

*Extract from:*

# UNITED NATIONS JURIDICAL YEARBOOK

1982

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

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



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

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## Chapter I

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

### 1. Bulgaria

#### NOTE DATED 27 JULY 1983 FROM THE PERMANENT MISSION OF BULGARIA TO THE UNITED NATIONS<sup>1</sup>

A new paragraph (paragraph 3) has been added to article 170 of the Penal Code of the People's Republic of Bulgaria to provide for a term of imprisonment of one to three years in the case of violation of the immunity of the residence, vehicle or working premises of an internationally protected person. If such acts are committed during the night by one or more persons, the Penal Code provides for a term of imprisonment of one to five years.

A new paragraph has been added to article 93 to define internationally protected persons. This new paragraph (paragraph 13) reads as follows:

"An internationally protected person is a person entitled to international protection by virtue of an international treaty to which the People's Republic of Bulgaria is a party."

Article 170 of the Penal Code reads as follows:

"1. Any person who enters the residence of a foreigner by force, intimidation, ruse, abuse of authority or special technical means shall be sentenced to a term of imprisonment not exceeding one year or to a period of re-education not exceeding six months.

"2. Should the act referred to in the preceding paragraph be committed during the night or by an armed person or by two or more persons, the applicable punishment shall be a term of imprisonment not exceeding three years.

"3. Should the acts referred to in the preceding paragraphs be committed against the residence, vehicle or working premises of an internationally protected person, the applicable punishment shall be: in the context of paragraph 1—a term of imprisonment not exceeding three years; and in the context of paragraph 2—a term of imprisonment of one to five years.

"4. Any person who remains illegally in the residence of a foreigner in spite of an explicit request to leave shall be sentenced to a period of re-education not exceeding six months or shall be fined not more than 50 leva."

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<sup>1</sup>The notes to each chapter are to be found at the end of that particular chapter

## 2. Canada

### (a) PRIVILEGES AND IMMUNITIES (INTERNATIONAL ORGANIZATIONS) ACT<sup>2</sup>

#### (i) IMCO PRIVILEGES AND IMMUNITIES ORDER, 1982

P.C. 1982-1155 22 April, 1982

His Excellency the Governor General in Council, on the recommendation of the Secretary of State for External Affairs, pursuant to section 3 of the Privileges and Immunities (International Organizations) Act, is pleased hereby to make the annexed Order respecting the privileges and immunities in Canada of the Inter-Governmental Maritime Consultative Organization (I.M.C.O.), 1982.

#### ORDER RESPECTING THE PRIVILEGES AND IMMUNITIES IN CANADA OF THE INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION (I.M.C.O.), 1982

##### *Short title*

1. This Order may be cited as the *I.M.C.O. Privileges and Immunities Order, 1982*.

##### *Interpretation*

2. In this Order,  
“Convention” means the Convention on the Privileges and Immunities of the United Nations;<sup>3</sup>  
“Organization” means the Inter-Governmental Maritime Consultative Organization.

##### *Privileges and immunities*

3. During the period commencing on April 26, 1982 and terminating on May 14, 1982,
  - (a) the Organization shall have, in Canada, the legal capacities of a body corporate and shall, to such extent as may be required for the performance of its functions, have the privileges and immunities set forth in Articles II and III of the Convention;
  - (b) officials of the Organization shall have in Canada, to such extent as may be required for the performance of their functions, the privileges and immunities set forth in Article V of the Convention for officials of the United Nations; and
  - (c) experts performing missions for the Organization shall have in Canada, to such extent as may be required for the performance of their functions, the privileges and immunities set forth in Article VI of the Convention for experts on missions for the United Nations.

#### (ii) UNESCO PRIVILEGES AND IMMUNITIES ORDER, 1982

P.C. 1982-1156 22 April 1982

His Excellency the Governor General in Council, on the recommendation of the Secretary of State for External Affairs, pursuant to section 3 of the Privileges and Immunities (International Organizations) Act, is pleased hereby to make the annexed Order respecting the privileges and immunities in Canada of the United Nations Educational, Scientific and Cultural Organization (U.N.E.S.C.O.), 1982.

ORDER RESPECTING THE PRIVILEGES AND IMMUNITIES IN CANADA OF THE UNITED NATIONS  
EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION (U.N.E.S.C.O.), 1982

*Short title*

1. This Order may be cited as the *U.N.E.S.C.O. Privileges and Immunities Order, 1982*

*Interpretation*

2. *In this Order,*

“Convention” means the Convention on the Privileges and Immunities of the United Nations;

“Organization” means the United Nations Educational, Scientific and Cultural Organization.

*Privileges and immunities*

3. During the period commencing on April 26, 1982 and terminating on May 14, 1982,

(a) the Organization shall have, in Canada, the legal capacities of a body corporate and shall, to such extent as may be required for the performance of its functions, have the privileges and immunities set forth in Articles II and III of the Convention;

(b) officials of the Organization shall have, in Canada, to such extent as may be required for the performance of their functions, the privileges and immunities set forth in Article V of the Convention for officials of the United Nations; and

(c) experts performing missions for the Organization shall have, in Canada, to such extent as may be required for the performance of their functions, the privileges and immunities set forth in Article VI of the Convention for experts on missions for the United Nations.

**(b) FOOD AND AGRICULTURE ORGANIZATION OF THE  
UNITED NATIONS ACT**

**FAO (N.A.F.C.—11th SESSION) PRIVILEGES AND IMMUNITIES ORDER, 1982**

P.C. 1982-331      4th February 1982

His Excellency the Governor General in Council, on the recommendation of the Secretary of State for External Affairs, pursuant to subsection 2(2) of the Food and Agriculture Organization of the United Nations Act, is pleased hereby to make the annexed Order respecting the Privileges and Immunities in Canada of the Eleventh session of the North American Forestry Commission of the Food and Agriculture Organization of the United Nations.

