su caso establecer y mantener los registros correspondientes a tales operaciones;

"ACUERDO GUBERNATIVO NUMERO M. DE F.P. 5-72 DEL 16 DE FEBRERO DE 1972
"REGLAMENTO DE LA LEY DEL MINISTERIO DE FINANZAS PUBLICAS

...

"Artículo 9°. Compete al Ministerio de Finanzas Públicas la realización de la funciones y atribuciones siguientes:

...

"11) Tramitar y resolver en forma exclusiva las solicitudes de exoneración de impuestos, tasas y demás tributos fiscales otorgados conforme disposiciones legales, debiendo en su caso establecer y mantener los registros correspondientes a tales operaciones;

...

"Artículo 10°. Para los efectos de lo ordenado en el artículo 4° inciso 11) del Decreto 106-71 del Congreso de la República, en cuanto a la resolución de los expedientes de exoneración de impuestos, tasas y demás tributos fiscales, las diligencias de tal naturaleza que por leyes especiales se siguen ante otros Ministerios de Estado o sus dependencias, deberán ser cursadas, al agotarse el trámite, al Ministerio de Finanzas Públicas para que éste dicte la resolución que proceda en cada caso.

"Artículo 38°. Salvo aquellas funciones que por su carácter especial o de orden jerárquico únicamente el Ministerio de Finanzas puede realizarlas, serán de la competencia de la Dirección General de Aduanas, de conformidad con lo que establece el Artículo 9° del Decreto 106-72 del Congreso de la República,

/...

al entrar en vigor el presente Reglamento, las funciones y atribuciones que por leyes y reglamento corresponden actualmente al Ministerio de Finanzas Públicas en materia de: solvencia se impuestos y demás derechos aduaneros; prórrogas para la permanencia en el país de los vehículos de propiedad de turistas; importaciones temporales y reexportaciones; franquicias de impuestos de aduanas; así como las demás que en casos especiales determine el Ministerio de Finanzas.

"REGLAMENTO INTERNO DE LA DIRECCION GENERAL DE RENTAS INTERNAS

"Palacio Nacional: Guatemala, 13 de abril de 1972

"Con fundamento en el artículo 58 del Reglamento de la Ley del Ministerio de Finanzas Públicas, contenido en el Acuerdo Gubernativo de fecha 16 de febrero de 1972.

...

"Artículo 27. El Departamento de Control de Contribuyentes, está integrado así: Sección de Registro de Contribuyentes; Sección de Control de Contribuyentes; y Sección de Contribuyentes Departamentales.

...

"Artículo 29. Las principales atribuciones de la Sección de Control de Contribuyentes, son las siguientes:

...

"5) Llevar el registro y control de exoneraciones e incentivos fiscales; y los demás que procedan;

DECRETO DEL CONGRESO DE LA REPUBLICA DE GUATEMALA NUMERO 84-74

"(Ley para Combatir la Evasión Tributaria)

"Artículo 1°. Toda persona que desee salir del país por la vía aérea o marítima deberá presentar a las autoridades de Migración, constancia de haber rendido su declaración jurada del Impuesto sobre la Renta o de que no está afecta a tal impuesto.

"Se exceptúan de esta obligación:

"1. Los miembros extranjeros del Cuerpo Diplomático y de Misiones Internacionales ..."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

/...

Question 63

Apart from pension contributions, are the salaries and emoluments of officials subject to some other kind of internal deduction by the organization itself (such as, for instance, "staff assessment")? If so, please elaborate on the nature and amount of the deduction.

En dehors des cotisations de retraite, votre organisation procède-t-elle elle-même à un autre type de déduction interne sur les traitements et émoluments versés aux fonctionnaires (contributions du personnel par exemple)? Dans l'affirmative, veuillez donner des détails sur la nature et le montant de la déduction en question.

Aparte de las contribuciones para el plan de pensiones, ¿están sometidos los sueldos y emolumentos de los funcionarios a algún otro tipo de deducción interna por parte de la propia organización (como, por ejemplo, "las contribuciones del personal")? En caso afirmativo, indique con detalle la naturaleza y la cantidad de la deducción.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Unicamente la deducción por aportes personales para el Fondo de Previsión (7%) y el seguro médico de la organización en porcentajes variables.

AFRICAN CIVIL AVIATION COMMISSION

Salaries are subject to staff assessment as AFCAC follows the ICAO (United Nations) system.

NORTH ATLANTIC TREATY ORGANIZATION

The use of Staff Center, facilities (swimming pool, tennis courts, etc.) is subject to payment of a financial contribution.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The salaries and emoluments of officials are not subject to an internal deduction by the organization itself.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Sólo están sometidos a una deducción adicional del 2,5% sobre el sueldo mensual, como una contribución para el seguro médico del personal. Un otro 2.5% es satisfecho por la organización.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Néant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There are no internal deductions from or levies on salaries in CMEA.

EUROPEAN COMMUNITIES

Apart from pension contributions, the salaries of the European Community officials are subjected to the Communities' tax, to the health system contribution (art. 73 of the Staff Regulation) and to the crisis levy (Council regulation No. 3821/81).

INTERNATIONAL SUGAR AGREEMENT

Yes, staff salaries and emoluments are "subject to a tax imposed by the organization for its benefit" and this is recognized in article 20 of the headquarters agreement. ISO follows the United Nations tables in respect of grades, salaries and this "tax", i.e. gross and net salaries, as well as post ajustments.

INTERNATIONAL WHALING COMMISSION

Gross salaries of staff members are subject to a staff assessment. The nature and amount of the deduction conform to those pertaining to the appropriate United Nations salary scales in the case of the Secretary and Executive Officer and to those utilized by the International Maritime Organization for General Services grades for all other IWC staff, except that in all cases amounts are expressed in sterling and set at a fixed level annually.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

L'Agence a établi une "taxe interne".

CARIBBEAN COMMUNITY

The salaries and emoluments are subject only to deductions for the contributory health insurance scheme (if a staff member is a member of the scheme).

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

COMMONWEALTH SECRETARIAT

See question 59 above.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

Question 64

B. Other taxation

Are there other taxes, in addition to those over earnings with the organization, from which officials or the organizations are exempt?

B. Autres impôts

Mis à part les impôts afférents aux traitements versés par votre organisation, existe-t-il d'autres impôts dont les fonctionnaires ou les organisations sont exonérés?

B. Otras tributaciones

Además de los impuestos sobre los ingresos obtenidos en la organización, ¿existe algún otro tipo de impuesto del que estén exentos los funcionarios de ésta?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Las que graven la introducción de muebles y efectos personales.

AFRICAN CIVIL AVIATION COMMISSION

See question 60 above.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Le Directeur général est exempté du paiement de certaines redevances : redevance pour détention de poste TV, taxe foncière sur sa résidence principale. En outre, il bénéficie d'un contingent d'alcool, tabac, essence détaxé ainsi que le personnel de haut niveau.

CARIBBEAN COMMUNITY

Officials of the Community who are non-nationals of the host country are exempt from any form of direct taxation on income derived from sources outside of the host country.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

La taxe d'habitation pour les non-ressortissants de l'Etat hôte.

COMMONWEALTH SECRETARIAT

As under question 59 above.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Les agents non français dans certaines conditions sont exemptés d'un certain nombre de taxes comme, par exemple, la taxe d'habitation sur leur résidence principale.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No existen otros impuestos de los que estén exentos los funcionarios de la organización.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

See answer 59. There is no provision for other exemptions from taxation, but there are also no special taxes applied to officials who are exempt from taxation.

EUROPEAN COMMUNITIES

There are no other taxes, in addition to those over earnings with the Communities, from which officials of the Communities are exempt.

INTERNATIONAL SUGAR AGREEMENT

Only the Executive Director if not a United Kingdom citizen (see art. 17).

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

1. In Belgium, in addition to the privileges and immunities which they enjoy in respect of income tax, officials having diplomatic status are also exempted, in particular from:

(a) Road tax on motor vehicles of which they are the owners;

(b) Radio and television licences;

(c) Municipal and provincial rates, taxes or dues except those which are no more than charges for public utility services.

2. Officials not enjoying diplomatic status may register motor vehicles of which they are the owners in a special "VN" series. This registration however does not carry with it exemption from the road tax levied on motor vehicles.

3. These officials will be exempt from taxes on furniture, domestic staff, dogs, horses and non-powered vehicles.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

There are a limited number of other taxes in addition to those over official earnings, from which some officials of the organization are exempt. Officials of the organization, other than French nationals, are entitled to purchase motor cars tax free and are not required to pay the yearly road tax. Certain categories of officials have been granted an exemption in respect of the "tax d'habitation" on their principal residence.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. A tenor de lo dispuesto en el Convenio de Prerrogativas, Inmunidades y Franquicias, los funcionarios o los técnicos contratados por la SIECA están exentos del pago de los impuestos siguientes:

a) Exención de todo gravamen nacional sobre el valor de los pasajes nacionales o internacionales que utilicen en ejercicio de sus funciones;

b) Exención por la extensión de los visados de entrada y salida del país, en el caso de extranjeros;

c) Exención de cualquier impuesto directo sobre rentas procedentes de fuera de Guatemala, para los funcionarios y los técnicos no guatemaltecos;

d) Exención de cualquier impuesto por las placas de circulación que se conceden a los vehículos de las misiones internacionales;

e) Exención de los derechos consulares, aduaneros y de otros gravámenes, con ocasión de la importación del menaje de casa y de un vehículo, para los funcionarios y los técnicos no guatemaltecos.

2. Las exenciones mencionadas se fundan en las disposiciones del Convenio de Prerrogativas, Inmunidades y Franquicias que se citan a continuación:

"Artículo VII. Los funcionarios y técnicos contratados por la SIECA, sea cual fuere su nacionalidad, gozarán de las siguientes prerrogativas:

c) Con excepción de los impuestos establecidos para el fomento del turismo, exención de todo gravamen nacional sobre el valor de los pasajes nacionales o internacionales que utilicen en ejercicio de sus funciones, así como para la extensión de los visados de entrada y salido del país, en el caso de extranjeros.

Artículo IX. Los funcionarios y los técnicos de la SIECA, que no sean de nacionalidad guatemalteca, estarán exentos además de cualquier impuesto directo sobre rentas procedentes de fuera de Guatemala.

Artículo X. Los funcionarios de la Secretaría, que no sean de nacionalidad guatemalteca, así como los técnicos extranjeros contratados por la Secretaría con fines especiales para prestar servicios en el país, por más de un año, podrán importar, dentro de los seis meses siguientes a su ingreso a Guatemala, con ocasión de tomar posesión de su cargo por primera vez, libres de derechos consulares, aduaneros y de otros gravámenes, en uno o varios embarques, sus muebles y efectos, incluso un vehículo para uso personal. El beneficio de libre importación en virtud del presente Convenio origina en su oportunidad el beneficio de la consiguiente libre exportación.

La transferencia de los vehículos a que se refiere el párrafo anterior, estará sujeta a lo que al respecto dispone el artículo 2° del Decreto Legislativo 1166 y salvo el caso de destrucción, únicamente podrán ser repuestos después de tres años de su ingreso en franquicia.

Artículo XII. Al personal de la Secretaría comprendido dentro de los beneficios a que se contrae el presente Convenio, le será proporcionado un carnet especial o tarjeta de identidad, que certifique su vinculación con la SIECA y que goza de todas la prerrogativas e inmunidades reconocidas en este Convenio. A dicho personal, así como a la SIECA, le serán proporcionadas, igualmente, libres de cualquier impuesto, las placas de circulación que se conceden a los vehículos de la misiones internacionales, previo cumplimiento de los requisitos que para el efecto se exijan a las misiones diplomáticas y a sus funcionarios."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

/...

Question 65

Do officials pay taxes on "outside income", value added taxes, sales taxes, real property taxes, capital gains taxes? Other taxes?

Les fonctionnaires paient-ils l'impôt sur les "revenus extérieurs", la taxe à la valeur ajoutée, la taxe sur les ventes, l'impôt foncier, l'impôt sur les plus-values? D'autres taxes?

¿Pagan los funcionarios impuestos sobre "ingresos externos", sobre el valor agregado sobre las ventas, sobre los bienes raíces o sobre las plusvalías, o algún otro tipo de impuesto?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

La exención comprende únicamente los impuestos a que se refieren los puntos 59 y éste.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Compte tenu de ce qui précède, les membres du personnel sont soumis aux taxes normalement exigibles.

CARIBBEAN COMMUNITY

Officials do not pay any other taxes (except capital gains tax).

COMMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui.

COMMONWEALTH SECRETARIAT

As under question 59 above.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Néant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Sí pagan los "impuestos externos".

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

See answers 59 and 64. Officials of CMEA who are exempt from direct taxes and duties on the salaries paid to them by the Council do not formally have other tax advantages; they are subject, in particular, to the relevant provisions of the agreements on the elimination of double taxation on the incomes and property of natural persons (see, for example, the multilateral agreement of 27 May 1977 on the subject).

EUROPEAN COMMUNITIES

Officials of the European Communities pay taxes on "outside income", value added taxes, sales taxes, real property taxes, capital gains taxes, etc.

INTERNATIONAL SUGAR AGREEMENT

Yes, except the Executive Director who does not to the extent that diplomats do not (notably, like the organization, he does not pay the non-service element of municipal rates).

INTERNATIONAL WHALING COMMISSION

Yes, all other taxes.

NORTH ATLANTIC TREATY ORGANIZATION

1. According to article 19, the tax exemption is subordinated to the double condition that it is applicable on salaries and emoluments paid by the organization, to officials of the organization in their capacity as such officials.

2. The terms "salaries and emoluments" cover the basic salary and different allowances provided for in the Civilian Personnel Regulations.

3. By basic salary shall be understood the salary applicable to the grade and current step of the member of the staff. It includes increments but excludes all allowances.

Members of the staff who fulfil the conditions of eligibility shall receive the appropriate allowances. These allowances at present are:

(a) Installation allowance;

(b) Cost-of-living allowance;

(c) Expatriation allowance;

(d) Family allowances;

(e) Education allowance;

(f) Extra duties allowance;

(g) Rent allowance;

(h) Language allowance.

4. The second sentence of article 19 however offers the possibility to member States to make exceptions to the principle of tax exemption.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Yes.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. De conformidad con el Convenio de Prerrogativas, Inmunidades y Privilegios, artículo IX, "los funcionarios y los técnicos de la SIECA, que no sean de nacionalidad guatemalteca, estarán exentos además de cualquier impuesto directo sobre rentas procedentes de fuera de Guatemala.

2. Las exenciones conferidas a los funcionarios y a los técnicos contratados por la SIECA no comprenden la de los pagos que deban efectuarse en concepto de impuestos de valor agregado sobre las ventas, sobre bienes raíces o sobre la plusvalías, ni sobre las demás transacciones civiles o comerciales, de carácter estrictamente privadas.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Les fonctionnaires sont soumis intégralement à la législation fiscale belge.

Question 66

EXEMPTION FROM IMMIGRATION RESTRICTIONS AND ALIEN REGISTRATION

What provisions regulate the entry and permanence of officials of the organization into the host country and how are they applied in practice?

EXEMPTION DES MESURES RESTRICTIVES RELATIVES A L'IMMIGRATION ET DES FORMALITES D'ENREGISTREMENT DES ETRANGERS

Quelles sont les dispositions qui régissent l'admission et le séjour des fonctionnaires de votre organisation dans le pays hôte et comment sont-elles appliquées dans la pratique?

EXENCION DE LAS RESTRICCIONES IMPUESTAS A LA INMIGRACION Y DEL REGISTRO DE EXTRANJEROS

¿Qué disposiciones regulan la entrada y la permanencia de funcionarios de la organización en el país huésped, y cómo se aplican en la práctica?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

El Convenio, literal c) del artículo 14. Se aplica mediante aviso de ingreso al Ministerio de Relaciones Exteriores y otorgamiento de una tarjeta de identidad por parte de éste.

AFRICAN CIVIL AVIATION COMMISSION

Provisions of article 3, paragraph (2) and article 7, paragraph 1 (d). In practice AFCAC employees as well as their spouses and family members are exempted from immigration restrictions and from the formality of registration of foreigners in Senegal.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. Les membres du personnel jouissent, avec les membres de leur famille vivant à leur foyer, des mêmes exceptions aux dispositions limitant l'immigration et réglant l'enregistrement des étrangers que celles généralement reconnues aux membres du personnel des organisations internationales (art. XVI.d. de l'annexe I de la Convention).

2. A ceci peuvent s'ajouter les disposition pertinentes des accords d'établissement, certaine dispositions d'accords conclus avec des Etats non membres.

3. Les membres du personnel n'ont pas besoin de permis de séjour, ni de permis de travail. Comme tout résident ils sont tenus à une déclaration de résidence auprès de la mairie de leur domicile.

4. Dans le cas d'assimilés diplomatiques, l'Agence notifie au Ministère des relations extérieures les renseignements pertinents.

5. L'Agence communique régulièrement aux délégations de ses Etats membres la liste de son personnel (répartition par grade et par nationalité).

CARIBBEAN COMMUNITY

Under the headquarters agreement officials and members of their families forming part of their households are exempt from registration as aliens and immigration restrictions.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Article 24 c), e) et f) de l'accord de siège.

