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

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



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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

A. SWITZERLAND

1. Federal Act on the Privileges, Immunities and Facilities and the Financial Subsidies granted by Switzerland as a Host State (Host State Act (HSA)) of 22 June 2007*

The Federal Assembly of the Swiss Confederation,

on the basis of Article 54, paragraph 1, of the Federal Constitution,¹ and having considered the Dispatch to Parliament of the Federal Council dated 13 September 2006,²

decrees:

CHAPTER 1. SUBJECT MATTER

Article 1

1. This Act regulates, in the sphere of host state policy:
 - (a) the granting of privileges, immunities and facilities;
 - (b) the granting of financial subsidies and the provision of other support measures.
2. Privileges, immunities, facilities, and financial subsidies arising under international law or other federal statutes are unaffected.

CHAPTER 2. PRIVILEGES, IMMUNITIES AND FACILITIES

SECTION 1. BENEFICIARIES

Article 2

1. The Confederation may grant privileges, facilities and exemptions to the following institutional beneficiaries:

- (a) intergovernmental organisations;

* RO 2007 6637. Entered into force on 1 January 2008 (BRB of 7 December 2007—RO 2007 6649). The English text reproduced here is an unofficial translation which is available on the website of the Swiss Confederation (www.admin.ch).

¹ SR 101.

² BBl 2006 8017.

- (b) international institutions;
- (c) quasi-governmental international organisations;
- (d) diplomatic missions;
- (e) consular posts;
- (f) permanent missions or other representations to intergovernmental organisations;
- (g) special missions;
- (h) international conferences;
- (i) secretariats and other bodies established under an international treaty;
- (j) independent commissions;
- (k) international courts;
- (l) arbitration tribunals;
- (m) other international bodies.

2. **The Confederation may grant privileges, immunities and facilities to the following natural persons (“individual beneficiaries”):**

- (a) individuals who, whether on a permanent or a temporary basis, are called to act in an official capacity at one of the institutional beneficiaries referred to in paragraph 1 above;
- (b) eminent persons carrying out an international mandate;
- (c) individuals entitled to accompany one of the individual beneficiaries referred to in letters a or b, including private household employees.

SECTION 2. CONTENT, SCOPE OF APPLICATION AND DURATION

Article 3. Content

1. The privileges and immunities include:
 - (a) **inviolability of the person, premises, property, archives, documents, correspondence and diplomatic bag;**
 - (b) immunity from legal proceedings and the enforcement of judgments;
 - (c) exemption from direct taxes;
 - (d) exemption from indirect taxes;
 - (e) exemption from customs duties and other import taxes;
 - (f) freedom to acquire, receive, hold, transfer and convert funds, currencies, cash and other movable property;
 - (g) freedom of communication, movement and travel;
 - (h) exemption from the Swiss social security system;
 - (i) exemption from Swiss entry and residence requirements;
 - (j) **exemption from all personal services, from all public service and from all military duties or obligations of any kind.**
2. The facilities include:

- (a) the procedures for access to the employment market for the individual beneficiaries referred to in Article 2, paragraph 2, letters (a) and (c) above;
 - (b) the right to use a flag and an emblem;
 - (c) the right to issue laissez passer and to have them accepted as travel documents by the Swiss authorities;
 - (d) facilities of registration of vehicles.
3. The Federal Council may accord additional facilities of a more minor nature than those set out in paragraph 2 above.

Article 4. Scope of application

1. The personal and material scope of application of the privileges, immunities and facilities shall be determined case by case in the light of:
- (a) international law, Switzerland's international obligations, and international practice;
 - (b) the beneficiary's legal status and the importance of its role in international relations.
2. Exemption from direct taxes may be granted to all the beneficiaries referred to in Article 2 above. However, in the case of individual beneficiaries within the meaning of Article 2, paragraph 2, who are Swiss nationals, the exemption shall be granted only if the institutional beneficiary to which they are called has adopted an internal tax system of its own, provided that this condition is in accordance with international law.
3. Exemption from indirect taxes may be granted to all beneficiaries referred to in Article 2 above. However, individual beneficiaries within the meaning of Article 2, paragraph 2, shall be exempted from value added tax and mineral oil tax only if they hold diplomatic status.
4. Exemption from customs duties and other import taxes may be granted to all the beneficiaries referred to in Article 2.
5. The Federal Council shall issue regulations on entry into Switzerland, residence and work for the individual beneficiaries referred to in Article 2, paragraph 2, subject to what is permissible under international law.

Article 5. Duration

The duration of privileges, immunities and facilities may be limited.

SECTION 3. REQUIREMENTS FOR GRANTING PRIVILEGES, IMMUNITIES AND FACILITIES

Article 6. General requirements

- An institutional beneficiary may be accorded privileges, immunities and facilities if:
- (a) it has its headquarters or a branch in Switzerland or carries out activities in Switzerland;
 - (b) its purposes are not for profit and are of international utility;
 - (c) it carries out activities in the sphere of international relations; and

- (d) its presence in Switzerland is of special interest to Switzerland.

Article 7. International institutions

An international institution may be accorded privileges, immunities and facilities if it:

- (a) has structures similar to those of an intergovernmental organisation;
- (b) performs functions of a governmental nature or functions typically assigned to an intergovernmental organisation; and
- (c) **enjoys international recognition in the international legal order, and in particular under an international treaty, a resolution of an intergovernmental organization or a policy document adopted by a group of States.**

Article 8. Quasi-governmental international organizations

A quasi-governmental international organisation may be accorded privileges, immunities and facilities if:

- (a) a majority of its members are states, organisations governed by public law, or entities performing functions of a governmental nature;
- (b) it has structures similar to those of an intergovernmental organisation; and
- (c) it operates in two or more States.