**ORDER RESPECTING THE PRIVILEGES AND IMMUNITIES IN CANADA OF THE ELEVENTH SESSION OF  
THE NORTH AMERICAN FORESTRY COMMISSION OF THE FOOD AND AGRICULTURE ORGANI-  
ZATION OF THE UNITED NATIONS**

*Short title*

1. This Order may be cited as the *F.A.O. (N.A.F.C.—11th Session) Privileges and Immunities Order, 1982*.

*Interpretation*

2. *In this Order,*

“Commission” means the Eleventh Session of the North American Forestry Commission of the Food and Agriculture Organization of the United Nations; (*Commission*)

“Convention” means the Convention on the Privileges and Immunities of the United Nations; (*Convention*)

“meeting” means the meetings of the Commission to be held at Victoria, British Columbia, from February 16, 1982 to February 19, 1982; (*réunion*)

“officials of the Commission” includes all persons invited or required to attend or service the meeting on behalf of the Food and Agriculture Organization or any intergovernmental or non-governmental international organization; (*fonctionnaires de la Commission*)

“representatives of states and governments that are members of the Commission” includes all representatives of states and governments that are invited to attend the meeting. (*représentants d’Etats et de gouvernements*)

3. During the period commencing on February 9, 1982 and ending on February 26, 1982,

(a) the Commission shall have the legal capacities of a body corporate and shall have in Canada, to such extent as it may require for the performance of its functions, the privileges and immunities set forth in Articles II and III of the Convention for the United Nations;

(b) the representatives of states and governments that are members of the Commission shall have in Canada, to such extent as may be required for the performance of their functions, the privileges and immunities set forth in Article IV of the Convention for representatives of members; and

(c) the officials of the Commission shall have in Canada, to such extent as may be required for the performance of their functions, the privileges and immunities set forth in Article V of the Convention for officials of the United Nations.

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### 3. Cape Verde

#### NOTE DATED 5 AUGUST 1983 FROM THE PERMANENT MISSION OF CAPE VERDE TO THE UNITED NATIONS<sup>4</sup>

...  
Decree No. 114/82 of 24 December 1982, relating to the social security system, contains the following in article 6, paragraph 3:

“Foreign workers in Cape Verde who are temporarily in the service (. . .) of international organizations are not covered by the social security system, unless they can prove that they are not covered by the social security system (. . .) in the organization to which they belong.”

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### 4. Ireland

#### DIPLOMATIC RELATIONS AND IMMUNITIES ACT<sup>5</sup>

##### (a) INTERCOUNTRY PROJECT FOR STATISTICAL COMPUTING (PRIVILEGES AND IMMUNITIES) ORDER, 1982<sup>6</sup>

Whereas it is enacted by section 42A of the Diplomatic Relations and Immunities Act, 1967 (No. 8 of 1967), inserted by section 1 of the Diplomatic Relations and Immunities (Amendment) Act, 1976 (No. 2 of 1976), that the Government may by order make provision to enable international organisations, communities or bodies, their institutions or organs and their property, and persons to have and enjoy in the State any inviolability, exemptions, facilities,

immunities, privileges or rights provided for in relation to them by an international agreement to which the State is or intends to become a party;

And whereas the agreement relating to the Intercountry Project for the use of computers for statistical purposes and the design and development of automated statistical information systems and made between the Government and the United Nations Development Programme and signed on behalf of the Government and the United Nations Development Programme on the 23rd day of June 1982 is such an agreement;

Now, the Government, in exercise of the powers conferred on them by the said section 42 A, hereby order as follows:

1. This Order may be cited as the Intercountry Project for Statistical Computing (Privileges and Immunities) Order, 1982.

2. Paragraphs A and B of Annex 1 to the Agreement between the Government and the United Nations Development Programme signed on behalf of the Government and the United Nations Development Programme on the 23rd day of June, 1982 (a copy of which is set out in the Schedule hereto) shall apply for the purposes of section 42A of the Diplomatic Relations and Immunities Act, 1967 (No. 8 of 1967), inserted by section 1 of the Diplomatic Relations and Immunities (Amendment) Act, 1976 (No. 2 of 1976).

## SCHEDULE

### AGREEMENT BETWEEN THE GOVERNMENT AND THE UNITED NATIONS DEVELOPMENT PROGRAMME

#### *PARAGRAPHS A AND B OF ANNEX I*

##### A. FACILITIES, PRIVILEGES AND IMMUNITIES

1. The UNDP, the ECE, and their personnel who participate in the execution of the Project shall be accorded the facilities, privileges and immunities specified or envisaged in the Agreement between the Governments and the UNDP (or its predecessor programmes). No provision in this Annex I shall be construed to limit or restrict the generality of any provision in the Agreements.

2. Each Government shall accord to representatives of the other Governments, attending meetings of the Steering Committee and its subordinate bodies, the privileges and immunities provided in Article IV of the Convention on the Privileges and Immunities of the United Nations.<sup>3</sup>

3. Each Government shall accord to officials of the UNDP, the ECE and others attending the meetings of the Steering Committee and its subordinate bodies, the privileges and immunities provided in Article V of the Convention on the Privileges and Immunities of the United Nations.

4. The UNDP shall provide the Governments with names of personnel and their dependants to whom the privileges and immunities referred to above shall apply.

##### B. GOVERNMENT PERSONNEL

5. Personnel of the Governments working on the Project and whose salaries are paid by their respective Governments shall remain the responsibility of their respective Governments. The Governments shall indemnify and hold harmless the UNDP and the ECE from any claims or actions by said Government personnel against the UNDP or the ECE arising out of the participation of said Government personnel in the Project. Under the same conditions, the UNDP and ECE shall be responsible for dealing with and settling the claims of personnel of the UNDP and ECE arising out of their participation in the Project.

6. Each Government shall extend to the personnel of the other Government performing services for the Project in its territory, the same privileges and immunities accorded to officials of the United Nations under Article V of the Convention on the Privileges and Immunities of the United Nations.