COMMONWEALTH SECRETARIAT

Normal administrative arrangements involving notification to the United Kingdom authorities of the arrival of officials, and their term of office, and the ready grant of exemption.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

En vertu de l'article 18 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe "les agents du Conseil de l'Europe ... c) ne sont pas soumis, non plus que leurs conjoints et les membres de leur famille vivant à leur charge, aux dispositions limitant l'immigration et formalités d'enregistrement des étrangers;". Des cartes d'identité spéciales leur sont délivrées par les autorités françaises.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Los funcionarios del Consejo no están sometidos, como tampoco sus cónyuges e hijos menores de veintiún años que dependan de ellos, a las medidas restrictivas en materia de inmigración, ni a las formalidades de policía aplicables a los extranjeros, siempre y cuando estén provistos de la documentación expedida por el Ministerio de Asuntos Exteriores.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

1. Under article V, paragraph 2 (d), of the 1959 convention, officials of the Council on the territory of each member country of the Council have the right to the same customs facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions in the country concerned.

2. Under article VIII of the 1961 agreement between CMEA and the Government of the USSR, the competent organs of the USSR extend the necessary co-operation to persons entering and leaving the USSR (the country in which the headquarters of the CMEA secretariat is situated) on Council business. The Ministry of Foreign Affairs of the USSR issues to staff members of CMEA who are not USSR citizens cards which serve to identify the holder in relation to all USSR authorities.

3. These officials, like the members of diplomatic missions, are not registered as immigrants or foreigners.

EUROPEAN COMMUNITIES

Article 12 (b) of the Protocol provides as follows:

> "In the territory of each member State and whatever their nationality, officials and other servants of the Communities shall, together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens."

INTERNATIONAL SUGAR AGREEMENT

Exemption from all measures restricting immigration (see art. 18 (d) and (f); no problems in practice.

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 14 (d), states: "[Staff members] shall enjoy exemption from all measures restricting immigration ...".

No occasion so far to apply in practice.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Pursuant to article 14 (c) of Supplementary Protocol No. I, officials are immune, together with their spouses and dependent relatives, from immigration restrictions and alien registration. Officials and their families obtain special identity cards from the French authorities.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Esta materia se encuentra normada por el Convenio de Prerrogativas, Inmunidades y Franquicias, en los artículos V; VII, inciso b); VIII, inciso d) y XII:

"Artículo V. El Gobierno concede a los funcionarios internacionales de la Secretaría las inmunidades, exenciones y prerrogativas que adelante se establecen; para tal efecto el Secretario General de la SIECA, hará del conocimiento del Ministerio de Relaciones Exteriores, periódicamente, por lo menos cada seis meses, los nombres de las personas que presten sus servicios en dicha Institución que tengan categoría de funcionarios internacionales para su aprobación.

...

Artículo VII. Los funcionarios y los técnicos contratados a que se refiere el artículo anterior, sea cual fuere su nacionalidad, gozarán dentro del territorio del país de las siguientes prerrogativas e inmunidades:

...

b) Libertad de tránsito en el territorio del país, así como para entrar o salir del mismo;

...

Artículo VIII. Los funcionarios y los técnicos contratados, que no sean de nacionalidad guatemalteca, gozarán dentro del territorio del país de las siguientes prerrogativas e inmunidades:

...

d) Exoneración de toda restricción sobre inmigración y registro de extranjeros ...

Artículo XII. Al personal de la Secretaría comprendido dentro de los beneficios a que se contrae el presente Convenio, le será proporcionado un carnet especial o tarjeta de identidad, que certifique su vinculación con la SIECA y que goza de todas las prerrogativas e inmunidades reconocidas en este Convenio ..."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

La législation belge est intégralement d'application.

Question 67

Do they fully apply to the officials, their spouses and all relatives dependent on them?

Ces dispositions s'appliquent-elles sans réserve aux fonctionnaires, à leurs conjoints et à tous les membres de leur famille vivant à leur charge?

¿Se aplican tales disposiciones plenamente a los funcionarios, a sus cónyuges y a todos los parientes que tienen a su cargo?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

El privilegio ampara también "a los miembros de sus familias que dependan de ellos y habiten en sus casas".

AFRICAN CIVIL AVIATION COMMISSION

Yes.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Oui.

CARIBBEAN COMMUNITY

Yes.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui.

COMMONWEALTH SECRETARIAT

Yes.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Oui.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Estas disposiciones se aplican a los funcionarios del Consejo, a sus cónyuges e hijos.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The relevant provisions apply to the officials themselves, their spouses, children and relatives dependent on them.

EUROPEAN COMMUNITIES

See under question 66.

INTERNATIONAL SUGAR AGREEMENT

To all staff members "and members of their families forming part of their households".

INTERNATIONAL WHALING COMMISSION

Yes. The headquarters agreement, article 14 (d) continues: "... members of their [staff members] families forming part of their households shall enjoy the same facilities".

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Yes.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

A este respecto, el Convenio de Prerrogativas, Inmunidades y Franquicias estatuye lo siguiente:

"Artículo VI. Las prerrogativas e inmunidades que contempla el presente Convenio, se aplicarán a los funcionarios de la Secretaría y a sus familiares dependientes, así como a los técnicos que, sin formar parte del personal de la SIECA, sean contratados por ésta."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Cette même législation ne s'applique qu'aux fonctionnaires de l'Union. Les membres de leur famille peuvent avoir un régime différent.

Question 68

What problems, if any, have arisen in this connection?

Quels problèmes se sont éventuellement posés à cet égard?

¿Qué problemas, si los hubiere, han surgido en esa esfera?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Ninguno.

AFRICAN CIVIL AVIATION COMMISSION

No problem has ever arisen.

CARIBBEAN COMMUNITY

No problems have arisen to date in this connection.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Aucun.

COMMONWEALTH SECRETARIAT

None.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No ha surgido en esta esfera ningún problema.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No problems have arisen in this connection.

EUROPEAN COMMUNITIES

No particular problems have arisen in this connection.

INTERNATIONAL SUGAR AGREEMENT

None.

INTERNATIONAL WHALING COMMISSION

None.

NORTH ATLANTIC TREATY ORGANIZATION

1. In conformity with articles 17 and 18 (b) of the Ottawa Agreement, officials of the organization shall:

> "(b) Be granted, together with their spouses and members of their immediate families residing with and dependent on them, the same immunities from immigration restrictions and aliens' registration as is accorded to diplomatic personnel of comparable rank;".

2. No particular problems have arisen in this field. In view of a correct application of the Ottawa Agreement provisions of national legislations according to which e.g. nationals of a given member country will only be able to enter the territory when in possession of a valid visa do not apply to holders of an official passport such as NATO officials.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

None.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Ninguno.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Pas de problèmes jusqu'à ce jour.

Question 69

EXEMPTION OF DUTIES IN IMPORTATION OF FURNITURE AND OTHER PERSONAL EFFECTS

Are officials of your organization granted exemption of duties in importation of furniture and other personal effects?

EXONERATION DES DROITS A L'IMPORTATION POUR LE MOBILIER ET AUTRES EFFETS PERSONNELS

Les fonctionnaires de votre organisation sont-ils exonérés des droits à l'importation pour leur mobilier et leurs autres effets personnels?

EXENCION DE DERECHOS SOBRE LA IMPORTACION DE MUEBLES Y OTROS OBJETOS PERSONALES

¿Están los funcionarios de su organización exentos de derechos sobre la importación de muebles y otros objetos personales?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Sí, de conformidad con el Convenio, literal c) del artículo 14.

AFRICAN CIVIL AVIATION COMMISSION

Yes.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Les membres du personnel jouissent du droit d'importer en franchise leur mobilier et leurs effets personnels, à l'occasion de leur première installation dans l'Etat membre intéressé, et du droit, à la cessation de leurs fonctions, d'exporter en franchise leur mobilier et leurs effets personnels (art. XVI.g., annexe I de la Convention).

CARIBBEAN COMMUNITY

Senior officials (i.e. officials who are in Professional categories) are granted privileges and immunities similar to those enjoyed by diplomatic personnel, and in particular, exemption from the payment of customs duties on imports in respect of articles imported for their official and private use.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui. En vertu de l'article 24 f) pour ce qui concerne leur première prise de fonction.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Los funcionarios del Consejo que residan en el extranjero en el momento de su contratación, podrán importar en franquicia aduanera el mobiliario y efectos personales para su instalación en España, por una sola vez.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The exemption from customs duties on imports also applies to articles, including furniture, required for the initial installation of CMEA officials.

EUROPEAN COMMUNITIES

See article 12 (d) and (e) which provide:

"In the territory of each member State and whatever their nationality, officials and other servants of the Communities shall:"

"(d) Enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in the country concerned and the right to re-export free of duty their furniture and effects on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the Government of the country in which this right is exercised;

"(e) Have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the Government of the country concerned."

COMMONWEALTH SECRETARIAT

Yes.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

En vertu de l'article 18 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe, "les agents du Conseil de l'Europe ... f) jouissent du droit d'importer en franchise leur mobilier et leurs effets à l'occasion de leur première prise de fonctions dans le pays intéressé, et de les réexporter en franchise vers leur pays de domicile lors de la cessation de fonctions".

INTERNATIONAL SUGAR AGREEMENT

Yes (see question 70).

INTERNATIONAL WHALING COMMISSION

Yes, but only the senior officers. The headquarters agreement, article 13, states: "... provided they are not citizens of the United Kingdon or Colonies or permanently resident in the United Kingdom, the Secretary and Executive Officer: (a) shall, at the time of first taking up their post in the United Kingdom, be exempt from customs duties and other customs charges (except mere payment for services) in respect of import of their furniture and personal effects (including one motor car each) in their ownership or possession or already ordered by them and intended for their personal use or for their establishment ...".

NORTH ATLANTIC TREATY ORGANIZATION

The answer to the questions is to be found in articles 17 (see above) and 18 (e) and (f) of the Ottawa Agreement stipulating:

"Article 18 - Officials of the organization shall:"

"(e) Have the right to import free of duty their furniture and effects at the time of first arrival to take up their post in the country in question, and, on the termination of their functions in that country, to re-export such furniture and effects free of duty, subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;

"(f) Have the right to import temporarily free of duty their private motor vehicles for their own personal use and subsequently to re-export such vehicles free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary."

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Yes, pursuant to article 14 (f) of Supplementary Protocol No. I.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

El artículo X del Convenio de Prerrogativas, Inmunidades y Privilegios, estatuye lo siguiente:

"Artículo X. Los funcionarios de la Secretaría, que no sean de nacionalidad guatemalteca, así como los técnicos extranjeros contratados por la Secretaría con fines especiales para prestar servicios en el país, por más de un año, podrán importar dentro de los seis meses siguientes a su ingreso a Guatemala, con ocasión de tomar posesión de su cargo por primera vez, libres de derechos consulares, aduaneros y de otros gravámenes, en uno o varios embarques, sus muebles y efectos, incluso un vehículo para uso personal. El beneficio de libre importación en virtud del presente Convenio origina en su oportunidad el beneficio de la consiguiente libre exportación.

La transferencia de los vehículos a que se refiere el párrafo anterior, estará sujeta a lo que al respecto dispone el artículo 2° del Decreto Legislativo 1166 y salvo el caso de destrucción, únicamente podrán ser repuestos después de tres años de su ingreso en franquicia."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 70

If so, under what condition does the exemption apply? At the time of first taking up their post? How long a period is allowed for importation?

Dans l'affirmative, quelles sont les conditions prévues pour l'application de cette exonération? Intervient-elle lors de l'engagement initial? Dans quels délais l'importation doit-elle être effectuée?

En caso afirmativo, ¿en qué condiciones se aplica la exención? ¿En el momento de ocuparse el puesto? ¿Qué plazo se concede para la importación?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Sí, dentro del plazo de seis meses. Después, con sujeción a los cupos anuales y reglamentos pertinentes del país miembro sede.

AFRICAN CIVIL AVIATION COMMISSION

Enjoy when their previous residence is in a foreign country (other than Senegal), the right to import duty free, their furniture and their personal belongings within a six-month period as from their first installation in Senegal.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Aucune période particulière ne s'applique en ce qui concerne la franchise de droits pour l'importation du mobilier personnel. Concrètement, toutefois, le Règlement du personnel prévoit la prise en charge des frais de déménagement : deux lots de déménagement sont permis pour une prise de fonctions, un lot pour une cessation de fonctions.

CARIBBEAN COMMUNITY

See question 69.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Les conditions n'ont pas été précisées. Il n'y a pas de délai prévu.

COMMONWEALTH SECRETARIAT

At the time of "first arrival". For senior diplomatic officers, during their term of office. For other officers, up to three months.

CONSEIL DE L'EUROPE

(Council of Europe)

Cette franchise s'applique aux objets, mobiliers et effets personnels importés dans le cadre du déménagement, y compris les objets neufs en quantité raisonnable, lors de la première prise de fonctions. Les délais d'importation varient, selon certaines conditions, entre six mois et un an.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

1. Los funcionarios del Consejo pueden importar sus enseres y efectos personales no en el momento de su llegada a España sino con alguna posterioridad, cuando dispongan de un alojamiento duradero, y podrán importar estos enseres y efectos personales, francos de derechos y tasas aduaneras, dispensados de las formalidades de control en materia de comercio exterior y de cambio, cuando procedan a su primera instalación definitiva y dentro del plazo de seis meses, a partir de la misma. Ahora bien, las autoridades aduaneras competentes podrán ampliar el plazo de seis meses arriba mencionado en aquellos casos excepcionales en que, por causa de fuerza mayor, no hubiera sido posible proceder a la importación dentro del tiempo prescrito.

2. Excepcionalmente, también las Autoridades podrán autorizar la importación en franquicia de enseres y efectos que no fuesen propiedad de los funcionarios en el momento de su traslado y que hubieran sido adquiridos con posterioridad a su llegada a España, siempre que esta importación se haga dentro de la franquicia general del mobiliario, por una sola vez.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

This allowance applies at the time of initial entry, and no definite period for the import of the relevant articles required for initial installation or particular conditions have been established specifically for CMEA officials.

EUROPEAN COMMUNITIES

See internal Commission circular on tax and duty-free importation arrangements for staff of the European Communities in Belgium recruited outside Belgium.

INTERNATIONAL SUGAR AGREEMENT

Upon first taking up post (see art. 18 (g). Period usually six months.

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 13 (a), continues: "... such goods shall normally be imported within three months of their first entry into the United Kingdom, but in exceptional circumstances an extension of this period may be granted ...".

NORTH ATLANTIC TREATY ORGANIZATION

See reply to question 69.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The exemption applies at the time of first taking up their post in the country in question. Article 14 (f) of Supplementary Protocol No. I does not provide for a specific period during which importation free of duty is allowed; however, pursuant to French customs regulations concerning members of the staff of international organizations the importation must take place, in principle, at one time within a period of six months from the time at which the official takes up his post. The period may be extended in order to take account of special circumstances.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

a) Si los funcionarios y los técnicos contratados por la SIECA no sean nacionales de Guatemala;

b) Si los técnicos extranjeros hayan sido contratados por más de un año;

c) Si la importación se efectúe dentro de los seis meses siguientes al ingreso a Guatemala del funcionario o técnico contratado por la SIECA, con ocasión de tomar posesión de su cargo por primera vez.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Pas de réglementation spécifique.

Question 71

What is the extension actually used as to the objects allowed for importation? Is a car included? Have problems of interpretation ever arisen as to the extent of the authorization?

Quels sont les articles effectivement visés par l'autorisation d'importation? Les automobiles sont-elles comprises? Est-ce que des problèmes d'interprétation se sont posés au sujet de la portée de l'autorisation?

¿Qué objetos abarca realmente el permiso de importación? ¿Se incluye la importación de un automóvil? ¿Han surgido alguna vez problemas de interpretación respecto a los objetos abarcados por la autorización?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Incluye un automóvil, con sujeción a los reglamentos pertinentes. No han surgido problemas al respecto.

AFRICAN CIVIL AVIATION COMMISSION

They can also import duty free, during the same period, some goods, houshold equipment and effects destined for their personal use. A car is included on temporary basis and no problem of interpretation has ever arisen.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

La situation varie selon les Etats membres. Le membre du personnel a le droit d'importer une voiture hors taxe lors de son entrée en fonctions.

CARIBBEAN COMMUNITY

A car is included. Questions of interpretation have sometimes arisen as to the number of cars an official is allowed to import free of duty and as to whether household fixtures are covered by this provision.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Le mobilier et les autres effets, y compris les automobiles.

COMMONWEALTH SECRETARIAT

A car is included. No problems of interpretation have arisen.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Les articles visés comprennent le mobilier et les effets personnels. Les automobiles ne sont pas comprises.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

1. Los funcionarios del Consejo pueden solicitar la importación temporal de un vehículo. Si un funcionario cediera en las condiciones previstas por la legislación aduanera vigente en la materia o reexportara su vehículo, podrá concedérsele la importación temporal de un nuevo coche. Estos funcionarios son los contratados en el ámbito internacional.

2. No han surgido problemas en la interpretación de los objetivos abarcados por la autorización.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The allowance applies to household goods, including furniture, and so forth, and to a car. No problems of interpretation have arisen as to the extent of this allowance in respect of CMEA officials.

