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**Letter to a Permanent Representative of a Member State to the United Nations,
concerning funding of operations of the United Nations Development Programme
in another Member State**

DOMESTIC REGULATIONS RESTRICTING THE TRANSFER OF FUNDS INTENDED FOR UNITED NATIONS PROGRAMMES—CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, 1946—THE UNITED NATIONS MAY, WITHOUT BEING RESTRICTED BY FINANCIAL CONTROLS, REGULATIONS OR MORATORIA, HOLD FUNDS, GOLD OR CURRENCY OF ANY KIND, AND OPERATE ACCOUNTS IN ANY CURRENCY—THE UNITED NATIONS IS SIMILARLY FREE TO TRANSFER ITS FUNDS, GOLD OR CURRENCY FROM ONE COUNTRY TO ANOTHER OR WITHIN ANY COUNTRY AND TO CONVERT ANY CURRENCY HELD BY IT INTO ANY OTHER CURRENCY

I would like to seek your Government's urgent assistance in resolving difficulties that the United Nations Development Programme (UNDP) has experienced in funding three on-going health projects on HIV/AIDS and Tuberculosis in [Member State A] for the benefit of the people [of Member State A]. The UNDP projects in [Member State A] funded by the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM) are intended to support time-sensitive activities, such as purchases of medication and other life-saving drugs. For the last two months, three inter-bank transfers of monies that were intended to fund these health projects in [Member State A] have been blocked in [Member State B] pursuant to [Member State B regulations].

Specifically, the World Bank (International Bank for Reconstruction and Development), acting as Trustee of the GFATM, attempted between December 2010 and January 2011 to transfer three different amounts (US\$375,090.00; US\$2,077,955.00 and US\$ 1,754,859.00) from the account of the World Bank, held by [Bank 1], London, to the account of UNDP, Geneva, held with [Bank 2]. All three transactions were routed from [Bank 1], London, through [Bank 1], [City in Member State B], to [Bank 2], Geneva, via [Bank 2], [City in Member State B] Branch, and stopped by that Branch in light of [Member State B regulations]. A total amount of US\$ 4,207,904.00 is currently blocked with [Bank 2], [City in Member State B]. On 27 January 2011, [Bank 2] filed an application with [Member State B] identifying the transfer as being on behalf of the United Nations and requesting the release of the funds. We have provided all relevant background information to your staff.

In this regard, I wish to recall that the Convention on the Privileges and Immunities of the United Nations* ("General Convention"), to which the [Member State B] is a party without relevant reservation, provides in article II, section 5 that "[w]ithout being restricted by financial controls, regulations or moratoria of any kind, (a) the United Nations may hold funds, gold or currency of any kind and operate accounts in any currency; (b) the United Nations shall be free to transfer its funds, gold or currency from one country to another or within any country and to convert any currency held by it into any other currency".

I note that staff in our respective offices have been in discussion regarding this issue since late January 2011 and appreciate the efforts of your staff in trying to find a solution. In this regard, I understand that the matter has been brought to the attention of the relevant officials in [Member State B], with a view to ensuring that the funds would be released for onward transmission to the UNDP account with [Bank 2] in Geneva.

I remain very concerned, however, that almost two months have elapsed and the funds

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

which are urgently needed to implement the aforementioned UNDP projects for the benefit of the people [of Member State A] continue to remain blocked. We would therefore very much appreciate whatever assistance you may be able to provide to accelerate the release of these funds for onward transmission to the UNDP account with [Bank 2] in Geneva.

In the light of the foregoing, and similar instances where United Nations funds have been blocked pursuant to [Member State B] regulations, we believe it is now necessary to discuss with the appropriate [Member State B] authorities arrangements to ensure that funds to be transferred by the United Nations, including its subsidiary organs, funds and programmes, will not be blocked in future pursuant to [Member State B] regulations. I should be grateful if you would arrange for such a discussion.

Please accept, Excellency, the assurances of my highest consideration.

25 March 2011

**Note verbale to the Permanent Representative of a Member State to the United Nations,
concerning alien registration of United Nations officials**

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, 1946—UNITED NATIONS OFFICIALS, THEIR SPOUSES AND DEPENDENT RELATIVES ENJOY IMMUNITY FROM IMMIGRATION RESTRICTIONS AND ALIEN REGISTRATION—THE TAKING OF FINGERPRINTS AND IRIS SCANS CONSTITUTES ALIEN REGISTRATION FOR THE PURPOSES OF THE 1946 CONVENTION—UNITED NATIONS-ISSUED *LAISSEZ-PASSER* CONSTITUTES A VALID TRAVEL DOCUMENT FOR MEMBER STATE AUTHORITIES—HOLDERS OF UNITED NATIONS *LAISSEZ-PASSER* SHALL BE GRANTED FACILITIES FOR SPEEDY TRAVEL—OBLIGATION TO GIVE EFFECT TO THE TERMS OF THE 1946 CONVENTION—INTERPRETATION OF THE 1946 CONVENTION IN LIGHT OF THE UNDERLYING PRINCIPLES OF THE CHARTER OF THE UNITED NATIONS

The Legal Counsel of the United Nations presents her compliments to the Permanent Representative of [Member State A] to the United Nations and has the honour to refer to an incident which occurred on [date] at the [...] bridge border post in [Member State A]. The Legal Counsel is informed that when transiting by road through [Member State A] from [Member State B] and to [Member State C], six United Nations officials, who were traveling on the official business of the United Nations, were subjected to the taking of their fingerprints and iris scans, despite the clear identification of their status as officials of the United Nations and presentation of their United Nations *laissez-passer*. It is the understanding of the Legal Counsel that when the said officials protested their treatment by the [Member State A] border authorities, they were informed that as they were not accredited diplomats in [Member State A], they were not entitled to benefit from United Nations privileges and immunities.

The Legal Counsel notes that the above-mentioned treatment of the six United Nations officials was in contravention of the Convention on the Privileges and Immunities of the United Nations* (“the Convention”), to which [Member State A] has been a party since [date] without reservation. Pursuant to article V, section 18(d) of the Convention, “[o]fficials of the United Nations shall be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration”. It is the longstanding and consistent position of the United Nations that the taking of fingerprints and iris scans constitute “alien registration”. Further, pursuant to article VII, section 24 of the Convention “[t]he United Nations may issue United Nations *laissez-passer* to its officials. These *laissez-passer* shall be recognized and accepted as valid travel documents by the authorities of Members, taking into account the provisions of section 25”. Section 25 provides, *inter alia*, that the holders of United Nations *laissez-passer* “shall be granted facilities for speedy travel”.

In accordance with section 34 of the Convention, [Member State A] has an obligation to be “in a position under its own law to give effect to the terms of this Convention”. Moreover, any interpretation of the provisions of the Convention must be carried out within the spirit of the underlying principles of the Charter of the United Nations, and in particular Article 105 thereof, which provides that the Organization shall enjoy such privileges and immunities as are necessary for the fulfilment of its purposes.

The Legal Counsel would be grateful if the Permanent Representative of [Member State A] to the United Nations would kindly take all steps necessary to advise the competent [Member State A] authorities of the immunity of United Nations officials from “alien

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

registration” in accordance with the Government of [Member State A]’s obligations under the Convention and the Charter of the United Nations.

The Legal Counsel avails herself of this opportunity to renew to the Permanent Representative of [Member State A] to the United Nations the assurances of her highest consideration.

8 November 2011