(b) COMMON FUND FOR COMMODITIES (DESIGNATION OF ORGANIZATION)  
ORDER, 1982<sup>7</sup>

Whereas it is enacted by section 40 (1) of the Diplomatic Relations and Immunities Act, 1967 (No. 8 of 1967), that the Government may by order designate an international organisation of which the State or the Government is or intends to become a member to be an organisation to which Part VIII of that Act applies;

And whereas the Common Fund for Commodities is an organisation such as aforesaid;

Now, the Government, in exercise of the powers conferred on them by section 40 of the said Diplomatic Relations and Immunities Act, 1967, hereby order as follows:

1. This Order may be cited as the Common Fund for Commodities (Designation of Organisation) Order, 1982.

2. The Common Fund for Commodities is hereby designated as an organisation to which Part VIII of the Diplomatic Relations and Immunities Act, 1967 (No. 8 of 1967), applies.

3. Chapter X (the terms of which are set out in the Schedule to this Order) of the Agreement establishing the Common Fund for Commodities done at Geneva on the 27th day of June, 1980, shall apply for the purposes of section 42 of the Diplomatic Relations and Immunities Act, 1967.

## SCHEDULE

### CHAPTER X

of the Agreement establishing the Common Fund for Commodities done at Geneva on the 27th day of June, 1980

#### *Article 40*

##### PURPOSES

To enable the Fund to fulfil the functions with which it is entrusted, the status, privileges and immunities set forth in this chapter shall be accorded to the Fund in the territory of each Member.

#### *Article 41*

##### LEGAL STATUS OF THE FUND

The Fund shall possess full juridical personality and, in particular, the capacity to conclude international agreements with States and international organizations, to enter into contracts, to acquire and dispose of immovable and movable property, and to institute legal proceedings.

#### *Article 42*

##### IMMUNITY FROM JURIDICAL PROCEEDINGS

1. The Fund shall enjoy immunity from every form of legal process, except for actions which may be brought against the Fund:

(a) By lenders of funds borrowed by the Fund with respect to such funds;

(b) By buyers or holders of securities issued by the Fund with respect to such securities; and

(c) By assignees and successors in interest thereof with respect to the aforementioned transactions.

Such actions may be brought only before courts of competent jurisdiction in places in which the Fund has agreed in writing with the other party to be subject. However, if no provision is made as to the forum, or if an agreement as to the jurisdiction of such courts is not effective for reasons other than the fault of the



party bringing legal action against the Fund, then such action may be brought before a competent court in the place in which the Fund has its headquarters or has appointed an agent for the purpose of accepting service or notice of process.

2. No action shall be brought against the Fund by Members, Associated ICOs, ICBs, or their participants, or persons acting for or deriving claims from them, except in cases as in paragraph 1 of this article. Nevertheless, Associated ICOs, ICBs, or their participants shall have recourse to such special procedures to settle controversies between themselves and the Fund as may be prescribed in agreements with the Fund, and, in the case of Members, in this Agreement and in any rules and regulations adopted by the Fund.

3. Notwithstanding the provisions of paragraph 1 of this article, property and assets of the Fund, wherever located and by whomsoever held, shall be immune from search, any form of taking, foreclosure, seizure, all forms of attachment, injunction, or other judicial process impeding disbursement of funds or covering or impeding disposition of any commodity stocks or Stock Warrants, and any other interlocutory measures before the delivery of a final judgement against the Fund by a court having jurisdiction in accordance with paragraph 1 of this article. The Fund may agree with its creditors to limit the property or assets of the Fund which may be subject to execution in satisfaction of a final judgement.

#### *Article 43*

##### IMMUNITY OF ASSETS FROM OTHER ACTIONS

The property and assets of the Fund, wherever located and by whomsoever held, shall be immune from search, requisition, taking whether by executive or legislative action.

#### *Article 44*

##### IMMUNITY OF ARCHIVES

The archives of the Fund, wherever located, shall be inviolable.

#### *Article 45*

##### FREEDOM OF ASSETS FROM RESTRICTIONS

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Fund shall be free from restrictions, regulations, controls, and moratoria of any nature.

#### *Article 46*

##### PRIVILEGE FOR COMMUNICATIONS

As far as may be compatible with any international convention on telecommunications in force and concluded under the auspices of the International Telecommunication Union to which a Member is a party, the official communications of the Fund shall be accorded by each Member the same treatment that is accorded to the official communications of other Members.

#### *Article 47*

##### IMMUNITIES AND PRIVILEGES OF SPECIFIED INDIVIDUALS

All Governors, Executive Directors, their alternates, the Managing Director, members of the Consultative Committee, experts performing missions for the Fund, and the staff, other than persons in domestic service of the Fund:

(a) Shall be immune from legal process with respect to acts performed by them in their official capacity except when the Fund waives such immunity;

(b) When they are not nationals of the Member concerned, shall be accorded, as well as their families forming part of their household, the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by such Member to the representatives, officials and employees of comparable rank of other international financial institutions of which it is a member;

(c) Shall be granted the same treatment in respect of travelling facilities as is accorded by each Member to representatives, officials and employees of comparable rank of other international financial institutions of which it is a member.

#### *Article 48*

##### IMMUNITIES FROM TAXATION

1. Within the scope of its official activities, the Fund, its assets, property, income and its operations and transactions authorized by this Agreement shall be exempt from all direct taxation and from all customs duties on goods imported or exported for its official use, provided that this shall not prevent any Member from imposing its normal taxes and customs duties on commodities which originate from the territory of such Member and which are forfeited to the Fund through any circumstance. The Fund shall not claim exemption from taxes which are no more than charges for services rendered.

2. When purchases of goods or services of substantial value necessary for the official activities of the Fund are made by or on behalf of the Fund, and when the price of such purchases includes taxes or duties, appropriate measures shall, to the extent possible and subject to the law of the Member concerned, be taken by such Member to grant exemption from such taxes or duties or provide for their reimbursement. Goods imported or purchased under an exemption provided for in this article shall not be sold or otherwise disposed of in the territory of the Member which granted the exemption, except under conditions agreed with that Member.

3. No tax shall be levied by Members on or in respect of salaries and emoluments paid or any other form of payment made by the Fund to Governors, Executive Directors, their alternates, members of the Consultative Committee, the Managing Director and staff, as well as experts performing missions for the Fund, who are not their citizens, nationals or subjects.