EUROPEAN COMMUNITIES

See question 70. As yet, no problems of interpretation have arisen as to the extent of the authorization.

INTERNATIONAL SUGAR AGREEMENT

A car is included; no problems of interpretation.

INTERNATIONAL WHALING COMMISSION

We have no experience of this question, but a car is explicitly included.

NORTH ATLANTIC TREATY ORGANIZATION

See reply to question 69.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The exemption covers all furniture and personal effects with the exception of fire-arms. Motor cars are not included but are subject to special procedures for duty-free registration (for other than French nationals) in special series with certain limitations.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

a) Menaje de casa.

b) Un vehículo para uso personal.

Hasta el presente, no se ha afrontado ningún problema sobre este particular.

Question 72

What happens when an official

(a) Returns to an earlier duty station?

(b) Returns to his home country?

Que se passe-t-il lorsqu'un fonctionnaire

a) Retourne à un ancien lieu d'affectation?

b) Retourne dans son pays d'origine?

Indique lo que sucede cuando un funcionario

a) Regresa a un anterior lugar de destino

b) Regresa a sus país de origen

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Indistintamente - a) o b) -, tiene la facultad de llevar sus muebles y efectos personales, conforme a las reglamentaciones vigentes en el Perú.

AFRICAN CIVIL AVIATION COMMISSION

In both cases (a) and (b) he has the choice to take his furniture, household equipment and other belongings with him or sell them in Senegal. Authorization should be obtained and customs should be paid if the car is to be sold to a person who has no right for a duty-free car in Senegal.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Voir réponse à la question 69.

CARIBBEAN COMMUNITY

(a) Not applicable.

(b) He is allowed the right to export.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Même droit pour les réexpéditions en franchise à la cessation de leurs fonctions à l'exception des biens acquis en France et faisant l'objet d'une prohibition d'exportation.

COMMONWEALTH SECRETARIAT

There is no change as to the exemption status under either (a) or (b).

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Réexportation en franchise vers le pays de domicile lors de la cessation de fonctions.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No ha existido ningún problema, pidiendo una franquicia de salida.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

When an official returns to a previous duty station or to his home country (when used in relation to CMEA officials, there is, as a general rule, no difference between those terms), he may without hindrance export those articles he previously imported.

EUROPEAN COMMUNITIES

See question 69. In addition, the member States are bound to respect the following Council directives:

(a) Council directive of 28 March 1983 determining the scope of article 14 (1) (d) of directive 77/388/EEC as regards exemption from value added

tax on the final importation of certain goods (Official Journal of the European Communities No. L 105, 23.4.1983, p. 38);

(b) Council directive of 28 March 1983 on tax exemptions within the Communities for certain means of transport temporarily imported into one member State from another (Official Journal of the European Communities No. 105, 23.4.1983, p. 59).

(c) Council directive of 28 March 1983 on tax exemptions applicable to permanent imports from a member State of the personal property of individuals (Official Journal of the European Communities, No. L 105, 23.4.1983, p. 64).

INTERNATIONAL SUGAR AGREEMENT

(a) We have no other duty station.

(b) Sale of goods subject to tax within the United Kingdom, unless to a person with exemption, requires payment to the appropriate tax.

INTERNATIONAL WHALING COMMISSION

No experience, but the headquarters agreement, article 13 (a) concludes: ... "This privilege shall be subject to the conditions governing the disposal of goods imported into the United Kingdom free of duty and to the general restrictions applied in the United Kingdom to all imports ...".

NORTH ATLANTIC TREATY ORGANIZATION

See reply to question 69.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

There are no provisions in Supplementary Protocol No. I but in practice duty-free export of furniture and other effects imported is allowed by the host country.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

A tenor de lo dispuesto al final del primer párrafo del artículo X del Convenio de Prerrogativas, Inmunidades y Privilegios, "el beneficio de libre importación en virtud del presente Convenio origina en su oportunidad el beneficio de la consiguiente libre exportación".

Question 73

EXEMPTION FROM NATIONAL SERVICE OBLIGATIONS

Are officials of your organization, particularly those who are nationals of the host country, exempt from national service obligations? Or are national service obligations deferred until after the completion of service with the organization?

EXEMPTION DES OBLIGATIONS RELATIVES AU SERVICE NATIONAL

Les fonctionnaires de votre organisation, et en particulier ceux qui sont ressortissants du pays hôte, sont-ils exempts des obligations relatives au service national ou ces obligations sont-elles reportées jusqu'au moment où l'intéressé quitte l'organisation?

EXENCION DE LAS OBLIGACIONES DEL SERVICIO NACIONAL

¿Están exentos de las obligaciones del servicio nacional los funcionarios de su organización, en particular los que son nacionales del país huésped? ¿O bien se aplazan las obligaciones del servicio nacional hasta la terminación del servicio en la organización?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

El Convenio no regula tales "obligaciones del servicio nacional".

AFRICAN CIVIL AVIATION COMMISSION

Nationals of the host country (Senegal) are not exempted. However, the obligation can be deffered upon AFCAC request if they are involved in essential service in AFCAC.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. Les membres du personnel sont exempts de toute obligation relative au service militaire (art. XVI.b, annexe I de la Convention).

2. Aucun Etat membre n'est tenu d'accorder ce privilège (ainsi que celui relatif aux réglementations de change et à l'importation de mobiliers hors taxe) à ses propres ressortissants.

CARIBBEAN COMMUNITY

Officials of the Community are exempt from national service obligations. Children of officials who are not citizens of the host country are also exempt.

COMMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

At present, there are no national service requirements in the United Kingdom, the host country. For officials of the secretariat serving abroad, for instance under the Commonwealth Fund for Technical Co-operation (CFTC), they are immune from national service obligations.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Ce cas n'est pas traité dans l'Accord général sur les privilèges et immunités du Conseil de l'Europe.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Los funcionarios del Consejo estarán exentos de cumplir el servicio militar o cualquier otro servicio obligatorio en España, salvo los funcionarios españoles.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

1. Under article V, paragraph 2 (b), of the 1959 convention, officials of the Council on the territory of each member country of the Council are exempt from national service obligations. This exemption does not apply to officials who are nationals of the country which is the seat of the organ of the Council in which they are employed (art. V, para. 5).

2. However, under article VIII, paragraph 4, of the 1961 agreement between CMEA and the Government of the USSR, the Secretary of the Council and the competent organs of the USSR shall agree on a list of officials of the Council possessing USSR citizenship who shall enjoy temporary exemption from national service obligations, including obligations of a military nature.

EUROPEAN COMMUNITIES

No.

INTERNATIONAL SUGAR AGREEMENT

Officials not citizens of the United Kingdom and Colonies are exempt (art. 18 (b)); United Kingdom citizens not exempt (though there is now no obligatory military service).

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 14, states: "Staff members (a) shall be exempt from any obligations in respect of military service ... provided that this exemption shall not apply to any person who is a citizen of the United Kingdom and Colonies".

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

La exoneración del servicio nacional sólo beneficia a los funcionarios o técnicos no guatemaltecos. Así lo prescribe expresamente el artículo VIII, literal d), del "Convenio de Prerrogativas, Inmunidades y Franquicias", que dice:

"Artículo VIII. Los funcionarios y los técnicos contratados, que no sean de nacionalidad guatemalteca, gozarán dentro del territorio del país de las siguientes prerrogativas e inmunidades:

...

d) Exoneración de toda restricción sobre inmigración y registro de extranjeros, así como de todo servicio nacional de carácter obligatorio ..."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 74

In the case of an affirmative answer to the first question above, how is the exemption implemented?

Dans le premier cas, comment l'exemption est-elle appliquée?

Si la respuesta a la primera pregunta es afirmativa, ¿cómo se aplica la exención?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Véase respuesta a la pregunta 73.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

L'organisation est intervenue à plusieurs reprises auprès des délégations ou auprès des ministères compétents pour obtenir des reports d'incorporation ou des exemptions pour la durée des fonctions de l'agent considéré. Dans chaque cas, elle a mentionné que ces reports ou exemptions étaient justifiés par le caractère indispensable au fonctionnement des services de l'organisation des fonctions de l'agent.

CARIBBEAN COMMUNITY

By certification from the Community.

COMMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Sans objet.

COMMONWEALTH SECRETARIAT

Memorandum of Understanding with respect to CFTC.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES *ET DES COMMUNICATIONS*

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Los funcionarios españoles del Consejo Oleícola Internacional no están exentos de cumplir el servicio militar o cualquier otro servicio obligatorio en España. Eventualmente, el Consejo Oleícola podrá solicitar del Gobierno español la concesión de prórroga del servicio y de acuerdo con los reglamentos vigentes.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

See answer 73.

EUROPEAN COMMUNITIES

See question 73.

INTERNATIONAL SUGAR AGREEMENT

No procedure needed.

INTERNATIONAL WHALING COMMISSION

Not applicable.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Not applicable.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

La respuesta a la pregunta es afirmativa en lo que toca a los funcionarios y técnicos no guatemaltecos. Los guatemaltecos no están exentos. Respecto a los primeros no se ha dado el caso de aplicación de la exención.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 75

Please describe briefly any relevant aspect of the experience and practice of your organization in connection with this matter.

Veuillez décrire brièvement tous les aspects pertinents de l'expérience et de la pratique acquises par votre organisation dans ce domaine.

Describa en forma breve todo aspecto pertinente de la experiencia y práctica de su organización en esa esfera.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Véase respuesta a la pregunta 73.

AFRICAN CIVIL AVIATION COMMISSION

None.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Voir réponse précédente.

CARIBBEAN COMMUNITY

Although exempt if a member of an official's family wishes to serve in the national service, he is allowed.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Sans objet.

COMMONWEALTH SECRETARIAT

None.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES TELECOMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

La organización no contratará a los funcionarios españoles hasta haber cumplido el servicio militar correspondiente.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The list of officials mentioned in answer 73 is periodically revised and agreed upon with the competent organs of the country which is the seat of the organ of the Council in which these officials are employed.

EUROPEAN COMMUNITIES

See question 73.

INTERNATIONAL SUGAR AGREEMENT

No problem.

INTERNATIONAL WHALING COMMISSION

No experience.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Not applicable.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No existe ninguna experiencia.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

D'après le statut du personnel, la période passée sous les drapeaux est prise en considération comme ancienneté à l'occasion de l'engagement d'un fonctionnaire.

Question 76

EXCHANGE ADVANTAGES

Are officials of your organization granted any kind of exchange advantages?

FACILITES DE CHANGE

Les fonctionnaires de votre organisation bénéficient-ils de facilités de change quelconques?

VENTAJAS CAMBIARIAS

¿Gozan los funcionarios de su organización de algún tipo de ventaja cambiaria?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

La materia se rige por el literal d) del artículo 14 y el artículo 17 del Convenio.

AFRICAN CIVIL AVIATION COMMISSION

Yes (see para. 1(e) of article 7 of the headquarters agreement).

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Les membres du personnel jouissent en ce qui concerne les réglementations de change, des mêmes privilèges que ceux généralement reconnus aux membres du personnel des organisations internationales (art. XVI.e, annexe I de la Convention).

CARIBBEAN COMMUNITY

The Secretariat interprets "exchange advantages" to mean "exchange control advantages". Given this interpretation, officials of the Community, other than citizens of the host country, are free to maintain, whether in the host country or elsewhere, foreign securities, external accounts and the right to take out of the host country on termination of their appointment, without restriction, funds accruing to them in connection with their employment with the Community together with any amount brought into or transferred to the host country by them through authorized dealers.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Les mêmes facilités que celles reconnues aux agents diplomatiques, étant entendu que l'Etat hôte peut ne pas les accorder à ses propres ressortissants (art. 31).

COMMONWEALTH SECRETARIAT

Yes, expatriate staff benefit (or contribute) to an arrangement to compensate for exchange fluctuations of the pound sterling. The secretariat enjoys no exchange advantages.

CONFERENCE EUROPENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

En vertu de l'article 18 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe, "Les agents du Conseil de l'Europe : ... d) jouissent, en ce qui concerne les facilités de change, des mêmes privilèges que les fonctionnaires d'un rang comparable appartenant aux missions diplomatiques, accréditées auprès du gouvernement intéressé;"

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Los funcionarios del Consejo disfrutan, para los cambios de moneda, de las mismas facilidades que se concedan a los miembros de las misiones diplomáticas acreditadas ante el Gobierno español.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

Officials of CMEA have a number of exchange advantages. In particular, officials who are not nationals of the country which is the seat of the organ of the Council in which they are employed are entitled to change up to 50 per cent of their salary into the currency of their own country. In addition, when a CMEA staff member takes his regular vacation in a CMEA member country which is neither his place of permanent residence nor the seat of the secretariat, he is accorded

the right to exchange into the currency of that country a sum not exceeding his fixed monthly salary (paras. 24 and 29 of the rules governing the terms of employment of members of the CMEA secretariat).

EUROPEAN COMMUNITIES

1. Article 12(c) of the Protocol provides as follows:

> "In the territory of each member state and whatever their nationality, officials and other servants of the Communities shall, in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organizations."

2. The Court of Justice of the European Communities affirmed in its decision of 15 March 1984 (Case 38/83) the applicability of the Protocol and the duties of the Commission in regard to such application.

INTERNATIONAL SUGAR AGREEMENT

Treatment accorded to diplomatic agent of State of residence when appointed (art. 18(c)).

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 13, states: "The Secretary and the Executive Officer:

> "(b) Shall be accorded the treatment in matters of exchange control which is accorded to a diplomatic agent in the United Kingdom of the State in which they were resident for exchange control purposes when appointed to their posts with the Commission".

NORTH ATLANTIC TREATY ORGANIZATION

According to article 18(c) of the Ottawa Agreement, officials of the organization shall:

> "(c) Be accorded the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;"

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMEMT

Yes, pursuant to article 14(d) of Supplementary Protocol No. I officials shall be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable rank forming a part of diplomatic missions.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Sueldos percibidos por técnicos extranjeros prestando funciones en Guatemala, por resolución de la Junta Monetaria del Banco de Guatemala se aprobó el "Instructivo General de Operaciones, Remesas de Técnicos Extranjeros". La parte conducente dice así:

"... los técnicos extranjeros, pueden remesar al exterior dos tercios de su sueldo, si la familia radica en el exterior y un tercio si radica en Guatemala con su familia ...

...

"Si desea remesar dos tercios del sueldo, deberá acompañar certificación de residencia en el exterior de la familia, extendida por el Consulado guatemalteco, o por autoridad competente del país de residencia ..."

1. El artículo VIII, literal e), del Convenio de Prerrogativas, Inmunidades y Privilegios prescribe lo siguiente:

"Artículo VIII. Los funcionarios y los técnicos contratados, que no sean de nacionalidad guatemalteca, gozarán dentro del territorio del país de las siguientes prerrogativas e inmunidades:

...

e) Las mismas facilidades respecto a disposiciones cambiarias que el país concede a los representantes diplomáticos acreditados en Guatemala; ..."

2. Por otra parte, para efectuar remesas al exterior

... "Si labora con el Estado, por convenios internacionales de asistencia o con algún organismo internacional, sin que el técnico tenga tratamiento diplomático, deberán ser las instituciones quienes soliciten el registro de los técnicos y para la remesas al exterior, deberá de observarse lo de la constancia de residencia en el exterior de la familia del técnico ..."

3. Se aprobó también que las remesas por el equivalente de hasta 200.00 quetzales no requieren de formalidad ninguna, pudiéndose efectuar libremente.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

/...

Question 77

REPATRIATION ADVANTAGES

Do provisions concerning your organization grant its officials repatriation advantages? In time of international crises?

FACILITES DE RAPATRIEMENT

Les dispositions concernant votre organisation accordent-elles à ses fonctionnaires des facilités de rapatriement? Même en période de crise internationale?

BENEFICIOS DE REPATRIACION

¿Existen disposiciones relativas a su organización que concedan a los funcionarios de ésta beneficios de repatriación? ¿Qué está previsto para los casos de crisis internacional?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No hay previsiones expresas al respecto. En el evento que se plantea y en virtud del goce de inmunidades y privilegios en igualdad con los embajadores, ministros plenipotenciarios y miembros del cuerpo diplomático no jefes de misión, según el caso, se aplicarían las reglas y prácticas del derecho internacional.

AFRICAN CIVIL AVIATION COMMISSION

Yes (art. 7, para. 1 (f), of the headquarters agreement). No specific mention to time of international crisis.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Les membres du personnel jouissent, en période de crise internationale, ainsi que les membres de leur famille vivant à leur foyer, des mêmes facilités de rapatriement que les agents diplomatiques (art. XVI.f, annexe I de la Convention).

CARIBBEAN COMMUNITY

Yes, article 10(c) (i) of the headquarters agreement.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui, en vertu de l'article 24 e).

COMMONWEALTH SECRETARIAT

There has been no experience in this matter, and no provisions or arrangements have been made. It is expected, however, that the secretariat will provide appropriate repatriation advantages.

CONSEIL DE L'EUROPE

(Council of Europe)

En vertu de l'article 18 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe, "Les agents du Conseil de l'Europe : ... e) jouissent ainsi que leurs conjoints et les membres de leur famille vivant à leur charge, des mêmes facilités de rapatriement que les envoyés diplomatiques en période de crise internationale;"

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Los funcionarios del Consejo se benefician, al igual que sus cónyuges e hijos menores de 21 años que dependan de ellos, de idénticas facilidades de repatriación que las que se den a los miembros de las misiones diplomáticas acreditadas ante el Gobierno español en épocas de tensión internacional.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No repatriation advantages are provided for CMEA officials.