Article 9. International conferences

An international conference may be accorded privileges, immunities and facilities if:

- (a) **it is convened under the aegis of an intergovernmental organisation, an international institution, a quasi-governmental international organisation, a secretariat or any other body established by an international treaty, under the aegis of Switzerland or at the initiative of a group of States; and**
- (b) a majority of participants represent States, intergovernmental organisations, international institutions, quasi-governmental international organisations, secretariats or other bodies established by international treaty.

Article 10. Secretariats or other bodies established by international treaty

A secretariat or other body may be accorded privileges, immunities and facilities if it is established under an international treaty which assigns to it certain tasks with a view to the implementation of that treaty.

Article 11. Independent commissions

An independent commission may be accorded privileges, immunities and facilities if:

- (a) its legitimacy derives from a resolution of an intergovernmental organization or of an international institution, or if it was established by a group of States or by Switzerland;
- (b) **it enjoys broad political and financial support among the international community;**

- (c) its mandate is to examine an issue of importance to the international community;
- (d) its mandate is limited in time; and
- (e) the granting of privileges, immunities and facilities contributes substantially to the fulfilment of its mandate.

Article 12. International courts

An international court may be accorded privileges, immunities and facilities if it is established under an international treaty or by a resolution of an intergovernmental organisation or of an international institution.

Article 13. Arbitration tribunals

An arbitration tribunal may be accorded privileges, immunities and facilities if:

- (a) it is established under an arbitration clause in an international treaty or under an agreement between the subjects of international law who are parties to the arbitration; and
- (b) the parties to the arbitration referred to in letter a above can show a particular need for the arbitration tribunal to sit in Switzerland.

Article 14. Other international bodies

Any other international body may by way of exception be accorded privileges, immunities and facilities if:

- (a) it works closely with one or more intergovernmental organisations or international institutions based in Switzerland or with States in carrying out tasks which are normally the responsibility of those intergovernmental organisations, international institutions or States;
- (b) it plays a key role in an important area of international relations;
- (c) it has wide recognition at the international level; and
- (d) the granting of privileges, immunities and facilities contributes substantially to the fulfilment of its mandate.

Article 15. Eminent persons carrying out an international mandate

An eminent person carrying out an international mandate may by way of exception be accorded privileges, immunities and facilities if he or she:

- (a) executes a mandate that is limited in time and conferred by an intergovernmental organisation, an international institution or a group of States;
- (b) is a foreign national;
- (c) is resident in Switzerland for the duration of the mandate and was not habitually resident in Switzerland prior to its commencement;
- (d) does not engage in any gainful activity; and
- (e) needs to be in Switzerland for the purposes of the mandate.

CHAPTER 3. ACQUISITION OF LAND AND BUILDINGS FOR OFFICIAL PURPOSES

Article 16. Acquisition of land and buildings

1. Institutional beneficiaries, within the meaning of Article 2, paragraph 1, may acquire land and buildings for the purposes of their official activities. The area of the property concerned must not exceed what is necessary for those purposes.

2. The acquirer must submit an application to the Federal Department of Foreign Affairs ("the Department") and a copy of the same to the relevant authority in the canton concerned.

3. The Department shall consult the relevant authority in the canton concerned and verify that the acquirer is an institutional beneficiary within the meaning of Article 2, paragraph 1, and that the acquisition is for official purposes. It shall then issue a ruling. Approval of the application is conditional on the necessary authorisations, *i.e.*, building permits and safety clearance being obtained from the competent authorities.

4. Entry in the land register of an acquisition of land or buildings within the meaning of paragraph 1 above is conditional on approval having been given in accordance with paragraph 3 above.

Article 17. Definitions

1. The acquisition of land and buildings is understood to be any acquisition of a title to a building, part of a building or a piece of land, a right of habitation or a usufruct to a building or a part thereof, or the acquisition of other rights which confer on the holder equivalent status to that of owner, such as a long-term lease of land or buildings if the terms of such lease go beyond the scope of practice in civil matters.

2. A change of use is deemed an acquisition for these purposes.

3. Land and buildings for official purposes are buildings or parts of buildings together with the curtilage thereof which are used for the purpose of carrying out the official activities of the institutional beneficiary.

CHAPTER 4. FINANCIAL SUBSIDIES AND OTHER SUPPORT MEASURES

Article 18. Purposes

The aim of financial subsidies and other support measures is in particular to:

(a) facilitate the installation, work, integration and security in Switzerland of the beneficiaries referred to in Article 19;

(b) promote the reputation of Switzerland as a host state;

(c) further Swiss bids to play host to the beneficiaries referred to in Article 2;

(d) promote activities in the area of host state policy.

Article 19. Beneficiaries

Financial subsidies and other support measures may be granted to:

(a) the beneficiaries referred to in Article 2;

(b) international nongovernmental organizations (Chapter 5);

(c) associations and foundations whose activities serve purposes set out in Article 18.

Article 20. Modalities

Financial subsidies and other support measures provided by the Confederation may take the form of:

- (a) financial subsidies on a one-off or recurring basis;
- (b) grants to the institutional beneficiaries referred to in Article 2, paragraph 1, either directly or via the Building Foundation for International Organisations (FIPOI) in Geneva, interest-free building loans repayable within 50 years;
- (c) financial contributions to international conferences in Switzerland;
- (d) one-off or recurring subsidies in-kind such as personnel, premises or equipment;
- (e) the creation of associations or foundations governed by private law and participation in such associations or foundations;
- (f) instructions to the relevant police authorities to implement further security measures going beyond those already adopted by Switzerland to meet its security obligations under international law in the Federal Act of 21 March 1997³ on Measures to Safeguard Internal Security.