4. No taxation of any kind shall be levied on any obligation or security issued or guaranteed by the Fund, including any dividend or interest thereon, by whomsoever held:

(a) which discriminates against such obligation or security solely because it is issued or guaranteed by the Fund; or

(b) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Fund.

#### *Article 49*

##### WAIVER OF IMMUNITIES, EXEMPTIONS AND PRIVILEGES

1. The immunities, exemptions and privileges provided in this chapter are granted in the interests of the Fund. The Fund may waive to such extent and upon such conditions as it may determine, the immunities, exemptions and privileges provided in this chapter in cases where its action would not prejudice the interests of the Fund.

2. The Managing Director shall have the power, as may be delegated to him by the Governing Council, and the duty to waive the immunity of any of the staff, and experts performing missions for the Fund, in cases where the immunity would impede the course of justice and can be waived without prejudice to the interests of the Fund.

## Article 50

### APPLICATION OF THIS CHAPTER

Each Member shall take such action as is necessary for the purpose of making effective in its territory the principles and obligations set forth in this chapter.

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## 5. Netherlands

### NOTE DATED 14 JUNE 1983 FROM THE PERMANENT MISSION OF THE NETHERLANDS TO THE UNITED NATIONS

...

In July 1982, the Netherlands Ministry of Finance wrote a summary of the fiscal status of the Representative of the United Nations High Commissioner for Refugees (UNHCR) in the Netherlands. The summary in question [reproduced below] was based on existing rules and regulations on the privileges and immunities of the United Nations.

...

#### SUMMARY

With regard to your letter of 14 April 1982 concerning the status of a Representative of the United Nations High Commissioner for Refugees (UNHCR) in the Netherlands, I have the honour to give you the following information:

1. The fiscal status of the UNHCR representative in the Netherlands is based on the provisions of the Convention of the Privileges and Immunities of the United Nations<sup>3</sup> (hereafter referred to as "the Convention"). United Nations officials in the Netherlands enjoy the privileges and immunities set out in Article V, Section 18, of the Convention. Moreover, under the terms of Section 19 of the same article the United Nations Secretary-General and all Assistant Secretaries General are deemed to have diplomatic status.

As the official concerned does not come into the category referred to in Section 19 there are no legal grounds for according him diplomatic status and therefore he cannot be exempted from wealth tax, VAT or road tax on his private car(s). Only his salary (and other emoluments) from the United Nations are exempt from the Netherlands income tax (without application of the progression proviso) in accordance with Article V, Section 18 (b), of the Convention.

Under the terms of Article V, Section 18 (g), he is entitled to import his furniture and effects, including one or more cars, duty free. The car(s) are then issued with ordinary Netherlands number plates. The temporary exemption (using document Benelux 4) you advocate is disadvantageous to the person concerned because he would have to pay tax on the residual value of the vehicle(s) if he sold them.

Assuming that he is covered by the United Nations social security system, he is not regarded as an insured person under the Netherlands national insurance schemes (Order concerning exemption for AOW (General Old Age Pensions Act), AWW (Widows' and Orphans' Benefits Act), AKW (General Family Allowances Act), AWBZ (Exceptional Medical Expenses Compensation Act) and AAW (General Disablement Benefits Act) for officials employed by international organisations.<sup>8</sup>

2. The UNHCR Branch Office in the Netherlands is part of the United Nations and tax concessions can be in accordance with the provisions laid down in Article 11, Sections 7 and 8,

of the Convention. I have therefore seen fit to approve the following arrangements in respect of the Branch Office.

2.1 Besides the exemption from direct taxes excluding those for public utility services as laid down in Article II, Section 7 (a), of the Convention, the Branch Office will also be accorded the following exemptions:

a. exemption from taxes, duties and other levies on the import and export by the Branch Office of goods, including motor vehicles, for official use (Article II, Section 7 (b) and (c) of the Convention);

b. exemption from taxes and other levies included in the price of goods bought and services obtained in the Netherlands (except motor vehicles) for the Branch Office's official use (Article II, Section 8, of the Convention);

c. exemption on request from road tax on official vehicles.

## 2.2 *Import duty*

The exemption from import duty referred to above under item 2.1.a is made on the basis of an exemption permit issued by the Inspector of Customs and Excise in The Hague. Goods are declared for import duty-free on a "Douane 35" form and no security has to be provided.

## 2.3 *Import by post*

Letters, documents and other goods imported by post are exempted from duty providing it is reasonable to assume that they are intended for the Branch Office. No written declaration or exemption permit as described above is required.

## 2.4 *Renunciation of exemption*

Goods as defined in 2.1.a above obtained free of tax which are used for purposes other than those which gave entitlement to tax exemption (e.g., through sale, donation or hire) must be declared for import at the rates in force at the time of such declaration and, where appropriate, duty must be paid on the value of the goods at the time of such declaration.

## 2.5 *VAT (free circulation)*

In order to obtain exemption from VAT on goods and services obtained in the Netherlands as defined under 2.1.b above, the Branch Office should apply within three months of the end of each quarter to the Inspector of Customs and Excise in The Hague for a refund of tax paid in that quarter, using an OB 95 form or a form approved by the Inspector. The Inspector may set other conditions such as the submission of invoices and other documents to support applications.

VAT can only be refunded on goods to the value of Fl. 500 or more (excluding VAT) and therefore in principle no refund can be made in respect of invoices for less than this amount. However, the Branch Office may enter several invoices for less than Fl. 500 from the same firm on a collection statement:

a. If they relate to continuous services, such as gas, water and electricity supplies, and if the dates of the invoices are within the quarter in question;

b. if the invoices relate to a single order or agreement of some other kind, providing again that the dates of the invoices are within the quarter in question.

## 2.6 *Excise duty*

With regard to goods subject to excise duty, exemption may be granted in respect of:

a. mineral oil bought in the Netherlands for official use by the Branch Office; this includes the use of its motor vehicles and the heating of buildings used for official purposes;

b. tobacco products, alcoholic drinks and still and sparkling wines obtained from excise warehouses, tobacco manufacturing premises or credit warehouses for alcoholic substances or wines intended for the Branch Office's official use, including official receptions and other entertainment purposes.