EUROPEAN COMMUNITIES

No.

INTERNATIONAL SUGAR AGREEMENT

Yes, see article 18(f).

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

1. According to articles 17 and 18(d) of the Ottawa Agreement, officials of the organization shall:

> "(d) Be given, together with their spouses and members of their immediate families residing with and dependent on them, the same retatriation facilities in time of international crisis as are accorded to diplomatic personnel of comparable rank;"

2. The effect and method of application of this provisoin in time of international crises have not been checked yet. According to the text, they shall have to be exercised on the basis of organized arrangements analogue to those normally made for the repatriation of diplomats.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Yes, pursuant to article 14(e) of Supplementary Protocol No. 1 officials shall be given, together with their spouses and dependent relatives, the same repatriation facilities in time of international crisis as members of diplomatic missions.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

En el artículo VIII, literal f), del Convenio suscrito entre el Gobierno de Guatemala y la SIECA se ha previsto lo siguiente:

> "Los funcionarios y los técnicos contratados, que no sean de nacionalidad guatemalteca, gozarán dentro del territorio del país de las siguientes prerrogativas e inmunidades:
>
> ...
>
> f) Las mismas facilidades para la repatriación y los mismos derechos a la protección de las autoridades guatemaltecas, para ellos mismos, sus familias y personas a su cargo, de que gozan los miembros de la misiones diplomáticas en períodos de tensión internacional."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 78

Has your organization ever had any experience in this matter? Whether or not this is so, do you consider that adequate arrangements now exist vis-à-vis the host country for repatriation if this should become necessary?

Votre organisation a-t-elle une expérience quelconque en la matière? Quoi qu'il en soit, estimez-vous satisfaisants les arrangements actuels avec le pays hôte en ce qui concerne le rapatriement si celui-ci devait s'avérer nécessaire?

¿Tiene su organización alguna experiencia en esa esfera? La tenga o no, ¿considera usted que existen actualmente acuerdos adecuados respecto del país huésped para, en caso de necesidad, proceder a una repatriación?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Ninguna experiencia. La organización estima que el Convenio es suficiente.

AFRICAN CIVIL AVIATION COMMISSION

No experience. Yes, adequate arrangements exist.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

The organization has had no experience in this matter.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

See reply to question 77.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No hemos tenido experiencia alguna en esta esfera, pero creo que el Convenio de Sede es suficiente.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There is no experience in this matter. If such a situation did arise, it could obviously be considered between CMEA and the host country.

EUROPEAN COMMUNITIES

No.

INTERNATIONAL COCOA ORGANIZATION

The answer is negative.

INTERNATIONAL SUGAR AGREEMENT

No; yes.

INTERNATIONAL WHALING COMMISSION

No. No basis for forming an opinion.

NORTH ATLANTIC TREATY ORGANIZATION

1. See reply to question 77.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No. No particular arrangements have been made.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. No se tiene ninguna experiencia en este campo.

2. Salvo lo prescrito en el artículo VIII, literal f), antecitado, no existe ningún otro acuerdo complementario que se ocupe específicamente de la repatriación. Tampoco se puede anticipar el no funcionamiento adecuado de las previsiones existentes.

Question 79

DIPLOMATIC PRIVILEGES AND IMMUNITIES

Does any official or category of officials of your organization enjoy recognition of full diplomatic privileges and immunities? If in the affirmative, please specify title, position and level.

PRIVILEGES ET IMMUNITES DIPLOMATIQUES

Est-ce que les privilèges et immunités diplomatiques sont pleinement reconnus à un fonctionnaire ou à une catégorie de fonctionnaires de votre organisation? Dans l'affirmative, veuillez indiquer le titre, le poste et le niveau du ou des bénéficiaires.

PRERROGATIVAS E INMUNIDADES DIPLOMATICAS

¿Se reconocen plenas prerrogativas e inmunidades de índole diplomática a algún funcionario o categoría de funcionarios de su organización? En caso afirmativo, indique el cargo, la posición y la categoría.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Ver punto 55.

AFRICAN CIVIL AVIATION COMMISSION

Yes. The Secretary-General of AFCAC. For other officials, please see article 6 of the headquarters agreement.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Le Directeur général de l'Agence se voit reconnaître le rang d'ambassadeur (passeport diplomatique, exemption de taxes, contingent alcool, tabac, essence hors taxes, plaques d'immatriculation "CD").

CARIBBEAN COMMUNITY

The headquarters agreement does not distinguish between levels, except in so far as there is a distinction between senior officials and other officials.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Le Secrétaire général de l'organisation se voit reconnaître en vertu de l'article 23 de l'Accord pour lui-même et son conjoint et son enfant mineur les privilèges et immunités accordés conformément au droit international, aux agents diplomatiques. Le Secrétaire général adjoint et l'Ingénieur en chef faisant également partie de la catégorie 1 de l'accord de siège jouissent, outre les privilèges et immunités accordés aux agents de la Commission centrale en vertu de l'article 24 de l'accord, des privilèges accordés par la France aux agents assimilés diplomatiques.

COMMONWEALTH SECRETARIAT

See p. 6 and 7 (paras. 32-34), 32 and 33 of the aforementioned study.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

1. Sous réserve des matières traitées aux questions 76, 77 et 82, les privilèges et immunités reconnus aux agents de l'organisation ne sont pas équivalents à ceux du personnel diplomatique (d'un rang comparable).

2. En vertu de l'article 16 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe, "outre les privilèges et immunités prévus à l'article 18 ... le Secrétaire général et le Secrétaire général adjoint, tant en ce qui les concerne qu'en ce qui concerne leurs conjoints et enfants mineurs, jouissent des privilèges, immunités, exemptions et facilités accordés, conformément au droit international, aux envoyés diplomatiques".

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

El Director Ejecutivo del Consejo así como el funcionario que actúe en nombre de él durante su ausencia, goza, como también sus cónyuges y sus hijos menores, de las prerrogativas, inmunidades, exenciones y facilidades que se otorguen conforme al derecho internacional a los enviados diplomáticos.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

Under article V, paragraph 3, of the 1959 Convention, in addition to the privileges and immunities provided for all officials of the Council, the privileges and immunities accorded to diplomatic envoys in the country concerned.

EUROPEAN COMMUNITIES

Under agreements concluded with host countries, external delegations of the European Communities are granted the privileges and immunities on the territory of the host countries as laid down in the Vienna Convention on Diplomatic Relations, and are therefore protected by diplomatic immunity.

INTERNATIONAL COCOA ORGANIZATION

The only official in this organization who enjoys full diplomatic privileges and immunities is the Executive Director. His grade is that of an Under-Secretary-General in the United Nations system.

INTERNATIONAL SUGAR AGREEMENT

Yes, only the Executive Director, who is head of the Secretariat, with the rank of Under-Secretary-General.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

1. Article 20 of the Ottawa Agreement stipulates:

> "In addition to the inmunities and privileges specified in articles 18 and 19, the Executive Secretary of the organization, the Co-ordinator of North Atlantic Defense Production, and such other permanent officials of similar rank as may be agreed between the Chairman of the Council of Deputies and the Governments of member States, shall be accorded the privileges and immunities normally accorded to diplomatic personnel of comparable rank."

2. Pursuant to articles 17 and 20 of the Ottawa Agreement, the host countries of NATO bodies considered it necessary to specify the categories of officials to which part IV of the Agreement applies and the privileges and immunities which these officials will enjoy in order to exercise their functions and carry out their tasks.

3. Generally speaking, it may be said that the officials who enjoy the privileges and immunities referred to in article 20 of the Agreement are the unclassified and a few high-ranked members of the staff stationed on the territory and sometimes another few less high-ranked members of the staff to be nominated by the head of the NATO body concerned.

4. The head of the NATO body concerned notifies the Government e.g. on 1 January of each year, of the names, grades and addresses of officials of the organization covered by the provisions of the Agreement. Any changes that occur are reported in good time.

5. Furthermore, article 21 of the Ottawa Agreement stipulates that:

> "1. Experts (other than officials coming within the scope of articles 18 to 20) employed on missions on behalf of the organization shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions while present in the territory of a member State for the discharge of their duties:
>
> "(a) Immunity from personal arrest or detention and from seizure of their personal baggage;
>
> "(b) In respect of words spoken or written or acts done by them in the performance of their official functions for the organization, immunity from legal process;
>
> "(c) The same facilities in respect of currency or exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions;
>
> "(d) Inviolability for all papers and documents relating to the work on which they are engaged for the organization.
>
> "2. The Chairman of the Council of Deputies shall communicate to the member States concerned the names of any experts to whom this article applies."

6. On the other hand, part II of the Ottawa Agreement deals with privileges and immunities accorded to representatives of member States. Article 12 stipulates that:

> "Every person designated by a member State as its principal permanent representative to the organization in the territory of another member State, and such members of his official staff resident in that territory as may be agreed between the State which has designated them and the organization and between the organization and the State in which they will be resident, shall enjoy the immunities and privileges accorded to diplomatic representatives and their official staff of comparable rank."

7. Articles 18 to 20 give full details about effect and method of application of this article.

8. Finally, it should be noted that article 23 of the Ottawa Agreement contains the following restriction in the field of privileges and immunities.

"The provisions of articles 18, 20 and 21 above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national, except:

"(a) Immunity from legal process in respect of words spoken or written or acts done by him in the performance of his official functions for the organization;

"(b) Inviolability for all papers and documents relating to the work on which he is engaged for the organization;

"(c) Facilities in respect of currency or exchange restrictions so far as necessary for the effective exercise of his functions."

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

It is not clear what is meant by "full" diplomatic privileges and immunities. Please see the reply to question 80.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Se reconocen plenas prerrogativas e inmunidades de índole diplomática al Secretario General de la SIECA, o a quien haga sus veces, siempre que no sea de nacionalidad guatemalteca. El Secretario General, en esas condiciones, goza de las exenciones, prerrogativas e inmunidades reconocidas a los jefes de misiones diplomáticas acreditadas en Guatemala.

El reconocimiento a que se alude anteriormente se funda en el artículo XXIII, párrafo último, del Tratado General de Integración Económica Centroamericana, y en el artículo XI del Convenio de Prerrogativas, Inmunidades y Privilegios. Dichas disposiciones prescriben lo siguiente:

"Artículo XXIII. ... Los funcionarios de la Secretaría gozarán de inmunidad diplomática. Los demás privilegios diplomáticos se otorgan únicamente a la Secretaría y al Secretario General."

"Artículo XI. Además de las prerrogativas e inmunidades especificados en el presente Convenio, el Secretario General de la SIECA, o quien haga sus veces, que no sea de nacionalidad guatemalteca, gozará de las exenciones, prerrogativas e inmunidades reconocidas a los jefes de misiones diplomáticas acreditadas en Guatemala, de conformidad con el artículo XXIII del Tratado General de Integración Económica Centroamericana."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

L'article 39 du Traité d'union stipule que : "Le Secrétaire général jouit en Belgique de privilèges et immunités analogues à ceux accordés à un chef de mission diplomatique accrédité dans ce pays. L'immunité de juridiction peut, le cas échéant, être levée par le Comité de ministres."

Question 80

Are officials of your organization, other than those referred in the preceding question, equated to diplomatic officials (of comparable rank) for the purpose of the granting of any of the immunities, exemptions or facilities referred to in this questionnaire under the heading "Officials of the organization"?

Des fonctionnaires de votre organisation autres que ceux visés dans la question précédente se sont-ils vu accorder des privilèges équivalents à ceux du personnel diplomatique (d'un rang comparable) aux fins de l'octroi des immunités, exemptions ou facilités mentionnées dans le présent questionnaire sous la rubrique "Fonctionnaires de l'organisation"?

¿Se equipara a los funcionarios de su organización, aparte de los mencionados en la pregunta precedente, con los oficiales diplomáticos (del mismo rango) a los efectos de la concesión de algunas de las inmunidades, exenciones o facilidades a que se ha hecho referencia en el cuestionario bajo el epígrafe "Funcionarios de la organización"?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Véase respuesta a la pregunta 79.

AFRICAN CIVIL AVIATION COMMISSION

Please see article 7 of the headquarters agreements.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Le personnel qualifié de "hors classe" ainsi que les plus hauts grades de l'échelle bénéficient également de privilèges comparables à ceux d'agents diplomatiques (plaques d'immatriculation "CD").

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui. Le greffier-adjoint (art. 30) et les autres agents en vertu de l'article 24 de l'accord.

COMMONWEALTH SECRETARIAT

See reply to question 79.

CONSEIL DE L'EUROPE

(Council of Europe)

Voir réponse à la question 79.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

See answer 66.

EUROPEAN COMMUNITIES

See reply to question 79.

INTERNATIONAL SUGAR AGREEMENT

In terms of exchange and repatriation (see questions 76 and 77 above).

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

1. See reply to question 79.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Subject to the replies to questions 76, 77 and 82 and to the status of the Secretary-General and Deputy Secretaries-General, officials of the organization are not equated to diplomatic officials for the purpose of the granting of the immunities, exemptions or facilities set forth in Supplementary Protocol No. I. The exemption from taxes in respect of the salaries and emoluments paid to them is equated to that enjoyed by officials of the principal international organizations and on the same conditions. The Secretary-General is granted in respect of himself, his spouse and children under the age of 21, the privileges, immunities, exemptions and facilities granted to heads of diplomatic missions in conformity with international law. The Deputy Secretaries-General enjoy the privileges, immunities, exemptions and facilities accorded to diplomatic representatives of

comparable rank. However, as a gesture of courtesy, the host country treats a Deputy Secretary-General who is not a French national in the same manner as the head of a diplomatic mission.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No está prvisto en el Convenio.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 81

DETERMINATION OF THE OFFICIALS OF THE ORGANIZATION AND COMMUNICATION TO THE HOST COUNTRY

What means of determination and what channels of communication are contemplated in relevant provisions or used by your organization to inform the State authorities of the host country which officials should enjoy the immunities, exemptions and privileges referred to in the above questions?

DETERMINATION DES FONCTIONNAIRES DE L'ORGANISATION ET COMMUNICATION DE LEURS NOMS AU PAYS HOTE

Quels sont les moyens prévus par les dispositions pertinentes ou utilisés par votre organisation pour déterminer les catégories de fonctionnaires qui doivent bénéficier des immunités, exemptions et privilèges visés par les questions ci-dessus et pour communiquer ces renseignements aux autorités du pays hôte?

DETERMINACION DE LOS FUNCIONARIOS DE LA ORGANIZACION Y COMUNICACION AL PAIS HUESPED

¿Qué medios de determinación y qué conductos se prevén en las disposiciones pertinentes o utiliza su organización para comunicar a las autoridades estatales del país huésped a qué funcionarios se deben reconocer las inmunidades, exenciones y prerrogativas mencionadas en las preguntas anteriores?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

La Junta comunica oficialmente los nombres de los funcionarios y la fecha en que asumen sus funciones y la fecha en que cesan, según lo previsto en el artículo 20 del Convenio.

AFRICAN CIVIL AVIATION COMMISSION

The Secretary-General of AFCAC notifies the Ministry of Foreign Affairs.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

L'agence notifie au Ministère des relations extérieures, service du protocole, la nomination du Directeur général, celle du personnel hors classe, la nomination du Directeur de station ou Directeur d'établissement.

CARIBBEAN COMMUNITY

The Secretary-General of the Community designates the persons entitled on consultation with the Government. In addition, article 10 (2) of the headquarters agreement provides that officials of the Community who are entitled to enjoy the privileges and immunities conferred by the agreement are provided with identity cards by the host Government to certify their entitlement.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

L'accord de siège.

COMMONWEALTH SECRETARIAT

Immunities, exemptions and privileges attach only to certain posts determined by the secretariat, and notified by normal administrative channels to the United Kingdom authorities.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

En vertu de l'article 17 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe, "le Secrétaire général déterminera les catégories des agents auxquels s'appliquent, en tout ou en partie, les dispositions de l'article 18. Il en donnera communication aux gouvernements de tous les membres. Les noms des agents compris dans ces catégories seront communiqués périodiquement aux gouvernements des membres."

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

El Servicio de Protocolo del Ministerio de Asuntos Exteriores del Gobierno de España expide tarjetas de identidad a los funcionarios indicados por la Secretaría Ejecutiva del Consejo y a que se hace referencia en el Convenio de Sede.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

1. Under article V, paragraph 1, of the 1959 Convention, the CMEA Executive Committee, *on the recommendation of the Secretary of the Council, specifies* the categories of officials to which the provisions of article V ("Officials of the Council") apply. The names of such officials are communicated periodically by the Secretary of the Council to the member countries of the Council.

2. Under article VIII, paragraph 2, of the 1961 Agreement between CMEA and the Government of the USSR, the Council may (and, in practice, does) issue to its officials certificates which are recognized by the competent organs as documentary evidence that the persons concerned are entitled to the privileges and immunities granted under the 1959 Convention. These certificates may also be used in other member countries of CMEA.