Article 21. Due compensation to the cantons

The Confederation may pay due compensation to the cantons for tasks they carry out under Article 20, letter f, that do not fall within their competence under the Federal Constitution.

Article 22. Finance

The funds necessary to implement this Act will be provided for in the budget. A guarantee credit will be sought in the case of a commitment for which funding extends beyond a single budget year.

Article 23. Conditions, procedures and detailed rules

The Federal Council shall lay down the conditions, procedures and detailed rules for the granting of financial subsidies and other support measures.

CHAPTER 5. INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS

Article 24. Principles

1. International non-governmental organizations (INGOs) may establish themselves in Switzerland in accordance with Swiss law.

³ SR 120.

2. The Confederation may facilitate the establishment or the activities of an INGO in Switzerland subject to the applicable law. It may accord an INGO the financial subsidies and other support measures provided for under this Act.

3. INGOs may be entitled to benefits provided for under other federal acts, in particular the tax exemption provided for under the Federal Act of 14 December 1990 on Direct Federal Taxation⁴ and the simplified procedures for the hiring of foreign personnel provided for under Swiss legislation.

4. INGOs are not eligible for the privileges, immunities and facilities contemplated by this Act.

Article 25. Definition

An INGO, for the purposes of this Act, is an organisation:

(a) with the legal form of an association or a foundation formed in accordance with Swiss law;

(b) whose members are natural persons of different nationalities or legal persons formed in accordance with the national laws of different States;

(c) which is genuinely active in several States;

(d) whose objectives are charitable or in the public interest within the meaning of Article 56, letter g, of the Federal Act of 14 December 1990⁵ on Direct Federal Taxation;

(e) which operates in conjunction with an intergovernmental organisation or international institution, for example by having observer status at such organization or institution; and

(f) whose presence in Switzerland is of special interest to Switzerland.

CHAPTER 6. POWERS

Article 26. Granting of privileges, immunities and facilities and of financial subsidies and other support measures

1. The Federal Council shall:

(a) grant privileges, immunities and facilities;

(b) grant the financial subsidies and adopt the other support measures within the limit of the relevant budget appropriations.

2. The Federal Council may conclude enter into international treaties concerning:

(a) the granting of privileges, immunities and facilities;

(b) the tax treatment of beneficiaries within the meaning of Article 2;

(c) the status of Swiss employees of institutional beneficiaries within the meaning of Article 2, paragraph 1, for the purposes of Swiss social insurance;

(d) the granting of financial subsidies and other support measures, subject to the budgetary prerogative of the Federal Assembly;

⁴ SR 642.11.

⁵ SR 642.11.

(e) cooperation with neighbouring States in the area of host state policy.

3. The Federal Council may delegate to the Department the power:

(a) to grant privileges, immunities and facilities of limited duration;

(b) to grant financial subsidies of limited duration, to fund international conferences in Switzerland and to provide subsidies in-kind of limited duration in accordance with Article 20;

(c) to instruct the relevant police authorities to implement further security measures in accordance with Article 20, letter (f).

Article 27. Terms of employment of individual beneficiaries

1. The Federal Council may issue standard contracts of employment or otherwise regulate the conditions of employment in Switzerland of the individual beneficiaries referred to in Article 2, paragraph 2, insofar as permissible under international law. It may, in particular, set minimum wages.

2. The Federal Council shall, in particular, lay down the basic pay and working conditions of the private household employees referred to in Article 2, paragraph 2, as well as the social security arrangements for such employees in the event of illness, accident, invalidity or unemployment, insofar as permissible under international law.

Article 28. Settlement of private-law disputes in cases of immunity from legal and enforcement proceedings

When entering into a headquarters agreement with an institutional beneficiary within the meaning of Article 2, paragraph 1, the Federal Council shall ensure that the beneficiary adopt appropriate measures with a view to the satisfactory settlement of:

(a) disputes arising out of contracts to which the institutional beneficiary may be a party and of other private-law disputes;

(b) disputes involving staff of the institutional beneficiary who enjoy immunity by reason of their official capacity, unless that immunity is waived.

Article 29. Participation of the cantons

1. Before entering into any agreement to grant privileges, immunities and facilities for a duration of not less than one year or unlimited in time, the Federal Council shall consult with the canton in which the beneficiary is based and with the neighbouring cantons.

2. If the privileges, immunities and facilities entail any exception to the tax law of the canton in which the beneficiary is based, the Federal Council's decision shall be taken in consultation with the canton in question.

3. The cantons shall participate, within the meaning of the Federal Act of 22 December 1999⁶ on the Participation of the Cantons in the Foreign Policy of the Confederation, in the negotiation of international treaties in the area of host state policy.

⁶ SR 138.1.

Article 30. Information

The Department may provide information to anybody demonstrating a particular interest in:

- (a) the nature and extent of the privileges, immunities and facilities accorded, and the beneficiaries thereof;
- (b) the financial subsidies and other support measures accorded and the beneficiaries thereof.

Article 31. Compliance with the terms of the privileges, immunities and facilities

1. The Federal Council shall monitor compliance with the terms of the privileges, immunities and facilities granted and shall take the measures necessary if it finds instances of abuse. It may, where appropriate, rescind the relevant agreements or revoke the privileges, immunities and facilities granted.

2. The Federal Council may delegate to the Department the power to revoke the privileges, immunities and facilities granted to an individual beneficiary.

Article 32. Suspension, withdrawal and recovery of financial subsidies and other support measures

The Federal Council or, if within its remit, the Department, may suspend or withdraw financial subsidies and other support measures or demand the full or partial reimbursement of subsidies already provided, if the beneficiary, despite having been issued a notice to comply, fails to fulfil its tasks as foreseen or only partly fulfils its tasks.