Exemption as referred to under a. above is given in the form of a refund of the excise duty paid, and sole authority to grant such exemption is vested in the Inspector of Customs and

Excise in The Hague. The Branch Office should apply to him within three months of the end of each quarter for repayment of excise duty paid in that quarter, submitting with the application the original invoices relating to the mineral oil supplied. When mineral oil for use in motor vehicles is concerned, however, it is sufficient to submit receipts issued at the time of purchase, containing the following information:

- a. the name of the supplier;
- b. the name of the driver of the vehicle;
- c. the type and quantity of mineral oil;
- d. the place and date of purchase;
- e. the registration number of the vehicle for which the mineral oil was supplied.

The receipts should be signed by the supplier and by the driver of the vehicle in question. They should be submitted with the application for refund and a separate statement of the quantities involved. If the documents are to be returned to the Branch Office, the Inspector will add an endorsement to the effect that exemption has been granted.

With regard to the exemption referred to under b. above, a permit must be obtained in advance from the Inspector of Customs and Excise in The Hague. A "Douane 39" form signed by the UNHCR representative in the Netherlands should be used to apply for exemption. The Inspector grants the application by issuing the permit. No security is required, though the Inspector may lay down other conditions. Exemption in this case cannot be given in the form of a refund.

#### 2.7 Vehicle Registration

Motor vehicles imported as described under 2.2 above will be given a BN or GN registration number in the 8000 series and issued with a Benelux 4 certificate (no security required). The registration certificate will feature the words "*Slechts geldig met Benelux 4*" (Valid only in conjunction with Benelux 4 certificate).

3. In connection with paragraph 2.6 I would ask you to send me a specimen signature from the UNHCR representative in the Netherlands.

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## 6. Papua New Guinea

### UNITED NATIONS AND SPECIALIZED AGENCIES (PRIVILEGES AND IMMUNITIES) ACT, 1975<sup>9</sup>

#### (a) UNITED NATIONS AND SPECIALIZED AGENCIES (PRIVILEGES AND IMMUNITIES) (AMENDMENT) ACT, 1977<sup>10</sup>

Being an Act to amend Section 7 of the *United Nations and Specialized Agencies (Privileges and Immunities) Act 1975* so as to allow the Head of State, acting on advice, to prescribe privileges and immunities different from those prescribed in the Convention.

*Made by the National Parliament.*

#### PRIVILEGES AND IMMUNITIES (AMENDMENT OF SECTION 7)

Section 7 of the Principal Act is amended by omitting from Subsection (1) the words "as the case may be" and substituting the words:

"as the case may be, or such privileges and immunities as the Head of State, acting on advice, by regulation determines."

(b) UNITED NATIONS AND SPECIALIZED AGENCIES (PRIVILEGES AND IMMUNITIES) (AMENDMENT) ACT, 1981<sup>11</sup>

Being an Act to amend the *United Nations and Specialized Agencies (Privileges and Immunities) Act 1975*, to provide for the granting of privileges and immunities to persons performing services on behalf of a Specialized Agency,

Made by the National Parliament, to come into operation in accordance with a notice published in the *National Gazette* by the Head of State, acting with, and in accordance with, the advice of the Minister.

1. INTERPRETATION (AMENDMENT OF SECTION 5)

The definition of "Specialized Agency" in Section 5 of the Principal Act is amended by adding at the end thereof the following paragraph:

"(n) The United Nations Development Programme."

2. PRIVILEGES AND IMMUNITIES (AMENDMENT OF SECTION 7)

Section 7 of the Principal Act is amended by inserting after Subsection (1) the following subsections:

"(1A) The Minister may grant to persons performing services on behalf of a Specialized Agency the privileges and immunities applicable to a person under Subsection (1).

"(1B) For the purposes of Subsection (1A), the expression 'persons performing services' has the same meaning that it has in the United Nations Development Programme Standard Basic Agreement."

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7. Solomon Islands

(a) DIPLOMATIC PRIVILEGES AND IMMUNITIES ORDINANCE 1978<sup>12</sup>

AN ORDINANCE TO PROVIDE FOR DIPLOMATIC PRIVILEGES AND IMMUNITIES AND TO GIVE EFFECT TO THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS

[7 July 1978]

Enacted by the Governor of the Solomon Islands with the advice and consent of the Legislative Assembly of the Solomon Islands as follows:

1. This Ordinance may be cited as the Diplomatic Privileges and Immunities Ordinance 1978 and shall come into operation on 7th July 1978.

2. (1) In this Ordinance, unless the context otherwise requires—

"Convention" means the Vienna Convention on Diplomatic Relations signed in 1961, a copy of the English text of which is set out in the First Schedule to this Ordinance;

"organisation" means any organisation referred to in section 6 of this Ordinance;

"mission" means a diplomatic mission of any State;

"State" means a foreign state or any Commonwealth country.

(2) All expressions used in this Ordinance and defined in Article 1 of the Convention have the same meanings as those given to them in the Convention.

3. (1) Subject to the provisions of subsection (6) of this section, the provisions of Articles 1, 22 to 24 inclusive, and 27 to 40 inclusive of the Convention shall have the force of law in Solomon Islands.

(2) Without prejudice to the provisions of the last preceding subsection, the Minister, with the concurrence of the Minister responsible for finance, may from time to time determine either generally or in any case or class of case, the fiscal privileges which shall be accorded to any mission or persons connected with any mission, notwithstanding that the determination may extend treatment more favourable than that required by the provisions of the Convention, and may in like manner determine the terms and conditions on which those privileges may be enjoyed.

(3) For the purpose of giving effect to any custom or agreement by which Solomon Islands and any other State extend to each other treatment more favourable than is required by the provisions of the Convention, the Minister may from time to time, by order, declare that a mission of that State and persons connected with that mission shall be accorded such immunity from jurisdiction and inviolability, as are specified in the order:

Provided that nothing in this subsection shall apply with respect to persons to whom section 4 of this Ordinance applies.