EUROPEAN COMMUNITIES

Article 16 of the Protocol provides as follows:

> "The Council shall, acting on a proposal from the Commission and after consulting the other institutions concerned, determine the categories of officials and other servants of the Communities to whom the provisions of article 12, the second paragraph of article 13, and article 14 shall apply, in whole or in part.
>
> "The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to the Governments of the member States."

INTERNATIONAL SUGAR AGREEMENT

Determination is made by the headquarters agreement and communication is by notes to the Foreign Office.

INTERNATIONAL WHALING COMMISSION

1. The headquarters agreement, article 20 (1), states: "The Commission shall inform the Government when a staff member or expert takes up or relinquishes his post. Furthermore the Commission shall from time to time send the Government a *list of all staff members and experts* ...".

2. Names of individual staff members are notified to the United Kingdom Foreign Office on a form supplied by the Foreign Office, on appointment to or separation from service and upon any change of circumstances (change of address, title, marital status, etc.). From time to time, if a number of changes have occurred over a period, a complete list of staff members is supplied.

NORTH ATLANTIC TREATY ORGANIZATION

See answers to question 79.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

A complete list of those officials holding special identity cards is provided each year to the French authorities.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

El Secretario General de la SIECA hace del conocimiento del Ministerio de Relaciones Exteriores, del Gobierno de Guatemala, periódicamente, por lo menos cada seis meses, los nombres de las personas que presten sus servicios en dicha institución que tengan categoría de funcionarios internacionales para su aprobación (art. V del Convenio de Prerrogativas, Inmunidades y Privilegios).

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

C'est par le canal du Ministère des affaires étrangères du pays d'accueil que sont communiquées les listes des fonctionnaires faisant partie du Secrétariat général de l'Union.

Question 82

Do categories of officials exist determining the degree of enjoyment of immunities, exemptions and privileges? If so, what are those categories?

Le degré de jouissance des immunités, exemptions et privilèges est-il déterminé en fonction des catégories de fonctionnaires? Dans l'affirmative, quelles sont ces catégories?

¿Existen categorías de funcionarios que determinen el grado de reconocimiento de inmunidades, exenciones y prerrogativas? En caso afirmativo, ¿cuáles son tales categorías?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Ver punto 55.

AFRICAN CIVIL AVIATION COMMISSION

According to the headquarters agreement, a distinction is made between various categories (see arts. 6 and 7).

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Oui, le Directeur général, outre les privilèges et immunités reconnus au personnel par l'article XVI de l'annexe I à la Convention, jouit des privilèges et immunités reconnus aux agents diplomatiques de rang comparable (art. XV).

CARIBBEAN COMMUNITY

The categories are senior officials, nationals of the host country and officials not designated senior officials by the Community.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Voir annexe B dudit accord.

COMMONWEALTH SECRETARIAT

Yes. Secretary-General; Deputy Secretary-General

D1: Assistant Secretary-General; Managing Director, CFTC.

D2: Director; Science Adviser; Medical Adviser; Special Adviser, CFTC; Adviser, Women and Development.

D3: Assistant Director; Special Adviser, CFTC; Special Assistant; Deputy Secretary, Science Council.

D4: Chief Personnel Officer; Chief Economics Officer; Chief Accountant; Chief Executive Officer; Chief Project Officer; Commonwealth Geological Liaison Officer; Editor (radio and film production).

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

1. Tous les agents de l'organisation bénéficient des privilèges, immunités et exemptions prévus à l'article 18 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe. Toutefois, certaines facilités sont accordées en fonction des catégories des fonctionnaires (A4 à A7).

2. Le Secrétaire général et le Secrétaire général adjoint, outre les privilèges et immunités accordés aux agents de l'organisation aux termes de l'article 18, jouissent des privilèges, immunités, exemptions et facilités accordés aux envoyés diplomatiques conformément au droit international.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Durante su estancia en España para el desempeño de las funciones que les hayan sido encomendadas, el Presidente y el Vicepresidente del Consejo Oleícola Internacional, los representantes de los Estados miembros del Consejo Oleícola en las reuniones del Consejo o de sus Comités y en las reuniones que aquél convoque, gozan de facilidades, privilegios e inmunidades análogos a los que se reconocen al personal diplomático extranjero de categoría equivalente en misión oficial temporal en España. Estas facilidades, privilegios e inmunidades abarcan a los cónyuges e hijos menores de 21 años de las personas anteriormente mencionadas y que dependan de ellas.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

1. Apart from the officials specified in answers 66 and 79, there are no other categories of CMEA officials enjoying a separate degree of immunities and privileges.

2. The categories of officials to which the provisions of article 5 ("officials of the Council") of the 1959 Convention apply, and the correspondence (equation) of specific grades in the CMEA secretariat with job categories (ranks) in the diplomatic missions of the members countries of CMEA (for the purposes of art. V, para. 2 (d), of the 1959 Convention) are established by decisions of the Executive Committee of CMEA.

EUROPEAN COMMUNITIES

No categories of officials exist determining the degree of enjoyment of immunities, exemptions and privileges.

INTERNATIONAL SUGAR AGREEMENT

Categories are the Executive Director and other staff members, otherwise differentiated only by whether they are or are not citizens (or residents) of the United Kingdom and colonies).

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

See reply to question 79.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Yes, the degree of enjoyment of immunities, exemptions and privileges is conditioned to some extent on the category to which the official belongs. All officials of the organization enjoy the immunities, exemptions and privileges specified in article 14 of Supplementary Protocol No. I (subject to what has been stated in the answer to question 1) but certain categories of officials are accorded a special treatment; officials of grade A4 to A7 are assimilated to diplomats. The Secretary-General and the Deputy Secretaries-General enjoy the additional privileges, immunities, exemptions and facilities referred to in the answer to question 80.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

El reconocimiento o calificación del statu de funcionario internacional a los funcionarios o técnicos que prestan servicios en la SIECA corresponde, en definitiva, al Ministerio de Relaciones Exteriores del Gobierno de Guatemala (art. V del Convenio de Prerrogativas, Inmunidades y Franquicias). Esto no implica distinción por categorías de funcionarios; ni, desde luego, grado o rango para el reconocimiento discriminado de tales inmunidades, exenciones y prerrogativas en función de las categorías.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Veuillez vous référer à la réponse donnée aux questions 55 et 59.

Question 83

How frequently and in what form are the names of officials made known to the Governments of member States?

Avec quelle fréquence et sous quelle forme les noms des fonctionnaires sont-ils communiqués aux gouvernements des Etats membres?

¿Con qué frecuencia y en qué forma se dan a conocer los nombres de los funcionarios a los gobiernos de los Estados miembros?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No se comunican a los gobiernos de los países miembros.

AFRICAN CIVIL AVIATION COMMISSION

When the needs arise. By letter.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Le Directeur général et le personnel hors classe disposent de contrat de durée limitée (4 ans). Toute nomination d'un nouveau directeur est notifiée par écrit.

CARIBBEAN COMMUNITY

Once every year with amendments made to accommodate new members of staff.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Compte tenu du nombre relativement restreint de fonctionnaires à chaque modification de la situation et une fois par an pour l'attribution des titres de séjour.

COMMONWEALTH SECRETARIAT

On the occasion of each appointment. By note to the High Commissions.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Voir sous question 81 (art. 17 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe).

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Para los funcionarios del Consejo, una vez al año para renovar las tarjetas de identidad que expide el Ministerio de Asuntos Exteriores de España, para las personalidades antes citadas, unos días antes de cada reunión del Consejo.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The names of officials (see answer 81, para. 1) are communicated annually to the member countries of the Council and are embodied in a booklet which indicates the names in the working and national languages, together with the grades.

EUROPEAN COMMUNITIES

The names of newly recruited officials are communicated to the member State where the official has his place of work.

INTERNATIONAL SUGAR AGREEMENT

Appointments and separations of senior officials are made known at the time. The Executive Director and the Stock Financing Fund Manager are appointed by the Council pursuant to the 1977 ISA and the Secretary also was so appointed. No notice is given regarding junior officials and other staff.

INTERNATIONAL WHALING COMMISSION

A list of secretariat staff is submitted to each annual meeting of the Commission.

NORTH ATLANTIC TREATY ORGANIZATION

See reply to question 79.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Information is not provided systematically unless requested.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Por lo menos cada seis meses, mediante lista que el Secretario General de la SIECA envía al Ministerio de Relaciones Exteriores del Gobierno de Guatemala.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Quatre fois par an, sous forme de lettre.

Question 84

Does your organization have "technical assistance experts"? If so, are they considered officials of the organization in every respect? Have any special problems arisen in their respect?

Est-ce que votre organisation emploie des experts de l'assistance technique? Dans l'affirmative, ces experts sont-ils considérés à tous égards comme des fonctionnaires de l'organisation? Des problèmes particuliers ont-ils surgi à leur sujet?

¿Cuenta su organización con "expertos en asistencia técnica"? En caso afirmativo, ¿se considera a tales expertos como funcionarios de la organización en todos los respectos? ¿Ha surgido algún problema especial en esa esfera?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Ver punto 55. No han surgido problemas.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Oui. Les experts ne sont pas considérés comme membres du personnel. Ils disposent de certains privilèges et immunités dans la mesure où ceux-ci sont nécessaires pour l'exercice de leurs fonctions : immunité de juridiction, inviolabilité de leurs papiers et documents officiels, facilités en matière de réglementations monétaires ou de change, en ce qui concerne leurs bagages personnels (art. XVII, annexe I, Convention de l'Agence).

CARIBBEAN COMMUNITY

The organization has technical assistance experts who are considered officials of the Community for the enjoyment of diplomatic privileges and immunities. No problems have arisen to date.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui, mais les experts sont des fonctionnaires oeuvrant pour le compte des gouvernements membres.

/...

COMMONWEALTH SECRETARIAT

Yes. Yes. No.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Los expertos que contrata el Consejo que no son funcionarios propiamente dicho pero que ejercen sus funciones en el Consejo o lleven a cabo misiones y viajes por cuenta de éste, disfrutan en la medida en que les sea preciso para el ejercicio de dichas funciones, de los privilegios e inmunidades siguientes:

a) Inmunidades de detención personal o de embargo de sus equipajes personales, excepto si hubieran cometido un delito flagrante. En este caso, las autoridades españolas informarán inmediatamente al Director del Consejo Oleícola de la detención o del embargo de equipajes;

b) Inmunidades contra toda acción judicial que pudiera serles entablada por los actos que hayan llevado a cabo en el ejercicio de su misión oficial (ya sean de palabra o por escrito); los interesados continuarán beneficiándose de esta inmunidad aun cuando hayan cesado en el desempeño de sus funciones y no efectúen otras misiones por cuenta del Consejo Oleícola;

c) Se les concederán las mismas facilidades de cambio que disfrutan los funcionarios de los gobiernos extranjeros en misión oficial temporal.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There is no category of "technical assistance experts" in CMEA. Apart from officials, the CMEA staff also includes persons belonging to the category of technical and service staff, to which the immunities and privileges accorded to officials do not apply.

EUROPEAN COMMUNITIES

The European Communities have several kinds of technical assistance experts. They are not considered fully fledged officials of the organization. No special problems have arisen in their respect.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

See reply to question 79.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No. The organization does not, at present, have technical assistance experts.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. Sí se cuenta con expertos. A tenor de lo prescrito en el artículo VI del Convenio de Prerrogativas, Inmunidades y Franquicias, las prerrogativas e inmunidades que contempla dicho instrumento se aplican también a los "técnicos que, sin formar parte del personal de la SIECA, sean contratados por ésta".

2. No se ha presentado ningún problema a este respecto.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non, pas d'application.

Question 85

WAIVER OF IMMUNITY

Under what circumstances can your organization waive the immunities of its officials?

LEVEE DE L'IMMUNITE

Dans quelles circonstances votre organisation peut-elle lever l'immunité de ses fonctionnaires?

RENUNCIA A LA INMUNIDAD

¿En qué circunstancias puede su organización renunciar a las inmunidades de sus funcionarios?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

En los casos en que las inmunidades entorpezcan el curso de la justicia y siempre que la renuncia no perjudique los intereses del Acuerdo de Cartagena (art. 15 del Convenio).

AFRICAN CIVIL AVIATION COMMISSION

The President of AFCAC shall in accordance with paragraph 3 of article 7 of the headquarters agreement, agree to waive the immunity accorded to the AFCAC employees in cases when such immunity hinders justice and that it could be waived without prejudice to AFCAC interests. The President shall agree to waive the immunity accorded to any AFCAC expert in accordance with paragraph 5 in all cases when he deems that such immunity could be waived without prejudice to AFCAC interests.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. L'article XXI.2 de l'annexe I à la Convention stipule que le Directeur général a le devoir de lever toute immunité dans tous les cas où son maintien est susceptible d'entraver l'action de la justice et où elle peut être levée sans porter atteinte aux intérêts de l'Agence. A l'égard du Directeur général, le Conseil a compétence pour lever cette immunité.

2. D'autre part, l'article IV.1.d) de cette même annexe précise que l'Agence bénéficie de l'immunité de juridiction et d'exécution sauf en cas de saisie, ordonnée par décision des autorités judiciaires, sur les traitements et émoluments dus par l'Agence à un membre de son personnel.

/...

CARIBBEAN COMMUNITY

The Secretary-General may waive the immunity of any official entitled to such immunity where in his opinion such immunity impedes or is likely to impede the course of justice and such waiver can be done without prejudice to the interest of the Community. In the case of the Secretary-General the Conference of Heads of Government (the supreme organ of the organization) has the power to waive his immunity.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Article 34 de l'accord de siège. Cette disposition prévoit que le Secrétaire général peut et doit lever l'immunité d'un agent dans tous les cas où cette immunité empêcherait l'exercice d'une action de justice à condition qu'il ne soit pas porté préjudice aux intérêts de la Commission centrale. A l'égard du Secrétaire général, du Secrétaire général adjoint et de l'ingénieur en chef, c'est la Commission centrale qui a qualité pour prononcer la levée des immunités. A l'égard du greffier et greffier adjoint la Chambre se prononçant à la majorité de tous les juges en fonction, a seule qualité pour prononcer la levée des immunités.

COMMONWEALTH SECRETARIAT

See pages 7 (para. 34) and 39 of the aforementioned study.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

En vertu de l'article 19 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe, "le Secrétaire général peut et doit lever l'immunité accordée à un agent dans tous les cas où, à son avis, cette immunité empêcherait l'exercice normal d'un acte de justice et pourrait être levée sans que cette mesure portât préjudice aux intérêts du Conseil. A l'égard du Secrétaire général et du Secrétaire général adjoint, le Comité des ministres a qualité pour prononcer la levée des immunités".

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

El Director Ejecutivo del Consejo está facultado y deberá renunciar a la inmunidad concedida a un experto, en los casos en que considere que debe hacerlo sin perjudicar los intereses del Consejo Oleícola.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

Under article V, paragraph 4, of the 1959 Convention, the privileges and immunities provided in that article are accorded to the persons specified therein (the Secretary of the Council, his deputies and other officials), solely in the interests of the Council and in order to ensure the independent exercise of their official functions. The Secretary of the Council has the right and the duty to waive the immunity of any official in any case where in his opinion the immunity would impede the course of justice and can be waived without prejudice to the interests of the Council. In the case of the Secretary of the Council and his deputies, the right to waive immunity is vested in the Executive Committee of the Council.

EUROPEAN COMMUNITIES

Article 18 of the Protocol provides as follows:

"Privileges, immunities and facilities shall be accorded to officials and other servants of the Communities solely in the interests of the Communities.

"Each institution of the Communities shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Communities."

INTERNATIONAL SUGAR AGREEMENT

No established rules.

INTERNATIONAL WHALING COMMISSION

The headquarter agreement, article 17(2), states: "The Secretary has the right and the duty to waive such immunities (other than his own) when he considers that such immunities are preventing the carrying out of justice and when it is possible to dispense with them without prejudicing the interests of the Commission. In respect of the Secretary, the Commission may waive his immunities".

NORTH ATLANTIC TREATY ORGANIZATION

As far as the officials are concerned.

1. Article 22 of the Ottawa Agreement stipulates:

> "Privileges and immunities are granted to officials and experts in the interests of the organization and not for the personal benefit of the individuals themselves. The Chairman of the Council of Deputies shall have the right and the duty to waive the immunity of any official or expert in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the organization."

2. A mutatis mutandis drafted article 15 applies to the representatives of member States:

> "Privileges and immunities are accorded to the representatives of member States and their staffs not for the personal benefit of the individuals themselves, but in order to safeguard the independant exercise of their functions in connection with the North Atlantic Treaty. Consequently, a member State not only has the right, but is under a duty to waive the immunity of its representatives and members of their staffs in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the purposes for which the immunity is accorded.

3. The immunity from legal process as extended to the staff of the organization under article 18(a) of the Ottawa Convention is in respect of official acts only. In support of this interpretation, attention may be drawn to the different wording of article 13, covering representatives of member countries, where true diplomatic immunity is set out and where, in subparagraph (a), immunity form personal arrest or detention is specifically mentioned.