CHAPTER 7. FINAL PROVISIONS

Article 33. Implementing provisions

- 1. The Federal Council shall enact the implementing provisions.
- 2. It may implement the present Act in association with the cantons or private legal entities.
- 3. It may delegate administrative responsibilities in the area of host state policy to private legal entities.

Article 34. Repeal and amendment of current law

The repeal and amendment of the current law is covered in the Annex.*

Article 35. Coordination of this law with the Foreign Nationals Act of 16 December 2005 (FNA)⁷

On the commencement of this Act or of the FNA, whichever is later, or on the simultaneous commencement of both, Chapter II number 2 of the Annex to this Act will become redundant and Article 98, paragraph 2, FNA is worded as follows:

* Not reproduced herein.

⁷ SR 142.20. This amendment is inserted in the said Federal Act.

Article 98.2

...

Article 36. Referendum and commencement

1. This Act is subject to an optional referendum.
2. The Federal Council shall determine the commencement date.

2. Ordinance to the Federal Act on the Privileges, Immunities and Facilities and the Financial Subsidies granted by Switzerland as a Host State (Host State Ordinance (HSO)) of 7 December 2007*

The Swiss Federal Council,

on the basis of Article 33 of the Host State Act of 22 June 2007¹ ('HSA'),
decrees:

CHAPTER 1. SUBJECT MATTER AND DEFINITIONS

Article 1. Subject matter

1. This Ordinance lays down the implementing rules for the HSA. It determines in particular:

- (a) the scope of the privileges, immunities and facilities which may be granted to the different types of institutional beneficiary concerned;
- (b) the conditions of entry, residence and work on Swiss territory for individual beneficiaries;
- (c) the procedure for the acquisition of land and buildings by institutional beneficiaries;
- (d) the rules governing the granting of financial subsidies and other support measures.

2. The conditions of entry, residence and work for private household employees are laid down in a separate ordinance.

Article 2. Meaning of permanent mission or other representation to intergovernmental organisations

A permanent mission or other representation to intergovernmental organizations means in particular:

- (a) the permanent missions to the United Nations Office or to other intergovernmental organisations, including the permanent missions to the World Trade Organization;
- (b) the permanent representations to the Conference on Disarmament;

* RO 2001 6657. Entered into force on 1 January 2008. The English text reproduced here is an unofficial translation which is available on the website of the Swiss Confederation (www.admin.ch).

¹ SR 192.12.

- (c) the permanent delegations of intergovernmental organisations at intergovernmental organisations;
- (d) observer bureaux.

Article 3. Meaning of special mission

A special mission within the meaning of the Convention of 8 December 1969² on Special Missions includes:

- (a) temporary missions composed of representatives of a State sent to Switzerland in accordance with Article 2 of the Convention of 8 December 1969 on Special Missions;
- (b) temporary missions composed of representatives of States in connection with meetings between two or more States in accordance with Article 18 of the Convention of 8 December 1969 on Special Missions;
- (c) temporary missions composed of representatives of a State and of non-State representatives in connection with the exercise of Swiss good offices.

Article 4. Meaning of principal individual beneficiary

A principal individual beneficiary is an individual beneficiary as referred to in Article 2, paragraph 2, letters (a) and (b), HSA.

Article 5. Meaning of members of local staff

Members of local staff are persons employed by a State to perform official duties within the meaning of the Vienna Convention of 18 April 1961³ on Diplomatic Relations, the Vienna Convention of 24 April 1963⁴ on Consular Relations, or the Convention of 8 December 1969⁵ on Special Missions, but who do not form part of the transferable staff of the sending State. These persons may be nationals of the sending State or of another State. They generally perform the duties of service staff within the meaning of the aforementioned Conventions but may also perform other duties referred to in those Conventions.

CHAPTER 2. SCOPE OF PRIVILEGES, IMMUNITIES AND FACILITIES

SECTION I. INSTITUTIONAL BENEFICIARIES

Article 6. General provisions

1. The following institutional beneficiaries are accorded all of the privileges, immunities and facilities set out in Article 3 HSA in accordance with international law and international practice:

- (a) intergovernmental organisations;
- (b) international institutions;
- (c) diplomatic missions;

² SR 0.191.2.

³ SR 0.191.01.

⁴ SR 0.191.02.

⁵ SR 0.191.2.

- (d) consular posts;
- (e) permanent missions or other representations to intergovernmental organisations;
- (f) special missions;
- (g) international conferences;
- (h) secretariats or other bodies established under an international treaty;
- (i) independent commissions;
- (j) international courts;
- (k) arbitration tribunals.

2. Diplomatic missions and permanent missions or other representations to intergovernmental organisations are governed in particular by the Vienna Convention of 18 April 1961⁶ on Diplomatic Relations.

3. Consular posts are governed in particular by the Vienna Convention of 24 April 1963⁷ on Consular Relations.

4. Special missions are governed in particular by the Convention of 8 December 1969⁸ on Special Missions.

5. Privileges, immunities and facilities are granted to independent commissions for the scheduled duration of their activity. The granting of privileges, immunities and facilities may be extended for a limited period if the circumstances so warrant, in particular if the independent commission's mandate is extended or if it requires additional time to draw up and publish its report.

Article 7. Quasi-governmental international organizations

Quasi-governmental international organisations are accorded some or all of the following privileges, immunities and facilities:

- (a) inviolability of archives;
- (b) exemption from direct taxes;
- (c) exemption from indirect taxes;
- (d) freedom to acquire, receive, hold, transfer and convert funds, currencies, cash and other movable assets.

Article 8. Other international bodies

1. Other international bodies may be accorded all of the privileges, immunities and facilities set out in Article 3 HSA.

2. In determining the scope of the privileges, immunities and facilities to be accorded in each case, the Federal Council shall take into account in particular the structure of the body concerned and its connections to the intergovernmental organisations, interna-

⁶ SR 0.191.01.