(4) In subsections (2) and (3) of this section, the expression "treatment more favourable" includes the according of privileges or immunities, as the case may be, to persons who under the Convention may enjoy privileges and immunities only to the extent admitted by the receiving State.

(5) Where, by or by virtue of this Ordinance, immunity from jurisdiction is accorded to persons who are not diplomatic agents or persons enjoying immunity under Article 37 of the Convention, the immunity accorded to those first-mentioned persons may be waived in the manner and subject to the conditions specified in Article 32 of the Convention and the waiver shall have the same consequences as a waiver under that Article.

(6) For the purposes of the provisions of the articles referred to in subsection (1) of this section—

(a) a reference in those provisions to the receiving State shall be construed as a reference to Solomon Islands;

(b) a reference in those provisions to a national of the receiving State shall be construed as a reference to a Solomon Islands citizen;

(c) the reference in paragraph 1 of Article 22 to agents of the receiving State shall be construed as including a reference to any police officer and any person exercising a power of entry to premises;

(d) the reference in Article 32 to waiver by the sending State shall be construed as including a waiver by the head of the mission of the sending State or by a person for the time being performing the functions of the head of mission;

(e) Articles 35, 36 and 40 shall be construed as granting the privileges or immunities that those articles required to be granted;

(f) the reference in paragraph 1 of Article 36 to such laws and regulations as the receiving State may adopt shall be construed as including a reference to any law in force in Solomon Islands relating to the quarantine, or the prohibition or restriction of the importation into or the exportation from Solomon Islands of animals, plants, or goods:

Provided that any immunity from jurisdiction that a person may possess or enjoy by virtue of subsection (1) of this section shall not be prejudiced;

(g) the reference in paragraph 4 of Article 37 to the extent to which privileges and immunities are admitted by the receiving State, and the reference in paragraph 1 of Article 38 to any additional privileges and immunities that may be granted by the receiving State, shall, so far as they relate to privileges, be construed as references to such determinations as may be made by the Minister pursuant to subsection (2) of this section, and, so far as they relate to

immunities, be construed as references to such immunities as may be conferred by an order under subsection (3) of this section;

(h) the reference in paragraph 2 of Article 38 to the extent to which privileges and immunities are admitted by the receiving State shall, so far as it relates to privileges, be construed as reference to such determinations as may be made by the Minister pursuant to subsection (2) of this section, and, so far as it relates to immunities, be construed, in relation to persons to whom section 4 of this Ordinance applies, as a reference to immunities conferred by that section, and, in relation to other persons to whom that paragraph applies, as a reference to such immunities as may be conferred by an order under subsection (3) of this section.

4. The members of the administrative and technical staff and members of the service staff, of a mission who are Solomon Island citizens or are permanently resident in Solomon Islands shall be accorded immunity from jurisdiction, and inviolability, only in respect of official acts performed in the exercise of their functions.

5. Where the Minister is satisfied that the privileges and immunities accorded in relation to a mission of Solomon Islands in any State, or to persons connected with that mission, are less than those conferred by or by virtue of this Ordinance then in relation to the mission of that State, or to persons connected with that mission, he may, by order, withdraw, modify, or restrict, in relation to that mission or to persons connected with that mission, such of the privileges and immunities so conferred to such extent as appears to him to be proper.

6. (1) This section shall apply to any organisation declared by the Minister, by order, to be an organisation of which two or more States or the Governments thereof are members.

(2) The Minister may from time to time, by order—

(a) provide that any organization to which this section applies shall, to such extent as may be specified in the order, have the privileges and immunities specified in the Second Schedule to this Ordinance, and shall also have the legal capacities of a body corporate;

(b) confer upon—

(i) any persons who are representatives (whether of Governments or not) on any organ of the organisation or at any conference convened by the organisation or are members of any committee of the organisation or of any organ thereof;

(ii) such officers or classes of officers of the organisation as are specified in the order being the holders of such high offices in the organisation as are so specified;

(iii) such persons employed on missions on behalf of the organisation as are specified in the order,

to such extent as may be specified in the order, the privileges and immunities specified in the Third Schedule to this Ordinance;

(c) confer upon such other classes of officers and servants of the organisation as are specified in the order, to such extent as may be so specified, the privileges and immunities specified in the Fourth Schedule to this Ordinance and the Fifth Schedule to this Ordinance shall have effect for the purpose of extending to the staffs of such representatives and members as are mentioned in subparagraph (i) of paragraph (b) of this subsection and to the members of the families forming part of the household of officers of the organisation any privileges and immunities conferred on the representatives, members, or offers under that paragraph, except in so far as the operation of the Fifth Schedule to this Ordinance is excluded by the order conferring the privileges and immunities:

Provided that no order made under the provisions of this subsection shall confer any privilege or immunity upon any person as the representative of Her Majesty in right of Solomon Islands or of the Government of Solomon Islands or as a member of the staff of such a representative.

7. (1) Whenever the services of any person are provided for appointment to the public service of Solomon Islands pursuant to an agreement between any of the international organisations specified in the Sixth Schedule to this Ordinance and the Government of Solomon Islands, it shall be lawful for the Minister by order to confer upon any such person to such extent as



may be specified therein the immunities and privileges set out in the Seventh Schedule to this Ordinance or to which such person may be entitled by virtue of the appropriate treaty, convention or other arrangement to which Solomon Islands is a party.

(2) Every order made under the provisions of the last preceding subsection shall state the date from which the immunities and privileges thereby conferred shall take effect.

(3) Whenever any person ceases to be entitled to the immunities and privileges conferred by any order made under this Ordinance the Minister shall cause a notice to that effect to be published in the Gazette.

(4) The Minister may at any time by notice in the Gazette add to, vary or delete the whole or any part of the Sixth Schedule to this Ordinance with effect from the date specified in such notice.