4. This opinion is strengthened by the fact that this whole question has been exhaustively discussed in the interorganizational meetings that were held under the aegis of the Council of Europe in connection with the preparation of a statute for the future European civil service. In these meetings, the terms of article 22 of the Ottawa Convention and comparable articles in the statutes of the other organizations have been discussed both with regard to their general application and with particular reference e.g. to road accidents, and the representatives of the countries have been unanimous in their opinion that staff members involved in accidents on the road on their way to and from their headquarters cannot, by virtue of that fact, claim diplomatic immunity.

5. In one particular case, in 1972, a former staff member was sued for slander by another former staff member before the High Court of Justice, London. The head of the NATO body gave the former staff member concerned, for the cognizance of the Court before which was to be pleaded the issue of immunity from jurisdiction, an affidavit stating, inter alia, he enjoyed the immunity from legal process guaranteed by article 18 of the Ottawa Agreement, and had made the statements complained of in his official capacity and within the limits of his authority, as an official of the organization. The court recognized the immunity invoked.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Article 16 of Supplementary Protocol No. I provides that "the Secretary-General shall have the right and the duty to waive the immunity of any official in any case where in his opinion the immunity would impede the course of justice and can be waived without prejudice to the interests of the organization. In the case of the Secretary-General and the Deputy-Secretaries General the Council shall have the right to waive immunity".

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Con relación a esta pregunta, el último párrafo del artículo VIII del Convenio de Prerrogativas, Inmunidades y Franquicias, prescribe lo siguiente:

"La Secretaría levantará la inmunidad de cualquier funcionario o técnico por actos ejecutados en cumplimiento de actividades propias de la SIECA en caso de que, a su juicio, dicha inmunidad impida el curso de la justicia y siempre que pueda ser levantada sin perjuicio de los intereses de la SIECA."

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Seul le Comité de ministres peut lever l'immunité de juridiction du Secrétaire général (art. 39 du Traité d'union).

Question 86

What have been the general categories of alleged acts in respect of which waiver has been requested? In each category, has the organization usually granted the waiver or not?

A quelles grandes catégories appartiennent les actes imputés à des fonctionnaires pour lesquels la levée d'immunité a été demandée? Pour chaque catégorie, votre organisation a-t-elle habituellement accepté ou non de lever l'immunité?

¿Cuáles han sido las categoriás generales de los supuestos actos a raíz de los cuales se ha solicitado la renuncia? En cada categoría, ¿ha concedido la organización la renuncia en la mayoría de los casos o no?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No se han dado casos de renuncia.

AFRICAN CIVIL AVIATION COMMISSION

Never occured.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

En règle générale, exécution de jugements de divorce comportant versement de pensions au conjoint ou ayants droits. L'immunité a été levée dans de tels cas, une fois le jugement devenu définitif.

CARIBBEAN COMMUNITY

There have been no requests for waiver.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Néant.

COMMONWEALTH SECRETARIAT

There has been no request for waiver, so far, and none granted.

CONFERENCE EUROPENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Hasta el momento no se ha levantado la inmunidad a ningún funcionario.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There have been no cases of requests for waiver of immunities.

EUROPEAN COMMUNITIES

When criminal charges are brought against officials, waiver is granted in order to allow criminal procedures to take their course. Compare also article 23, paragraph 1, second sentence, of the staff regulations:

"Subject to the Protocol on Privileges and Immunities, officials shall not be exempt from fulfilling their private obligations of from complying with the laws and police regulations in force."

INTERNATIONAL SUGAR AGREEMENT

None.

INTERNATIONAL WHALING COMMISSION

No experience.

NORTH ATLANTIC TREATY ORGANIZATION

See reply to question 85.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

None.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No ha habido ningún caso.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Pas d'application.

Question 87

Has your organization ever received a request for waiver of immunity in respect of an act performed by an official during working hours and within the premises of the organization?

Vous a-t-il jamais été demandé de lever une immunité à l'occasion d'un acte accompli par un fonctionnaire pendant les heures de travail officielles et dans les locaux de l'organisation?

¿Ha recibido alguna vez su organización una petición de renuncia a la inmunidad respecto de un acto ejecutado por un funcionario en horas de trabajo y dentro de los locales de la organización?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

No.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

See reply to question 86.

CONFERENCE EUROPENNE DES ADMINISTRATIONS DES POSTES
ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No se ha recibido ninguna petición al respecto.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There have been no case of requests for waiver of immunity of officials in respect of acts performed by them during working hours and within official premises.

EUROPEAN COMMUNITIES

Yes.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

See reply to question 85.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Pas d'application.

Question 88

ABUSES OF PRIVILEGES

Please describe what procedure, if any, exists within the legal framework of your organization to settle any difference which may arise between the organization and the host country or any member State as to whether there has been an abuse of a privilege conferred on the organization or its officials.

ABUS DES PRIVILEGES

Veuillez décrire les procédures qui sont éventuellement prévues dans le cadre de votre organisation pour régler les différends susceptibles de surgir entre l'organisation et le pays hôte ou un Etat membre sur le point de savoir s'il y a eu abus d'un privilège conféré à l'organisation ou à ses fonctionnaires.

ABUSOS DE PRIVILEGIOS

Describa qué procedimiento, si lo hubiere, existe en el marco jurídico de su organización para solucionar los conflictos que puedan surgir entre la organización y el país huésped o algún Estado miembro en cuanto a si se ha abusado de una prerrogativa conferida a la organización o a sus funcionarios.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

El Gobierno del Perú puede, en casos de abuso, requerir el cese del funcionario y la Junta debe adoptar las medidas pertinentes para satisfacer dicho requerimiento (art. 21 del Convenio).

AFRICAN CIVIL AVIATION COMMISSION

Through co-operation with the competent authorities as provided for in article 7, paragraph 6 of the headquarters agreement.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

La procédure de règlement qui s'appliquerait serait celle de l'arbitrage.

CARIBBEAN COMMUNITY

A consultation process between the Government and the Secretary-General is provided for in the headquarters agreement.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

L'annexe A de l'accord de siège prévoit un arbitrage composé d'un tribunal arbitral de trois membres, l'un désigné par la Commission centrale, l'autre par le Gouvernement français et le troisième qui le préside d'un commun accord par les deux arbitres.

COMMONWEALTH SECRETARIAT

No special procedure exists.

CONFERENCE EUROPENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

En vertu de l'article 2 de l'Accord général sur les privilèges et immunités du Conseil de l'Europe, "le Secrétaire général collabore, en tous temps, avec les autorités compétentes des membres en vue de faciliter la bonne administration de la justice, d'assurer l'observation des règlements de police et d'éviter tout usage abusif des privilèges, immunités, exemptions et facilités énumérés dans le présent accord".

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Cualquier conflicto sobre la aplicación del acuerdo de sede o de cualquier otro acuerdo adicional que pudiera estipularse, si no es resuelto por medio de negociaciones entre las partes, será sometido, para su solución definitiva, a un tribunal compuesto de tres árbitros. Los árbitros serán nombrados: uno por el Director del Consejo Oleícola; otro por el Ministerio de Asuntos Exteriores del Gobierno español, y el tercero por los otros dos árbitros o, a falta de acuerdo sobre su designación, por el Presidente de la Corte Internacional de Justicia.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No special procedure exists within the legal framework of CMEA to settle differences between CMEA and member countries of CMEA concerning the abuse of privilege.

EUROPEAN COMMUNITIES

Waiver of immunity is decided by the European community institutions. A member State which considers there has been an abuse of privilege can ask the Court of Justice (under arts. 173 of the EEC treaty, 33 and 39 of the ECSC treaty and 146 of the EAEC treaty) to review the legality of the decision.

INTERNATIONAL COCOA ORGANIZATION

This point is not covered by the headquarters agreement. The answer is negative.

INTERNATIONAL SUGAR AGREEMENT

None.

INTERNATIONAL WHALING COMMISSION

The headquarters agreement, article 19, states: "The Commission shall, at the insistence of the Government, submit to an international arbitration tribunal any dispute involving a staff member or expert of the Commission and in which the person concerned can claim immunity form jurisdiction under this agreement and that immunity has not been waived".

NORTH ATLANTIC TREATY ORGANIZATION

1. No special problems have arisen in this field. As a rule, it is felt that it would be considerably more embarrassing to the organization if it were alleged that, in claiming diplomatic immunity for the officers, the organization had impeded the course of justice than to allow the legal authorities of a member State to establish the responsibility of all concerned in accordance with the normal procedures of the law.

2. So the different situations that could originate would have to be resolved on a case-by-case basis according to the national legislation of the host country concerned.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The organization shall co-operate at all times with the appropriate authorities of members pursuant to article 17 of Supplementary Protocol No. I.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No existe tal procedimiento por ahora.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Voir réponse à la question 85.

Question 89

Have cases of that nature actually arisen and if so, how often and what has been the result of the procedure employed?

Est-ce que des cas de cette nature se sont produits et, dans l'affirmative, quelle en a été la fréquence et quel a été le résultat de la procédure suivie?

¿Ha habido realmente casos de esa naturaleza, y, de ser así, con qué frecuencia se han dado y cuál ha sido el resultado del procedimiento empleado?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

No cases.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

No cases have arisen.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

No cases have arisen, so far.

CONFERENCE EUROPENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No ha habido ningún caso de esta naturaleza.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

There have been no cases of abuse of privilege.

EUROPEAN COMMUNITIES

In 1965 the EAEC Commission refused the permission asked by a member State official to carry out an inspection in an EAEC centre for the purpose of the assessment of EAEC for local excise duty. By order of 17 December 1968, in case 2/68, the Court authorized the inspection.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No se ha presentado ningún caso.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Pas d'application jusqu'à ce jour.

Question 90

Can an official of your organization be required to leave the country by the host State in case the latter considers he or she has abused its privileges and immunities or violated its laws and regulations? By what procedure are the facts ascertained? What is the role of the organization? What guarantees is the staff member given? What happens if the official has diplomatic status?

L'Etat hôte peut-il obliger un fonctionnaire de votre organisation à quitter le pays s'il considère que le fonctionnaire a abusé de ses privilèges et immunités ou a violé les lois et règlements de ce pays? Quelle est la procédure suivie pour déterminer l'exactitude des faits? Quel est le rôle de l'organisation? Quelles sont les garanties accordées aux fonctionnaires? Que se passe-t-il si le fonctionnaire jouit du statut diplomatique?

¿Puede exigir el Estado huésped que un funcionario de su organización abandone el país por considerar que ha abusado de sus prerrogativas e inmunidades o que ha violado las leyes y reglamentos de dicho Estado? ¿Qué procedimiento se utiliza para comprobar los hechos? ¿Qué papel desempeña la organización en ese proceso? ¿Qué garantías se brindan al funcionario? ¿Qué sucede si el funcionario tiene rango diplomático?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Ver punto 88.

AFRICAN CIVIL AVIATION COMMISSION

Yes, in accordance with article 3, paragraphs 3, 4 and 5 of the headquarters agreement.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Rien n'est prévu formellement si ce n'est l'article XXII de l'annexe I de la Convention : "Chaque Etat membre conserve le droit de prendre toutes les précautions utiles dans l'intérêt de sa sécurité".

CARIBBEAN COMMUNITY

This organization has no experience of this matter.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Une telle hypothèse ne s'est pas réalisée.

COMMONWEALTH SECRETARIAT

This case is not provided for in Supplementary Protocol No. I.

CONFERENCE EUROPENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

1. Sin perjuicio de las inmunidades especiales de que gozan las personas siguientes:

a) Los representantes de los Estados miembros, sus suplentes, asesores, expertos y secretarios, que hayan sido designados para asistir a las reuniones del Consejo Oleícola o de sus comités, o a las reuniones y conferencias que el Consejo o sus comités convoquen;

b) Los funcionarios y expertos del Consejo Oleícola Internacional así como los de las organizaciones gubernamentales y no gubernamentales admitidos por el Consejo en virtud de acuerdos consultivos;

c) Los familiares, cónyuges e hijos a su cargo, de las personas citadas en los apartados anteriores;

d) Todas aquellas personas a las que el Consejo Oleícola, sus comités o el Director, hayan invitado por razones oficiales;

las autoridades españolas podrán obligarlas a que durante su mandato abandonen el territorio español, si hubieran abusado de los privilegios que se les han reconocido ejerciendo actividades ajenas a sus funciones o misiones acerca del Consejo Oleícola, y siempre a reserva de las disposiciones siguientes.

2. El Ministerio de Asuntos Exteriores del Gobierno español habrá de aprobar previamente cualquier medida encaminada a obligar a las personas mencionadas anteriormente a que salgan del territorio español. Antes de dar su aprobación, el Ministerio de Asuntos Exteriores informará previamente a las Autoridades que se indican seguidamente:

a) Si se trata del representante de un Estado miembro o de una persona de su familia, el gobierno de dicho Estado miembro;

b) Si se trata del miembro de un comité del Consejo o de un familiar suyo, el Presidente del comité en cuestión;

c) Para cualquier otra persona, el Director del Consejo Oleícola.

3. Ademas, en el caso de la personas mencionadas en los apartados a) y b) el requerimiento para que abandonen el territorio español se hará siguiendo un procedimiento análogo al que se sigue con los representantes diplomáticos extranjeros acreditados en España.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The abuse by officials of CMEA of their privileges and immunities or the violation of the laws of the host country must result in a waiver of immunity on the part of CMEA (see answer 85), and the officials concerned may be requested to leave the host country. There exists no specially prepared procedure to ascertain the actual circumstances. The role of CMEA in such cases may consist in assessing the facts in conjunction with the organs of the host country, and this represents a definite guarantee for the CMEA staff member. There have been no cases in practice where the matter involved an official with diplomatic status. It might, of course, happen that a procedure existing in general for persons with diplomatic status may be used while respecting the conditions specified in answer 85.

CONSEIL DE L'EUROPE

(Council of Europe)

1. Ce cas n'est pas prévu par l'Accord général sur les privilèges et immunités du Conseil de l'Europe.

2. L'accord spécial relatif au siège du Conseil de l'Europe stipule ce qui suit en ses articles 5 et 6 :

"Article 5

Les autorités françaises ne mettront pas obstacle à l'accès au siège du Conseil :

a) ... des agents du Conseil, des familles de ces ... agents;

Article 6

...

Les dispositions prévues à l'article 5 n'auront pas pour effet de soustraire les personnes visées dans ledit article à la règlementation française sur le séjour des étrangers dans le cas où celles-ci abuseraient des

privilèges prévus à cet article en se livrant sur le territoire français, soit à des activités sans rapport avec leur mission..."

EUROPEAN COMMUNITIES

There is no experience to go by and the exact role of the Secretariat with respect both to the host country and the official concerned will have to be determined by the circumstances of the abuse. If warranted, the official could be required to leave the country by his being dismissed by the Secretary-General.

INTERNATIONAL SUGAR AGREEMENT

Presumably they may be required to leave, though no occasion has arisen to need answers to these questions.

INTERNATIONAL WHALING COMMISSION

No experience.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No, as far as member States are concerned.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No está contemplado el asunto en el "Convenio de Prerrogativas, Inmunidades y Franquicias", ni se ha dado ningún caso semejante al planteado.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Pour les fonctionnaires autres que le Secrétaire général, la législation belge est pleinement d'application.

Question 91

Please describe briefly any cases that may have arisen in respect of officials of your organization which may be relevant to throw light on the questions posed under the present heading.

Veuillez décrire brièvement les cas concernant des fonctionnaires de votre organisation qui peuvent apporter des éclaircissements au sujet des questions posées sous la présente rubrique.

Si se ha dado algún caso respecto de funcionarios de su organización que pueda ilustrar las respuestas dadas a las preguntas que anteceden, descríbalo brevemente.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No se ha dado tal caso.

AFRICAN CIVIL AVIATION COMMISSION

No cases so far.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Aucun cas ne s'est présenté.

CARIBBEAN COMMUNITY

No experience.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Néant.

COMMONWEALTH SECRETARIAT

As under 89 above.

CONFERENCE EUROPENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No se ha dado ningún caso hasta el momento que pueda ilustrar las repuestas que hemos dado anteriormente.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

See answers 88 and 90.

INTERNATIONAL SUGAR AGREEMENT

None.

INTERNATIONAL WHALING COMMISSION

No experience.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

There have been no cases.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No ha habido ningún caso.

Question 92

TRAVEL DOCUMENTS AND ADVANTAGES

Please indicate whether in addition to their national passports, officials of your organization are issued by it any travel document certifying their status.

DOCUMENTS ET FACILITES DE VOYAGE

Veuillez préciser si les fonctionnaires de votre organisation disposent, mis à part leur passeport national, d'un document de voyage délivré par votre organisation et attestant leur statut.

DOCUMENTOS DE VIAJE Y VENTAJAS EN ESA ESFERA

Indíquese si, además de sus pasaportes nacionales, los funcionarios de su organización reciben de ésta algún documento de viaje que certifique tal estatuto jurídico.

AFRICAN CIVIL AVIATION COMMISSION

Organization of African Unity and United Nations laissez-passer.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

L'Agence délivre une carte indiquant que son porteur (photographie, numéro du membre du personnel) est membre du personnel de l'Agence. Cette carte invite les autorités gouvernementales à lui porter assistance le cas échéant. Il ne s'agit pas d'un titre pouvant se substituer à une carte nationale d'identité ou à un passeport.