⁷ SR 0.191.02.

⁸ SR 0.191.2.

tional institutions, or States with which it works, as well as its role in international relations and its international prominence.

3. Subject to any special provisions contained in a headquarters agreement entered into with the Federal Council or in any other international treaty to which Switzerland is party, other international bodies may be hosted by an intergovernmental organisation or by an international institution only with the consent of the Federal Department of Foreign Affairs (FDFA).

SECTION 2. INDIVIDUAL BENEFICIARIES

Article 9. Principles

1. The privileges, immunities and facilities accorded to individual beneficiaries are granted in the interest of the institutional beneficiaries concerned and not that of the individuals themselves. Their purpose is not to confer any benefit on individuals but to enable the institutional beneficiaries to carry out their work effectively.

2. In the case of the individuals referred to in Article 2, paragraph 2, letters a and b, HSA, the privileges, immunities and facilities are conditional on the FDFA having established that those individuals are genuinely engaged in official duties. In the case of the persons referred to in Article 2, paragraph 2, letter c, HSA, they are conditional on the authorisation granted them by the FDFA to accompany the principal individual beneficiary.

3. All questions relating to a determination as to whether an individual is genuinely engaged in official duties, an authorisation to accompany a principal individual beneficiary, the scope of privileges, immunities and facilities that apply, and all other questions concerning the legal status in Switzerland of individual beneficiaries, are resolved in accordance with diplomatic practice between the FDFA and the institutional beneficiary concerned and without the individual beneficiary being involved in any way.

Article 10. Scope of privileges, immunities and facilities

The scope of the privileges, immunities and facilities accorded to individuals who, whether on a permanent or a temporary basis, are called to act in an official capacity at any of the institutional beneficiaries referred to in Article 6, paragraph 1, is determined on the basis of the category of staff to which they belong in accordance with international law and international practice. Individuals shall be assigned to the different categories provided for under international law.

Article 11. Categories of individual beneficiary

1. In the case of intergovernmental organisations, international institutions, international conferences, secretariats or other bodies established under an international treaty, independent commissions and other international bodies, the categories of individual beneficiary are in particular the following:

- (a) members of senior management;
- (b) high-ranking officials;
- (c) other officials;
- (d) representatives of the organisation's members;

(e) experts and all other persons acting in an official capacity for these institutional beneficiaries;

(f) persons entitled to accompany any of the individual beneficiaries referred to in letters a to e.

2. In the case of international courts and arbitration tribunals, the categories of individual beneficiary, in addition to the categories specified in paragraph 1 above, are in particular the following:

(a) judges;

(b) prosecutors, deputy prosecutors, and prosecution service staff;

(c) registrars, deputy registrars, and registry staff;

(d) defence counsel, witnesses and victims;

(e) arbitrators;

(f) persons entitled to accompany any of the individual beneficiaries referred to in letters a to e.

3. In the case of diplomatic missions, consular posts, permanent missions and other representations to intergovernmental organisations, and special missions, the categories of individual beneficiary are in particular the following:

(a) members of diplomatic staff;

(b) members of administrative and technical staff;

(c) members of service staff;

(d) consular officials;

(e) consular employees;

(f) members of local staff;

(g) persons entitled to accompany any of the individual beneficiaries referred to in letters (a) to (f).

Article 12. Individuals who are called to act in an official capacity at a quasi-governmental international organisation

1. Individuals who, whether on a permanent or a temporary basis, are called to act in an official capacity at a quasi-governmental international organisation and who are not Swiss nationals are accorded some or all of the following privileges and immunities for the duration of their service:

(a) exemption from direct taxes on the salaries, emoluments and allowances paid to them by the quasi-governmental international organisation;

(b) exemption from taxes on lump sums received on any grounds from a pension scheme or other provident fund, as at the time of such payment; the tax exemption does not however cover income earned on such sums or assets in which they are invested, or pensions and annuities paid to former staff by the quasi-governmental international organisation concerned;

(c) exemption from Swiss entry and residence requirements.

2. Members of the general assembly, foundation board, executive board or other governing body of a quasi-governmental international organisation may be granted immunity from criminal, civil and administrative proceedings for acts performed in their official capacity as well as inviolability for their documents.

Article 13. Individuals who are called to act in an official capacity at other international bodies

The scope of the privileges, immunities and facilities accorded to individuals who, whether on a permanent or a temporary basis, are called to act in an official capacity at other international bodies shall be determined on the basis of the privileges, immunities and facilities that the Federal Council shall grant to the other international body concerned, pursuant to Article 8 above, and on the basis of the category of staff to which they belong.

Article 14. Eminent persons carrying out an international mandate

Eminent persons carrying out an international mandate may be accorded all of the privileges, immunities and facilities set out in Article 3 HSA. The Federal Council shall determine the scope of the privileges, immunities and facilities according to the circumstances of each particular case.

Article 15. Duration of privileges, immunities and facilities granted to individual beneficiaries

1. Privileges, immunities and facilities are granted to individual beneficiaries for the duration of their official functions.

2. Privileges, immunities and facilities accorded to accompanying persons expire at the same time as those accorded to the person they accompany, unless otherwise provided for in this Ordinance (Chapter 3).

3. Privileges, immunities and facilities accorded to private household employees come to an end one month after the end of their employment even if a dispute with the former employer in relation to the employment remains unresolved.

4. The FDFA shall determine case by case whether, at the end of the period of service and in accordance with international practice, to accord a limited extension of time (courtesy period) in order to give those concerned time to make arrangements for their departure.