(5) The fact that any person is or was entitled or not entitled to any of the immunities or privileges set out in the Seventh Schedule to this Ordinance may be conclusively proved by producing the Gazette containing the relevant order or notice, whichever is the case.

8. The Minister may from time to time by order confer on the Judges and Registrars of the International Court of Justice published by the Charter of the United Nations, and on suitors established by the Charter of the United Nations, and on suitors to that Court and their agents, counsel, and advocates, such privileges, immunities, and facilities as may be required to give effect to any resolution of, or convention approved by, the General Assembly of the United Nations.

9. Where—

(a) a conference is held in Solomon Islands and is attended by representatives of the Government of Solomon Islands and the Government or Governments of one or more States or of any of the territories for whose international relations any of those Governments is responsible; and

(b) it appears to the Minister that doubts may arise as to the extent to which the representatives of those Governments (other than the Government of Solomon Islands) and members of their official staffs are entitled to privileges and immunities,

the Minister may, by notice in the Gazette, direct that every representative of any such Government (other than the Government of Solomon Islands) shall be accorded such of the privileges and immunities conferred by or by virtue of section 3 and 4 of this Ordinance on a diplomatic agent as the Minister specifies, and that such of the members of his official staff as the Minister may direct shall be accorded such of the privileges and immunities conferred by or by virtue of sections 3 and 4 of this Ordinance on members of the diplomatic staff or the administrative and technical staff of a diplomatic mission as the Minister specifies.

10. Nothing in this Ordinance shall be construed as precluding the Minister from declining to accord privileges or immunities to or from withdrawing, modifying, or restricting privileges or immunities in relation to, nationals or representatives of any State, or the Government thereof, on the ground that the State or the Government thereof, is failing to accord corresponding privileges or immunities to Solomon Islands.

11. (1) Notwithstanding anything to the contrary in any Ordinance, the Minister, with the concurrence of the Minister responsible for finance, may from time to time wholly or partly exempt from any public or local tax, duty, rate, levy or fee any of the following Governments or persons—

(a) the Government of any State or the Government of any territory for whose international relations the Government of any such State is responsible;

(b) a representative or officer of the Government of any country other than Solomon Islands or of any provisional Government, national committee, international organisation, or other authority recognised by Solomon Islands, if he is temporarily resident in Solomon Islands in accordance with any arrangement made with the Government of Solomon Islands;

(c) a member of the official or domestic staff, or a spouse or dependent child, of any person to whom paragraph (b) of this subsection applies.

(2) Subject to the provisions of any international convention, treaty or arrangement to which Solomon Islands is a party, where a person who is a member of the official or domestic staff of a person to whom paragraph (b) of the last preceding subsection applies is a Solomon Islands citizen and not a citizen of the country concerned, or is not resident in Solomon Islands, solely for the purpose of performing his duties as such a member, that person shall not, and the spouse and dependent children of that person shall not by reason only of their being a member of his family, be entitled to any exemption granted under the last preceding subsection.

12. (1) The powers conferred on the Minister by sections 6, 7 and 11 of this Ordinance shall be deemed to include power to exempt from stamp duty under the Stamp Duties Ordinance and from any fee or duty under any other Ordinance any instrument or class of instruments to which any organisation, government, or person, as the case may be, to which or to whom the order or exemption applies is a party.

(2) Any exemption granted by the Minister under the last preceding section may be granted either unconditionally or subject to such conditions as the Minister thinks fit, and the Minister may at any time revoke any such exemption or revoke, vary, or add to any such conditions.

(3) Every exemption referred to in subsection (2) of this section shall come into force on such date as may be specified in that behalf by the Minister.

(4) Notwithstanding the provisions of any exemption referred to in subsection (2) of this section, any question arising as to the nature or extent of any such exemption, or to the governments or persons entitled to any such exemption, shall be referred to and be determined by the Minister. The decision of the Minister shall not be liable to be challenged, reviewed, quashed or called in question in any court.

13. (1) The Minister responsible for finance may direct that such refunds or payments be made from any public fund or account or from the money of any local authority, public body, or person as may in the opinion of that Minister be necessary to give effect to any fiscal privilege accorded pursuant to section 3 of this Ordinance or to any exemption granted under sections 6, 8, 9 or 11 of this Ordinance.

(2) Where any loss is suffered by any local authority, public body, or person by reason of the conferring of any such privilege or the granting of any such exemption or by the making of any refund of payment directed under this section, the Minister responsible for finance may direct that such payments be made from the Consolidated Fund to that local authority, public body, or person as may be necessary in the opinion of that Minister to reimburse that loss.

14. If in any proceedings any question arises whether or not any person or any organisation is or was at any time or in respect of any period accorded any privilege or immunity under or by virtue of this Ordinance, a certificate issued by the Minister stating any fact relevant to that question shall be conclusive evidence of that fact.

15. This Ordinance shall not affect any legal proceedings begun before the commencement of this Ordinance.

16. The Minister may make regulations for such matters as are contemplated by or necessary for giving full effect to this Ordinance and for the due administration thereof.

17. The Diplomatic Privileges Ordinance is hereby repealed.

#### **FIRST SCHEDULE**

#### **THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS**

(Not reproduced)<sup>13</sup>

## **SECOND SCHEDULE**

### **PRIVILEGES AND IMMUNITIES OF INTERNATIONAL ORGANISATIONS**

1. Immunity from suit and legal process.
2. The like inviolability of official premises and archives as is accorded in respect of the official premises and archives of a diplomatic mission.
3. Immunity in relation to its property and assets, wherever located and by whomsoever held, from search, requisition, confiscation, expropriation, or any other form of interference.
4. The like exemption from taxes and rates, other than taxes on the importation of goods, as is accorded to the Government of any foreign State.
5. Exemption from taxes on the importation of goods directly imported by the organisation for its official use in Solomon Islands or for exportation, or on the importation of any publications of the organisation directly imported by it, subject to compliance with such conditions as the Minister responsible for finance may determine for the protection of the revenue.
6. Exemption from prohibitions and restrictions on importation or exportation in the case of goods directly imported or exported by the organisation for its official use and in the case of any publications of the organisation directly imported or exported by it, subject to compliance with such conditions as the Minister responsible for finance may determine for the protection of the public health, the prevention of diseases in plants and animals, and otherwise in the public interest.
7. The right to avail itself, for telegraphic communications sent by it and containing only matter intended for publication by the press or for broadcasting (including communications addressed to or despatched from places outside Solomon Islands) of any reduced rates applicable for the corresponding service in the case of press telegrams.