Les membres du personnel sont également porteurs de "cartes de fonctionnaires internationaux" délivrées par le Ministère des affaires étrangères du gouvernement sur le territoire duquel le membre du personnel exerce ses fonctions. Ces cartes varient selon qu'il s'agit de ressortissant ou non du gouvernement qui les émet [en France, cartes AD (assimilés diplomatiques), cartes FI (fonctionnaires internationaux), cartes FR (ressortissants français)].

CARIBBEAN COMMUNITY

Yes.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Oui. Les représentants gouvernementaux auprès de la Commission centrale se voient délivrer un document d'identité dans la mesure où ils ne sont pas ressortissants du pays hôte.

COMMONWEALTH SECRETARIAT

No.

CONFERENCE EUROPENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No special travel documents exist, but the certificate mentioned in answer 81 (para. 2) also functions as a travel document.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Salvo las tarjetas de identidad expedidas por el Ministerio de Asuntos Exteriores, los funcionarios del Consejo non reciben otro documento de viaje que certifique tal estatus jurídico.

EUROPEAN COMMUNITIES

1. Article 7, paragraph 1, of the Protocol provides as follows:

"Laissez-passer in a form to be prescribed by the Council, which shall be recognized as valid travel documents by the authorities of the member States, may be issued to members and servants of the institutions of the Communities by the Presidents of these institutions. These laissez-passer shall be issued to officials and other servants under conditions laid down in the Staff Regulations of officials and the conditions of employment of other servants of the Communities."

2. This provision is completed by article 23, paragraph 3, of the Staff Regulations:

"The laissez-passer provided for in the Protocol on Privileges and Immunities shall be issued to officials in grades A1 to A4 and equivalent grades. Where the interests of the service so require, this laissez-passer may be issued, by special decision of the appointing authority, to officials in other grades whose place of employment lies outside the territory of the member States."

INTERNATIONAL COCOA ORGANIZATION

This point is not covered by the headquarters agreement. The answer is negative.

INTERNATIONAL SUGAR AGREEMENT

Identification issued by the United Kingdom Foreign Office; however, this apparently has no status elsewhere as a travel document.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

No. Different procedures may have to be followed in time of international crisis.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No. The organization does not issue special travel documents certifying the status of officials.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No reciben tal documento.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Le Ministère des affaires étrangères belge délivre aux fonctionnaires néerlandais et luxembourgeois un permis de séjour.

Question 93

If the above question is answered in the affirmative, what is the nature and name of the document, and what practical purpose does it fulfill?

Dans l'affirmative, quels sont la nature et le nom du document en question et quelle est son utilité pratique?

Si la repuesta a la pregunta anterior es afirmativa, ¿cuál es la naturaleza y el nombre del documento, y qué finalidad práctica tiene?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No reciben "*documento de viaje*".

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Leur objectif est de faciliter l'entrée et la sortie du territoire de l'Etat membre.

CARIBBEAN COMMUNITY

The Secretary-General issues a travel document - laissez-passer - to officials for use on official travel. The practical purpose is that it facilitates immigration processing.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Document d'identité.

COMMONWEALTH SECRETARIAT

Not applicable.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Contestada anteriormente.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The certificate mentioned in answer 81 is called an "udostoverenie". It affirms, in the languages of all member countries of CMEA, the immunities and privileges of officials under article V, paragraphs 2 and 5, of the 1959 Convention (see also answer 81, para. 2, and answer 66, para. 2).

EUROPEAN COMMUNITIES

See question 92.

INTERNATIONAL WHALING COMMISSION

Not applicable.

INTERNATIONAL SUGAR AGREEMENT

See question 92. This identification can be useful on entering of departing the United Kingdom, with traffic policemen and for general identification purposes in the United Kingdom.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Not applicable.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Voir réponse à la question 92.

Question 94

What degree of acceptance is given that travel document by member and non-member States?

Dans quelle mesure ce document de voyage est-il accepté par les Etats membres et non membres?

¿En qué grado aceptan dicho documento de viaje los Estados miembros y no miembros?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Véase respuesta a la pregunta 93.

AFRICAN CIVIL AVIATION COMMISSION

Accepted by all States without any problem so far.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Aucun.

CARIBBEAN COMMUNITY

The document is recognized by all member States as a valid travel document. It is not recognized by non-member States.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Comme document attestant que le fonctionnaire fait partie du personnel de l'organisation et bénéficie à ce titre, des immunités et privilèges qui leur sont reconnus.

COMMONWEALTH SECRETARIAT

See reply to question 93.

CONFERENCE EUROPENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Contestada anteriormente.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The above document may be used in all member countries of CMEA.

EUROPEAN COMMUNITIES

See question 92.

INTERNATIONAL SUGAR AGREEMENT

None outside the United Kingdom.

INTERNATIONAL WHALING COMMISSION

Not applicable.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Not applicable.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Cette pièce de légitimation officielle belge est acceptée comme carte d'identité officielle par les autres Etats des communautés européennes.

/...

Question 95

Is the document also accepted, at least by some States, as a valid travel document without the production, also, of the national passport?

Ce document est-il également accepté, par certains Etats du moins, comme un document de voyage valide sans que le fonctionnaire ait aussi à produire son passeport national?

Dicho documento, ¿es aceptado también, al menos por algunos Estados, como un documento de viaje válido que no necesita ir acompañado del pasaporte nacional?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Véase respuesta a la pregunta 93.

AFRICAN CIVIL AVIATION COMMISSION

Yes.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

Yes.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

See reply to question 93.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Contestada anteriormente.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The above document does take the place of a national passport.

EUROPEAN COMMUNITIES

Yes. The European Communities laissez-passer is accepted as a valid travel document (without national passport) by all member States and, outside the Community, also by Switzerland and Austria.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

Not applicable.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Not applicable.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Les pays qui acceptent le passage de leurs frontières avec la seule carte d'identité acceptent également le permis de séjour spécial. Pour les pays qui exigent la production d'un passeport, le passeport national belge, néerlandais ou luxembourgeois doit être produit.

Question 96

What advantages are granted officials of your organization for travelling to and from the host country? To and from other States? Are visas required? If so, how speedily are they issued? Are personal baggage advantages granted?

Quelles sont les facilités accordées aux fonctionnaires de votre organisation pour entrer dans le pays hôte ou en sortir ou pour se rendre dans d'autres Etats? Doivent-ils obtenir un visa? Dans l'affirmative, quels sont les délais de délivrance des visas? Est-ce que des avantages personnels sont accordés pour les bagages des fonctionnaires?

¿De qué ventajas gozan los funcionarios de su organización para salir y entrar del país huésped? ¿Y para salir y entrar de otros Estados? ¿Se requieren visados? En caso affirmativo, ¿cuánto tiempo requiere su emisión? ¿Gozan los funcionarios de alguna ventaja en relación con su equipaje personal?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Las condiciones de entrada y salida se rigen por los reglamentos nacionales correspondientes.

AFRICAN CIVIL AVIATION COMMISSION

1. Concerning the host country a permanent visa is issued for multiple entries/exists.

2. Concerning other States, it depends on their national regulations and normally, the visa is issued without any delay.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. Les visas ne sont pas requis. Sorties et entrées suivent le passeport national (passeport diplomatique accordé au Directeur général par exemple).

2. Les ambassades des Etats-Unis délivrent le visa G4 et délivrent ces visas selon une procédure accélérée sur présentation de l'ordre de mission.

CARIBBEAN COMMUNITY

No specific advantages are granted for travelling to and from the host country. No specific advantages are given for travelling to and from other States. Visas are required to travel to some non-member States. They are issued expeditiously. Personal baggage advantages are granted in the sense that they are not searched and there are special clearance facilities for all persons of diplomatic status.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Voir article 21 et suivants de l'accord de siège.

COMMONWEALTH SECRETARIAT

Non-United Kingdom officials do not require visas. There is no uniformity of practice amongst member States.

CONSEIL DE L'EUROPE

(Council of Europe)

Les dispositions pertinentes de l'Accord général sur les privilèges et immunités du Conseil de l'Europe (art. 18 c) et de l'accord spécial relatif au siège (art. 5 et 6) s'appliquent.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Los funcionarios de la organización no gozan de ninguna ventaja especial para entrar o salir del país huésped. Se requieren los visados exigidos y nos gozan de ninguna ventaja en relación con su equipaje personal.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No visas are required for travel between member countries of CMEA by citizens of those countries. See also answers 66-72, 76 and 79.

EUROPEAN COMMUNITIES

By virtue of article 8 of the Protocol, special travel advantages are granted to the members of the European Parliament:

"No administrative or other restriction shall be imposed on the free movement of members of the Assembly travelling to or from the place of meeting of the Assembly.

"Members of the Assembly shall, in respect of customs and exchange control, be accorded:

"(a) By their own Government, the same facilities as those accorded to senior officials travelling abroad on temporary official missions;

"(b) By the Governments of other member States, the same facilities as those accorded to representatives of foreign Governments on temporary official missions."

INTERNATIONAL SUGAR AGREEMENT

Visas are granted for indefinite period, along with exemption fron alien registration and visa charges by the host State; visa requirements as normally applied by member States according to State of citizenship with visas normally quickly obtained, though this depends on local embassies; no personal baggage advantages.

INTERNATIONAL WHALING COMMISSION

None, but see question 66.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No special advantages are granted to officials of the organization for travel to and from the host country or to and from other States. Officials would require visas if visas are generally required for nationals of the country of which they are a citizen. Visas are not normally required by the host country for nationals of member countries. Personal baggage advantages are granted to those officials of the organization who are assimilated to diplomatic rank.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. Los funcionarios y los técnicos contratados por la SIECA, sea cual fuere su nacionalidad, gozan dentro del territorio guatemalteco de "libertad de tránsito, así como para entrar o salir del mismo" (art. VII del Convenio de Prerrogativas, Inmunidades y Franquicias).

2. Y, de manera especial, los funcionarios y técnicos no guatemaltecos, están exentos de toda restricción sobre inmigración y registro de extranjeros (art. VIII, literal d), del Convenio antecitado).

3. La permanencia en el país huésped de los funcionarios o técnicos extranjeros contratados or la SIECA se legaliza mediante una visa de cortesía expedida por la Dirección General de Migración del Gobierno de Guatemala. Dicha visa se extiende también a todos los familiares, dependientes del funcionario o técnico en cuestión. La solicitud del visado la realiza la oficina encargada de la Administración de Personal de la SIECA.

4. Para los funcionarios de la SIECA con categoría de permanente, lo mismo que para sus familiares dependientes, la visa de cortesía tiene vigencia de un año y, comprende además, con carácter ilimitado, las entradas y salidas del país huésped, sin tomar en consideración el medio de transporte.

5. Respecto a los técnicos extranjeros contratados temporalmente por la SIECA la visa de cortesía se les extiende, por lo general, atendiendo el tiempo de duración de sus contratos respectivos.

6. En relación con el equipaje, el Convenio de Prerrogativas, Inmunidades y Franquicias, en su artículo VIII, literal b) prescribe que los funcionarios y los técnicos contratados por la SIECA, que no sean de nacionalidad guatemalteca, gozarán dentro del territorio del país huésped de la inmunidad de secuestro de su equipaje personal u oficial.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Aucune règle spéciale n'est d'application.

Question 97

Do any States charge for visas?

Certains Etats perçoivent-ils un droit lors de la délivrance des visas?

¿Cobra algún Estado por la emisión de los visados?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Véase respuesta a la pregunta 96.

AFRICAN CIVIL AVIATION COMMISSION

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

Some non-member States charge for visas.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Sans objet.

COMMONWEALTH SECRETARIAT

No definitive answer can be given. There is no uniformity of practice amongst member States.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

En règle générale, les Etats membres ne perçoivent pas de droit sur les visas délivrés dans des cas particuliers aux fonctionnaires en déplacement dans l'exercice de leurs fonctions.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Cuando se solicitan visados para la organización, los Estados no cobran por la emisión de los mismos.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

See answer 96.

EUROPEAN COMMUNITIES

As regards third countries domestic law applies.

INTERNATIONAL SUGAR AGREEMENT

Some member States charge for visas; in most cases these charges have been waived.

INTERNATIONAL WHALING COMMISSION

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Member States do not charge for visas for officials on mission. However, occasionally non-member States do charge for such visas.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Ninguno de los Estados miembros del Tratado Genral de Integración Económica Centroamericana cobra por la emisión de visas para los funcionarios o técnicos de la SIECA en misión oficial.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Pas d'application.

Question 98

Are persons other than officials or staff members of the organization (such as experts, consultants) issued some sort of travel document by the organization? To what extent are the answers to the questions under this heading also applicable to such persons? Apart from information given under previous questions, has there been any difficulty in ensuring the right of transit for persons other than representatives of States (officials, experts on missions, other persons) in connection with their performance of official functions such as, e.g., attendance at meetings and travel on missions or to the headquarters of your organization on official business?

Votre organisation délivre-t-elle un document de voyage à d'autres personnes que les hauts fonctionnaires ou les fonctionnaires de votre organisation (tels que les experts ou les consultants)? Dans quelle mesure les réponses aux questions posées sous la présente rubrique s'appliquent-elles également à ces personnes? Outre les renseignements fournis en réponse aux précédentes questions, a-t-on eu des difficultés à assurer le droit de transit à des personnes autres que les représentants des Etats (hauts fonctionnaires, experts en mission, autres personnes) dans l'exercice de leurs fonctions officielles pour leur permettre, par exemple, de participer à des réunions, d'effectuer des missions, ou de se rendre au siège de votre organisation en voyage officiel?

¿Expide la organización algún tipo de documento de viaje a personas que no formen parte de su plantilla como expertos o consultores? ¿En qué medida cabe aplicar a tales personas las respuestas dadas a las preguntas que se formulan bajo este epígrafe? Aparte de la información facilitada en respuesta a las preguntas anteriores, ¿se ha planteado alguna dificultad para garantizar el derecho de tránsito a personas que no fueran representantes de Estado (por ejemplo, a foncionarios, expertos enviados en misión u otras personas) en relación con el desempeño de funciones oficiales, como la asistencia a reuniones y los viajes en misión o a la sede de su organización por asuntos oficiales?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AFRICAN CIVIL AVIATION COMMISSION

1. No traval documents issued to persons other than officials or staff members of AFCAC.

2. No difficulties encountered so far in ensuring the right of transit for persons other than representative of States in connection with their performance of official functions.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non (à l'exception, le cas échéant, d'un ordre de mission). Certains membres du personnel non français ont eu à subir quelques désagréments lors de contrôles aux frontières du fait qu'ils n'étaient pas porteurs par exemple du carnet de contrôle de change établi en 1983 par le Gouvernement français.

CARIBBEAN COMMUNITY

No. They are often given letters of introduction. No difficulty has arisen relating to right of transit.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

No travel document. No difficulty has been experienced with respect to the right of transit.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Les dispositions pertinentes de l'Accord général sur les privilèges et immunités du Conseil de l'Europe complété par les instruments suivants :

Protocole additionnel du 6 novembre 1952
Deuxième Protocole du 15 décembre 1956
Troisième Protocole du 6 mars 1959
Quatrième Protocole du 16 décembre 1961

s'appliquent aux personnes exerçant des fonctions au titre du Conseil de l'Europe, accomplissant des missions pour le compte de l'organisation ou participant à ses travaux (notamment ministres, membres de l'Assemblée consultative, représentants

permanents, membres et personnel des représentations permanentes, juges à la Cour, membres de la Commission, experts participant à des réunions du Conseil de l'Europe, membres des organes du Fonds de réétablissement, agents du Conseil de l'Europe ainsi que, s'il y a lieu, les membres de leurs familles et les personnes attachées à leur service) pour ce qui est des déplacements dans l'exercice de leurs fonctions.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

La organización no expide ningún documento de viaje a las personas que no forman parte de su plantilla, como expertos o consultores.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No special travel documents are issued. There have been no cases of any difficulty in ensuring the right of transit for persons specified in this question.

EUROPEAN COMMUNITIES

No.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

No. No experience.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The organization does not issue special travel documents. The organization has not encountered any particular difficulties in ensuring the right of transit for persons other than representatives of States in connection with their performance of official functions.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

1. No existe documento de viaje que extienda la SIECA.

2. Hasta el momento no ha habido ningún problema o dificultad relativos al derecho de tránsito que asiste a funcionarios o expertos enviados en misión por la SIECA, en relación con el desempeño de funciones oficiales.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Voir réponse à la question 97.

Question 99

Has any probem arisen in connection with the recognition of diplomatic travel advantages to officials within your organization enjoying diplomatic status?

L'octroi des facilités de voyage liées au statut de diplomate a-t-il posé des problèmes dans le cas des fonctionnaires de votre organisation qui jouissent de ce statut?

¿Ha surgido algún problema en relación con el reconocimiento de las prerrogativas diplomáticas en materia de viajes a funcionarios de su organización que tengan rango diplomático?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

COMMONWEALTH SECRETARIAT

No.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No ha surgido ningún problema en relación con el reconocimiento de las prerrogativas diplomáticas en materia de viajes a los funcionarios de la organización que tengan rango diplomático.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No problems have arisen in connection with the recognition of diplomatic travel advantages for officials of CMEA enjoying diplomatic status.

EUROPEAN COMMUNITIES

No.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

No.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 100

What other problems have arisen in connection with issues dealt with under the present heading?

Est-ce que d'autres problèmes se sont posés au sujet de questions évoquées à la présente rubrique?