CHAPTER 3. ENTRY, RESIDENCE AND EMPLOYMENT REQUIREMENTS

Article 16. Entry requirements

1. When crossing the border to take up his or her duties, an individual beneficiary must be in possession of a recognised identity document and, where applicable, a visa.

2. A request must be made to the FDFA by the institutional beneficiary concerned in order for the individual beneficiary to be allowed take up his or her duties.

Article 17. Residence requirements

1. The FDFA shall issue legitimization cards to members of the staff of institutional beneficiaries established in Switzerland who are entitled to privileges and immunities and to persons entitled to accompany such persons. It shall determine the different types of legitimization card to be issued and the conditions attaching thereto.

2. The immigration authority of the canton concerned shall issue a standard residence permit in accordance with the applicable law to persons called to act in an official capacity at institutional beneficiaries who are entitled only to exemption from taxes, and to persons entitled to accompany them.

3. The legitimization card issued by the FDFA serves as a residence permit for Switzerland, certifies the holder's privileges and immunities, and exempts him or her from any visa requirement for the duration of his or her function.

4. Individual beneficiaries holding a legitimization card issued by the FDFA are exempted from the obligation to register with their cantonal residents registry. They may however register voluntarily.

Article 18. Employment requirements

1. Institutional beneficiaries are entitled, in accordance with international law, to determine the terms of employment of their staff.

2. Members of diplomatic missions, of consular posts, of permanent missions or other representations to intergovernmental organisations and of special missions who are Swiss nationals or are permanently resident in Switzerland at the commencement of their function are subject to Swiss employment law. Any choice-of-law clause providing for the application of the law of a foreign State shall have effect only to the extent permitted under Swiss law.

3. Members of the local staff of diplomatic missions, of consular posts, of permanent missions or other representations to intergovernmental organisations, and of special missions, are subject to Swiss employment law irrespective of their nationality and of their place of residence at the time of engagement. Any choice-of-law clause providing for the application of the law of a foreign State shall have effect only to the extent permitted under Swiss law.

Article 19. Social security

Insofar as the institutional beneficiary as employer is not, under international law, subject to obligatory Swiss social security legislation and the members of the staff of the institutional beneficiary are not subject to that legislation, the institutional beneficiary shall determine the social protection arrangements for its staff in accordance with international law and shall operate a social security scheme of its own.

Article 20. Accompanying persons

1. The following persons are entitled to accompany the principal individual beneficiary and enjoy the same privileges, immunities and facilities if living together in the same household:

(a) the spouse of the principal individual beneficiary;

(b) the same-sex partner of the principal individual beneficiary if the partnership has been registered in Switzerland or under an equivalent foreign provision or if the partner is treated by the institutional beneficiary concerned as an official partner or as a dependent;

(c) the cohabiting partner of the principal individual beneficiary (which within the meaning of Swiss law is a person of the opposite sex not married to the principal individual beneficiary) if the cohabiting partner is treated by the institutional beneficiary concerned as an official partner or as a dependent;

(d) the unmarried children up to the age of 25 of the principal individual beneficiary;

(e) the unmarried children up to the age of 25 of the spouse, or of the same-sex partner, or of the cohabiting partner, if officially in that person's care.

2. The following persons may, by way of exception, be authorised by the FDFA to accompany a principal individual beneficiary if they live together in the same household; they shall be issued with a legitimisation card but shall not be accorded privileges, immunities or facilities:

(a) the same-sex partner of the principal individual beneficiary if he or she is not recognised by the institutional beneficiary concerned as an official partner or as a dependent but the application for a residence permit is nonetheless submitted by the institutional beneficiary and the relationship can be shown to be long-standing, and if it is not possible for the couple to register their partnership under Swiss law or under the law of another State;

(b) the cohabiting partner of the principal individual beneficiary if the cohabiting partner is not recognised by the institutional beneficiary concerned as an official partner or as a dependent but the application for a residence permit is nonetheless submitted by the institutional beneficiary and the relationship can be shown to be long-standing;

(c) the unmarried children over the age of 25 of the principal individual beneficiary if they are in his or her sole care;

(d) the unmarried children over the age of 25 of the spouse, or of the same-sex partner, or of the cohabiting partner, if they are in the principal individual beneficiary's sole care;

(e) the ascendants of the principal individual beneficiary or of his or her spouse, same-sex partner, or cohabiting partner within the meaning of paragraph 1, if they are in the principal individual beneficiary's sole care;

(f) in exceptional cases, other persons in the sole care of the principal individual beneficiary if it is not possible for them to be entrusted to the care of a third party in the country of origin (cases of force majeure).

3. Private household employees may be authorised by the FDFA to accompany a principal individual beneficiary if they satisfy the requirements laid down in the separate ordinance on entry, residence and work requirements referred to in Article 1, paragraph 2.

4. Authorisation for the persons referred to in this Article to accompany a principal individual beneficiary must be sought prior to the entry into Switzerland of such persons.

5. The FDFA shall determine case by case whether a person wishing to accompany a principal individual beneficiary satisfies the requirements of this article. All questions arising therefrom shall be resolved in accordance with diplomatic practice between the FDFA and the institutional beneficiary concerned and without the individual beneficiary being involved in any way.

Article 21. Labour market access for persons serving in an official capacity

1. Persons who are called to act in an official capacity at an institutional beneficiary must as rule perform their official duties on a full-time basis. This is without prejudice to the special provisions governing honorary consuls under the Vienna Convention of 24 April 1963⁹ on Consular Relations, and those governing persons whose duties are limited to a specific mandate, such as lawyers engaged in proceedings before international courts or arbitration tribunals.

2. Persons who are called to act in an official capacity at an institutional beneficiary may, by way of exception, be authorised by the relevant cantonal authorities to carry out a secondary gainful activity for up to ten hours a week, provided that they are living in Switzerland and the activity concerned is not incompatible with the performance of their official duties. The decision of the cantonal authorities shall be taken in agreement with the FDFA.