## **THIRD SCHEDULE**

### **PRIVILEGES AND IMMUNITIES OF REPRESENTATIVES, MEMBERS OF COMMITTEES, HIGH OFFICERS, AND PERSONS ON MISSIONS**

1. The like immunity from suit and legal process as is accorded to a diplomatic agent.
2. The like inviolability of residence, official premises, and official archives as is accorded to a diplomatic agent.
3. The like exemption from taxes and rates as is accorded to a diplomatic agent.

## **FOURTH SCHEDULE**

### **PRIVILEGES AND IMMUNITIES OF OTHER OFFICERS AND SERVANTS**

1. Immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties.
2. Exemption from taxes in respect of emoluments received as an officer or servant of the organisation.
3. Exemption from taxes on the importation of furniture and effects imported at the time of first taking up post in Solomon Islands that exemption to be subject to compliance with such conditions as the Minister responsible for finance may determine for the protection of the revenue.

## **FIFTH SCHEDULE**

### **PRIVILEGES AND IMMUNITIES OF OFFICIAL STAFFS AND OF HIGH OFFICERS' FAMILIES**

1. Where any person is accorded any such immunities and privileges as are mentioned in the Third Schedule to this Ordinance as the representative on any organ of the organisation or a member of any committee of the organisation or of an organ thereof, the members of his official staff accompanying him as such a representative or member shall also be accorded those immunities and privileges to the same extent as the members of the staff of a mission are accorded the immunities and privileges accorded to a diplomatic agent.

2. Where any person is accorded any such privileges and immunities as are mentioned in the Third Schedule to this Act as an officer of the organisation, the members of the family of that person who form part of his household shall also be accorded those privileges and immunities to the same extent as the members of the family of a diplomatic agent who form part of his household are accorded the privileges and immunities accorded to that diplomatic agent.

**SIXTH SCHEDULE**  
**INTERNATIONAL ORGANISATIONS**

United Nations  
International Labour Organisation  
Food and Agriculture Organization of the United Nations  
United Nations Educational, Scientific and Cultural Organization  
International Civil Aviation Organization  
World Health Organization  
International Telecommunication Union  
World Meteorological Organization  
International Atomic Energy Agency  
Universal Postal Union  
United Nations Industrial Development Organization  
United Nations Conference on Trade and Development  
Inter-Governmental Maritime Consultative Organization  
International Monetary Fund  
International Bank for Reconstruction and Development  
International Finance Corporation  
Asian Development Bank  
Commonwealth Secretariat  
International Court of Justice  
South Pacific Commission  
United Nations Commission  
United Nations Office of Technical Co-operation  
United Nations Development Programme

**SEVENTH SCHEDULE**  
**IMMUNITIES AND PRIVILEGES**

1. Immunity from suit and legal process in respect of words spoken or written and all acts performed in his official capacity.
2. Exemption from taxation on all stipend, emoluments and allowances paid to him by the international organization.

Passed by the Legislative Assembly this eighteenth day of April, one thousand nine hundred and seventy-eight.

**(b) DIPLOMATIC PRIVILEGES (INTERNATIONAL ORGANISATIONS)**  
**ORDER 1979**

In exercise of the powers conferred upon me by section 6 of the Diplomatic Privileges and Immunities Act 1978, I, Peter Kauona Kenninaraisoona Kenilorea, Privy Councillor and Minister responsible for Foreign Affairs, hereby declare the organisations specified in the Schedule to this Order to be organisations of which two or more states or the Governments thereof are

members and that each organisation shall have the privileges and immunities specified in the Second Schedule to that Act and shall also have the legal capacity of bodies corporate.

**SCHEDULE**  
**INTERNATIONAL ORGANISATIONS**

United Nations Organization  
International Labour Organisation  
Food and Agriculture Organization of the United Nations  
United Nations Educational, Scientific and Cultural Organization  
International Civil Aviation Organization  
World Health Organization  
International Telecommunication Union  
World Meteorological Organization  
International Atomic Energy Agency  
Universal Postal Union  
United Nations Industrial Development Organization  
United Nations Conference on Trade and Development  
South Pacific Bureau of Economic Co-operation  
Inter-Governmental Maritime Consultative Organization  
International Refugee Organization  
Commonwealth Secretariat  
International Court of Justice  
South Pacific Commission  
United Nations Office of Technical Co-operation  
United Nations Development Programme

Made at Honiara this seventh day of May 1979.

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NOTES

<sup>1</sup> Translation prepared by the Secretariat of the United Nations on the basis of a French version provided by the Permanent Mission.

<sup>2</sup> See United Nations Legislative Series, *Legislative texts and treaty provisions concerning the legal status, privileges and immunities of international organizations* (ST/LEG/SER.B/10) (United Nations publication, Sales No. 60.V.2), p. 10, and *Juridical Yearbook, 1965*, p. 3.

<sup>3</sup> United Nations, *Treaty Series*, vol. 1, p. 15.

<sup>4</sup> Translation prepared by the Secretariat of the United Nations on the basis of a French version provided by the Permanent Mission.

<sup>5</sup> *Juridical Yearbook*, 1967, p. 37.

<sup>6</sup> Statutory Instrument 203 of 1982.

<sup>7</sup> Statutory Instrument 235 of 1982.

<sup>8</sup> *Government Gazette 1980*, 131.

<sup>9</sup> Reproduced in *Juridical Yearbook, 1975*, p. 6.

<sup>10</sup> No. 36 of 1977.

<sup>11</sup> No. 17 of 1981.

<sup>12</sup> No. 16 of 1978.

<sup>13</sup> United Nations, *Treaty Series*, vol. 500, p. 95.