¿Qué otros problemas se han planteado en relación con las cuestiones tratadas bajo este epígrafe?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Ninguno.

AFRICAN CIVIL AVIATION COMMISSION

None.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Aucun.

CARIBBEAN COMMUNITY

None other.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Néant.

COMMONWEALTH SECRETARIAT

None.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No substantial problems have arisen in connection with travel advantages.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

No se ha planteado problema alguno en las cuestiones que se han tratado bajo este epígrafe.

INTERNATIONAL WHALING COMMISSION

None.

EUROPEAN COMMUNITIES

No problems have arisen.

INTERNATIONAL SUGAR AGREEMENT

None.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

None.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

Ninguno.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 101

SETTLEMENT OF DISPUTES

What provisions, if any, exist within the legal framework of your organization for appropriate modes of settlement of:

(a) Disputes arising out of contracts or other disputes of a private character to which your organization is a party;

(b) Disputes involving any official of your organization who by reason of his official position enjoys immunity, if immunity has not been waived and other than the differences contemplated in question 88.

REGLEMENT DES DIFFERENDS

Quelles sont les dispositions, le cas échéant, qui régissent, dans le cadre de votre organisation, les modes de règlement appropriés pour :

a) Les différends en matière de contrats ou autres différends de droit privé auxquels votre organisation serait partie?

b) Les différends dans lesquels serait impliqué un fonctionnaire de votre organisation qui, du fait de sa situation officielle, jouit de l'immunité, si cette immunité n'a pas été levée (mis à part les différends envisagés au paragraphe 88)?

ARREGLO DE CONTROVERSIAS

Indique qué disposiciones, si las hubiere, existen en el marco jurídico de su organización para solucionar adecuadamente:

a) Las controversias relacionadas con contratos u otros conflictos de carácter privado en que su organización sea parte.

b) Las controversias en que se vea envuelto algún funcionario de su organización que, debido a su posición oficial, goce de inmunidad, siempre que no se haya renunciado a ésta, y demás conflictos aparte de los indicados en la pregunta 88.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No hay disposiciones al respecto dentro del marco jurídico de la organización.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Les différends juridiques de caractère privé auxquels l'Agence pourrait être partie sont soumis à une procédure d'arbitrage.

Le Directeur général a le devoir de lever l'immunité d'un membre du personnel dans tous les cas où son maintien est susceptible d'entraver l'action de la justice. Le Conseil est compétent pour lever l'immunité du Directeur général.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

a) Les différends en matière de contrats sont soumis à un arbitrage de droit privé.

b) Pas de dispositions.

COMMONWEALTH SECRETARIAT

No provisions have been made for the settlement of disputes, and no disputes have been experienced. In respect of contracts, the provisions of section 1 (3) of the Commonwealth Secretariat Act 1966 (UK) will be the basic guide. The question of contractual disputes with staff is currently under consideration.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

a) No existe un marco jurídico dentro de la organización para solucionar adecuadamente las controversias relacionadas con contratos u otros conflictos de carácter privado en que la organización sea parte.

b) Las controversias en que se vea envuelto algún funcionario de esta organización que debido a su posición oficial goza de inmunidad siempre que no se haya renunciado a ésta, se solucionarán de conformidad con lo expuesto en la pregunta 88, y no existe otro marco jurídico dentro de la organización para hacerlo.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

No special provisions exist within the legal framework of CMEA for modes of settlement of the disputes concerned.

EUROPEAN COMMUNITIES

(a) Articles 181 of the EEC Treaty, 42 of the ECSC Treaty and 153 of the EAEC Treaty provide as follows:

"The Court of Justice shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Community, whether that contract be governed by public or private law."

(b) There are no special provisions within Community law for settlement of disputes as defined in the question.

INTERNATIONAL SUGAR AGREEMENT

(a) Article 24 of the headquarters agreement applies.

(b) Article 25 applies.

NORTH ATLANTIC TREATY ORGANIZATION

(a) See answers to questions 2 and 3.

(b) Article 24 stipulates:

"The Council shall make provision for appropriate modes of settlement of:

"(a) Disputes arising out of contracts or other disputes of a private character to which the organization is a party;

"(b) Disputes involving any official or expert of the organization to whom part IV of this Agreement applies who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of article 22."

Executory measures for the enforcement of this article 24 (b) are the regulations governing complaints and appeals, approved by the NATO Council in 1965 and amended in 1973.

The essential provisions are the following:

Complaints

1. Members of the staff making a written complaint in accordance with the Civilian Personnel Regulations shall submit the complaint to the head of the NATO body to which they belong through the official responsible for personnel management, who will send a copy of the complaint for information to the head of the division or service concerned.

2. Members of the staff making a complaint shall be entitled to request that, before a decision is taken, the complaint be submitted to a complaints committee.

3. Alternatively, the head of the NATO body may decide to submit the complaint to the committee on his own initiative.

Appeals board

Composition

4. There shall be established an appeals board composed of a president and two full members, of different nationality. The members of the Board, who must be of the nationality of one of the member States of NATO, but not members of the organization's staff or of the national delegations to the Council, shall be appointed by the North Atlantic Council for a period of three years from among persons of recognized competence of whom one at least must have legal qualifications.

Competence

5. The Appeals Board shall decide any individual dispute arising out of a decision taken by the head of a NATO body either on his own authority or in application of a decision of the Council and which a staff member, or former staff member or his legal successors consider constitutes grounds for grievance. In this respect the Appeals Board shall have jurisdiction to resolve all questions regarding the interpretation and application of the Civilian Personnel Regulations, contracts or other terms of appointment.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

(a) None within the legal framwork of OECD.

(b) None.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No hay.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Pas de disposition spécifique existante.

Question 102

Describe briefly the modes of settlement employed in the practice of your organization in respect of disputes falling under (a) and (b) above. In the case of disputes under (a) do you consider that generally the arrangements made have produced a settlement which was satisfactory to both the other party and to your organization or that one side or the other was at a disadvantage which was reflected in the final result?

Décrivez brièvement les modes de règlement utilisés dans la pratique de votre organisation en ce qui concerne les différends visés aux alinées a) et b) ci-dessus. Dans le cas des différends visés à l'alinéa a), estimez-vous qu'en règle générale, les arrangements pris ont permis d'aboutir à un règlement satisfaisant tant pour l'autre partie que pour votre organisation ou que l'une ou l'autre partie a été désavantagée, ce qui a influé sur le résultat final?

Describa brevemente las modalidades de arreglo empleadas en la práctica de su organización respecto de las controversias que se indican en los incisos a) y b) supra. En el caso de las controversias mencionadas en el inciso a), ¿opina usted que, por lo general, merced a las medidas adoptadas se ha llegado a un arreglo satisfactorio tanto para su organización como para la otra parte, o bien que una de las partes se encontraba en una situación de desventaja que se reflejó en el resultado final?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

No hay experencia.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

1. La procédure d'arbitrage intervient après échec d'un règlement à l'amiable (bons offices, médiation). Elle prévoit l'établissement d'un tribunal arbitral composé de trois membres. Chaque partie désigne un arbitre. Ces deux arbitres désignent un troisième qui assume la présidence. En cas de défaillance, ces nominations sont faites par une personnalité extérieure.

2. Le tribunal fixe son siège, ses règles de procédure. Sa sentence est définitive et sans appel.

3. L'Agence n'a connu qu'un cas d'arbitrage privé, litige avec le propriétaire des lieux loués sur l'interprétation d'une clause d'indexation.

CARIBBEAN COMMUNITY

(a) Provision is usually made for settlement of disputes either by negotiation or by arbitration. In the case of arbitration, either party to a dispute nominates an arbitrator and both of them elect the Chairman. Where agreement cannot be reached on the Chairman or if a party fails to nominate an arbitrator, a third party, usually the head of a regional institution, can be requested to appoint the arbitrator. The arbitrators are usually free to regulate their procedure and the decision of the arbitrator is final and binding on the parties. Mediation procedures are sometimes provided for. Selection of the mediator is similar to procedure used in selecting an arbitrator. The only arrangement used to date is negotiation and has produced satisfactory settlements.

(b) No procedure exists.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Sans objet.

COMMONWEALTH SECRETARIAT

See reply to question 101.

SECRETARIA PERMANENTE DEL TRATADO GENERAL DE INTEGRACION ECONOMICA CENTROAMERICANA

(Permanent Secretariat of the General Treaty on Central American Economic Integration)

No existen.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Al no haber existido controversias en este marco, no podemos juzgar si existiría une situación de desventaja con respecto a la organización en el resultado final de la controversia.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

1. All cases of disputes that might arise are settled on an ad hoc basis.

2. Disputes that might arise out of contracts or other disputes of a private legal character to which CMEA might be a party may, with the consent of CMEA, be considered in the arbitral bodies or courts of the appropriate country.

3. No substantial problems have arisen in this area.

EUROPEAN COMMUNITIES

Given the fact that the treaties establishing the European Communities have provided for a very elaborate system of legal protection for individuals (art. 31 ss. ECSC Treaty, arts. 164 ss. and 215 EEC Treaty and arts. 136 ss. and 188 EAEC Treaty) there is a little need for settlements outside court procedures. If the Communities proceed to such settlements they are made by transactions between the parties involved. The settlements made are considered to be satisfactory to both parties.

INTERNATIONAL SUGAR AGREEMENT

No experience.

INTERNATIONAL WHALING COMMISSION

No experience.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Not applicable.

Question 103

SPECIALIZED AGENCIES OF REGIONAL ORGANIZATIONS

Is your organization a specialized agency of a parent regional organization?

INSTITUTIONS SPECIALISEES DES ORGANISATIONS REGIONALES

Votre organisation est-elle une institution spécialisée d'une organisation régionale apparentée?

ORGANISMOS ESPECIALIZADOS DE ORGANIZACIONES REGIONALES

¿Es su organización un organismo especializado o una organización regional matriz?

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

Es una organización matriz.

AFRICAN CIVIL AVIATION COMMISSION

AFCAC is a specialized agency of the Organization of African Unity.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

No.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Non.

COMMONWEALTH SECRETARIAT

Neither. It is unique in its own character and as an international organization.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Néant.

CONSEIL DE L'EUROPE

(Council of Europe)

Non.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Sí, nuestra organización es un organismo internacional intergubernamental, fundamentado como otros convenios en los principios inscritos en el capítulo VI de la Carta de La Habana.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

CMEA is not a specialized agency of any other regional organization.

EUROPEAN COMMUNITIES

No.

INTERNATIONAL COCOA ORGANIZATION

This point is not covered by the headquarters agreement; the answer is negative.

INTERNATIONAL SUGAR AGREEMENT

No.

INTERNATIONAL WHALING COMMISSION

No.

NORTH ATLANTIC TREATY ORGANIZATION

1. NATO itself is a regional organization.

The preamble of the North Atlantic Treaty states:

"The parties to this Treaty reaffirm their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all Governments.

"They are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law.

"They seek to promote stability and well-being in the North Atlantic area.

"They are resolved to unite their efforts for collective defence and for the preservation of peace and security.

"They therefore agreed to the North Atlantic Treaty."

2. On the other hand, within NATO different specialized agencies have been created in virtue of article 9 stipulating:

"The Parties hereby establish a council, on which each of them shall be represented, to consider matters concerning the implementation of this Treaty. The Council shall be so organized as to be able to meet promptly at any time. The Council shall set up such subsidiary bodies as may be necessary; in particular it shall establish immediately a defence committee which shall recommend measures for the implementation of articles 3 and 5."

3. A particular category of NATO subsidiary bodies are, e.g., the NATO production and logistics organizations (NPLOs), i.e. a body:

"to which the North Atlantic Council grants, within the framework of the North Atlantic Treaty Organization, a clearly defined organizational, administrative and financial independence; and

"established with a view to meeting to the best advantage the collective requirements of some or all States of the Alliance in the fields of production and logistics or such other related field as the North Atlantic Council may decide."

Each NPLO constitutes an integral part of NATO. It shares in the international personality of NATO, as well as in the juridical personality possessed by NATO by virtue of article 4 of the Ottawa Agreement. The juridical personality of every NPLO is intermingled with that of NATO and cannot be distinguished from it.

CONFERENCE EUROPEENNE DES ADMINISTRATIONS DES POSTES
ET DES COMMUNICATIONS

(European Conference of Postal and Telecommunications Administrations)

Siguiendo la clasificación elaborada por el Profesor Michel Virally en su obra "L'Organisation mondiale" (Armand Colin, París, 1972), acerca de los órganos que integran el sistema de Naciones Unidas, la SIECA pertenecería a los órganos integrados de tipo "administrativo". En efecto, la SIECA está principalmente encargada, tanto de las funciones de secretaría de los órganos intergubernamentales del Tratado General de Integración Económica Centroamericana, es decir, el Consejo Económico Centroamericano y el Consejo Ejecutivo, como de aquellas de estudio, administración y ejecución. Respecto al personal de la SIECA, éste se organiza en une pirámide jerárquica que culmina en un funcionario superior, el Secretario General, quien ejerce la dirección de la Secretaría Permanente. No obstante, los demás organismos que conforman la estructura institucional del Mercado Común Centroamericano no están sujetos ni subordinados a la SIECA, ya que ellos se rigen por los respectivos instrumentos jurídicos regionales que les dieron origen.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Non.

Question 104

If so, is there any convention on the topic under consideration applicable to all or several agencies and parent organizations belonging to the same system? If so, please supply the text.

Dans l'affirmative, existe-t-il sur le sujet à l'examen une convention applicable à toutes ou à plusieurs instituions et organisations apparentées appartenant au même système? Si c'est le cas, veuillez nous en communiquer le texte.

En caso afirmativo, ¿existe alguna convención relativa al tema que se examina que se pueda aplicar a todos o a varios organismos especializados y organizaciones matrices pertenecientes al mismo sistema? De ser así, sírvase acompañar el texto correspondiente.

ACUERDO DE CARTAGENA

(Commission for the Cartagena Agreement)

La organización se rige por el Acuerdo de Cartagena y el tratado complementario que crea el Tribunal de Justicia del Acuerdo de Cartagena.

AFRICAN CIVIL AVIATION COMMISSION

The OAU/AFCAC agreement as well as the working arrangements between ICAO and AFCAC.

AGENCE SPATIALE EUROPEENNE

(European Space Agency)

Non.

CARIBBEAN COMMUNITY

Not relevant.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

El Consejo Oleícola Internacional, organización internacional intergubernamental que administra un Convenio sobre un producto básico, el aceite de oliva. El Convenio internacional del aceite de oliva se fundamenta jurídicamente en los principios recomendados por el Consejo Económico y Social de la Organización de las Naciones Unidas (ONU) para la conclusión de tales convenios

sobre la base de los principios inscritos en el capítulo VI de la Carta de La Habana ultimada el 24 de marzo de 1948 en la Conferencia de las Naciones Unidas sobre el Comercio y Empleo convocada con objeto de adoptar los principios destinados a favorecer la expansión del comercio mundial. Actualmente se rige por las disposiciones sobre esta materia derivadas de la Conferencia de las Naciones Unidas sobre Comercio y Desarrollo (UNCTAD).

EUROPEAN COMMUNITIES

Not applicable.

INTERNATIONAL SUGAR AGREEMENT

Not applicable.

INTERNATIONAL WHALING COMMISSION

Not applicable.

NORTH ATLANTIC TREATY ORGANIZATION

See reply to question 103.

UNION ECONOMIQUE BENELUX

(Benelux Economic Union)

Pas d'application.

Question 105

If the answer to the previous question is in the affirmative, does the convention allow for specific modalities in its application to each agency?

(a) By what technical procedure?

(b) Has any problem ever arisen in the use of the procedure designed for applying those special modalities to your organization?

Au cas où il aurait été répondu par l'affirmative à la question précédente, est-ce que la convention en question prévoit des modalités d'applications particulières pour chaque institution?

a) Quelle est la procédure technique prévue?

b) Est-ce que des problèmes ont été suscités par l'emploi de la procédure prévue pour l'application de ces modalités particulières à votre organisation?

Si la respuesta a la pregunta precedente es afirmativa, ¿deja la convención un margen para la aplicación de modalidades específicas en cada organismo?

a) Mediante qué procedimiento técnico?

b) ¿Se han planteado alguna vez dificultades en la utilización del procedimiento destinado a aplicar tales modalidades especiales a su organización?

AFRICAN CIVIL AVIATION COMMISSION

No problem.

CARIBBEAN COMMUNITY

Not relevant.

COMMISSION CENTRALE POUR LA NAVIGATION DU RHIN

(Central Commission for the Navigation of the Rhine)

Sans objet.

COMMONWEALTH SECRETARIAT

Not applicable.

CONSEJO OLEICOLA INTERNACIONAL

(International Olive Oil Council)

Las modalidades específicas aplicables a nuestra organización se establecen en el Convenio Internacional del Aceite de Oliva, 1979.

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

The 1980 Convention mentioned in answer 104 does not provide for special modifications in its application to individual organizations.

EUROPEAN COMMUNITIES

Not applicable.

INTERNATIONAL SUGAR AGREEMENT

Not applicable.

INTERNATIONAL WHALING COMMISSION

Not applicable.

NORTH ATLANTIC TREATY ORGANIZATION

See reply to question 103.