3. Teaching a specialised subject may, in particular, constitute an acceptable secondary activity, but any activity of a commercial nature, *inter alia*, shall be deemed incompatible with the performance of the person's official duties.

4. Persons who are called to act in an official capacity at an institutional beneficiary who engage in a secondary gainful activity do not enjoy privileges or immunities of any kind in respect of that activity. In particular, they have no immunity from criminal, civil and administrative proceedings or from execution of any judgment or sentence arising in relation to the secondary gainful activity. Such persons are subject to Swiss law in relation to the secondary gainful activity, in particular Swiss social security legislation, and to tax in Switzerland on earnings from the activity, unless otherwise provided for under a bilateral convention on double taxation or on social security.

Article 22. Facilitated access to employment for persons entitled to accompany the principal individual beneficiary

1. The following persons have facilitated access to employment in Switzerland for the duration of the function of the principal individual beneficiary if they are entitled, in accordance with Article 20, paragraph 1, to accompany the principal individual beneficiary and if they are living in Switzerland and in the same household as the principal individual beneficiary:

(a) the spouse of the principal individual beneficiary within the meaning of Article 20, paragraph 1, letter a;

⁹ SR 0.191.02.

(b) the same-sex partner of the principal individual beneficiary within the meaning of Article 20, paragraph 1, letter b;

(c) the cohabiting partner of the principal individual beneficiary within the meaning of Article 20, paragraph 1, letter c;

(d) the unmarried children of the principal individual beneficiary, within the meaning of Article 20, paragraph 1, letter d, if they entered Switzerland as authorised accompanying persons before the age of 21; they are entitled to facilitated access to employment until the age of 25, after which they must take the necessary steps to ensure that their residence and employment situations are in accordance with the legislation governing the residence and establishment of non-nationals;

2. To facilitate their access to employment, the FDFA shall, on request, issue to the persons referred to in paragraph 1 a document certifying to potential employers that the individual concerned is not subject to the quota on foreign workers, or to the principle of priority recruitment areas, or to labour market regulations (principle of priority preference for residents, and ex ante vetting of pay and conditions).

3. Persons within the scope of paragraph 1 who engage in gainful activity shall, on submission of a contract of employment, an offer of employment, or a declaration to the effect that they intend to engage in a self-employed activity together with a description of that activity, be issued by the cantonal authority concerned with a special residence permit, known as a 'Ci permit,' in place of their legitimisation card. A self-employed activity may be carried out only after the Ci permit-holder has been authorised by the competent authorities to carry out the profession or occupation in question.

4. Persons within the scope of paragraph 1 who engage in gainful activity in Switzerland are subject to Swiss law in relation to that activity. In particular, they enjoy no privileges or immunities and are subject to Swiss social security legislation and to tax in Switzerland on the earnings from the gainful activity unless otherwise provided for under a bilateral convention on double taxation or on social security.

5. The further implementation rules shall be laid down by the FDFA with the agreement of the Federal Office for Migration.

CHAPTER 4. PROCEDURES FOR GRANTING PRIVILEGES, IMMUNITIES AND FACILITIES

Article 23. The Granting of privileges, immunities and facilities

1. Without prejudice to the privileges, immunities and facilities arising directly under international law, the Federal Council shall determine case by case the privileges, immunities and facilities to be granted to institutional beneficiaries and persons who are called to act in an official capacity at such institutions, to eminent persons carrying out an international mandate, and to the persons referred to in Article 20.

2. The FDFA is empowered to grant privileges, immunities and facilities and to enter into international agreements for that purpose, where the duration of the institutional beneficiary's activity does not exceed one year to:

(a) special missions, persons called to act in an official capacity at such special missions, and persons entitled to accompany such persons;

(b) international conferences, persons called to act in an official capacity at such international conferences, and persons entitled to accompany such persons.

Article 24. Modalities

1. Diplomatic missions, consular posts, and permanent missions or other representations to intergovernmental organisations, the members of such representations and persons entitled to accompany such members become automatically entitled in accordance with international law and international practice to privileges, immunities and facilities on being authorised by the FDFA to establish themselves in Switzerland.

2. The privileges, immunities and facilities of the following institutional beneficiaries, of the persons called to act in an official capacity at such institutional beneficiaries, and of the persons entitled to accompany such persons are granted by way of an agreement to that effect entered into between the Federal Council and the institutional beneficiary concerned:

- (a) intergovernmental organisations;
- (b) international institutions;
- (c) quasi-governmental international organisations;
- (d) secretariats and or other bodies established under an international treaty;
- (e) international courts;
- (f) arbitration tribunals.

3. The privileges, immunities and facilities of the following institutional beneficiaries, of the persons who are called to act in an official capacity at such institutional beneficiaries, and of the persons entitled to accompany such persons are granted by way of a unilateral decision of the Federal Council or of the FDFA or by way of an agreement to that effect entered into between the Federal Council or the FDFA and the institutional beneficiary concerned:

- (a) special missions;
- (b) international conferences;
- (c) independent commissions;
- (d) other international bodies.

4. The privileges, immunities and facilities of eminent persons carrying out an international mandate are granted by way of a unilateral decision of the Federal Council.

CHAPTER 5. ACQUISITION OF LAND AND BUILDINGS FOR OFFICIAL PURPOSES

Article 25. Procedure

1. Any application for permission to acquire land or buildings shall be submitted to the FDFA by the acquiring party or its agent, with a copy to be sent to the competent authority in the canton concerned.

2. The application must include the following particulars and documents:

(a) the draft contract of acquisition indicating the mode of acquisition (sale, gift, long-term lease, etc.);

(b) the purpose of acquisition (residence of head of mission, secretariat of representation, head office of organisation, etc.);

(c) a description of the property, to include in particular the area of the land and of the building; in the case of a vacant site or a proposed extension of an existing building, the area proposed to be built upon must also be indicated;

(d) a list of the properties in Switzerland already owned by the institutional beneficiary, a description of such properties including in particular the area of the land and buildings concerned and the use of same.

3. The net habitable area of any building intended for residential use may not as a rule exceed 200 m².

4. The FDFA may impose conditions in respect of an acquisition of property. In particular, it may require reciprocity if the acquiring party is a foreign State acquiring a property for the official needs of its diplomatic mission, consular posts, or permanent missions to intergovernmental organisations in Switzerland.

Article 26. Decision

The FDFA shall issue its decision after receiving the opinion of the canton concerned.

CHAPTER 6. FINANCIAL SUBSIDIES AND OTHER SUPPORT MEASURES

Article 27. Financial powers

1. The Federal Council shall decide on financial subsidies and other support measures with a foreseeable cost exceeding CHF 3 million in the case of a one-off measure, or CHF 2 million per annum in the case of a recurring measure.

2. The FDFA:

(a) shall decide on one-off financial subsidies and in-kind subsidies not exceeding CHF 3 million;

(b) shall decide on recurring financial subsidies and in-kind subsidies of a maximum duration of 4 years and not exceeding CHF 2 million per annum;

(c) may fund international conferences in Switzerland;

(d) may enter into international treaties to that end.

Article 28. Procedure for granting subsidies and other support measures

1. The procedure for granting financial subsidies and other support measures is laid down in respect of each appropriation during the authorisation process.

2. The procedure for the payment of due compensation to the cantons for the cost of giving effect to Article 20, letter f, HSA is laid down in agreements to be entered into with each canton concerned. The FDFA shall be authorised to enter into such agreements. It indicates in the agreement that, where applicable, the relevant credits are subject to approval by Parliament.

CHAPTER 7. INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS

Article 29

International non-governmental organisations (INGOs) wishing to benefit from the measures provided for under federal legislation, in particular the tax exemption provided for by the Federal Act of 14 December 1990¹⁰ on Direct Federal Taxation and the facilitated employment of foreign staff provided for under Swiss legislation, must satisfy the relevant statutory requirements and submit an application to the competent authority designated by the relevant statute.

CHAPTER 8. POWERS OF THE FDFA

Article 30

1. In addition to the powers provided for in the specific provisions of this Ordinance, the FDFA shall:

(a) negotiate the agreements to be entered into pursuant to the HSA or this Ordinance, in consultation with the bodies concerned;

(b) be the authority responsible for implementing the agreements on privileges, immunities, facilities, and financial subsidies and other support measures, without prejudice to the specific powers of other federal bodies;

(c) regulate the details of the implementation of this Ordinance without prejudice to the specific powers of other federal bodies;

(d) supervise compliance with the terms of the privileges, immunities and facilities; to this effect it shall take all appropriate measures in accordance with international practice; on finding an instance of abuse it may revoke a natural person's privileges, immunities and facilities where such a measure is proportionate with the objectives;

(e) determine case by case whether a person is to be deemed an 'individual beneficiary' within the meaning of Article 2, paragraph 2, letters a and c, HSA and issue the appropriate legitimisation cards to eligible persons;

(f) determine the length of the courtesy period that may be allowed to an individual beneficiary at the end of his or her period of service;

(g) direct the Federal Security Service to instruct the relevant police authorities to implement the further security measures referred to in Article 20, letter f, HSA;

(h) enter into the bilateral agreements necessary to secure for the members of the diplomatic missions, the permanent missions or other representations to intergovernmental organisations and of the consular posts of Switzerland abroad the same privileges, immunities and facilities as are accorded to foreign representations of the same category in Switzerland.

2. The FDFA shall adopt rules regulating its own internal allocation of responsibilities.

¹⁰ SR 642.11.

CHAPTER 9. FINAL PROVISIONS

Article 31. Amendment of current legislation

The amendment of current legislation is regulated in the Annex.*

Article 32. Commencement

This Ordinance comes into force on 1 January 2008.

B. NICARAGUA**Act No. 641 Criminal Code of Nicaragua** (Extracts), 16 November 2007***Article 414. Violation of immunity*

Any person who violates the immunity of a Head of State, Head of Government or any person protected by immunity pursuant to the international treaties ratified by Nicaragua shall be subject to a penalty of between six months and three years' imprisonment.

Article 36. Aggravating circumstances

The following shall be regarded as aggravating circumstances:

10. Persons protected under international law. Persons whose protected status is recognized pursuant to international instruments ratified by Nicaragua.

Article 500. Misuse of emblems and insignias

Any person who, during an international or internal armed conflict and with the aim of harming or attacking the enemy, pretends to enjoy protected status or uses protective signs, such as the Red Cross or the Red Crescent, the flag of the United Nations or of other international organizations, or signs of truce or surrender; flags, uniforms or insignias of the enemy or of neutral countries or of military or police detachments of the United Nations; or other protective signs referred to in the international treaties ratified by Nicaragua shall be subject to a penalty of between six months and three years' imprisonment.

Article 517. Attacks against peacekeeping or humanitarian assistance missions

Any person who, during an international or internal armed conflict, intentionally attacks personnel, facilities, equipment, units or vehicles participating in a peacekeeping or humanitarian assistance mission implemented pursuant to the Charter of the United Nations, provided that the latter are entitled to the protection afforded to civilians or civilian property under international humanitarian law, shall be subject to a penalty of between seven and ten years' imprisonment.

* Not reproduced herein.

** Promulgated on 16 November 2007 and entered into force on 8 July 2008.