



International  
Labour  
Organization



# Legal protection of the International Labour Organization in its member States

*An introductory guide*

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INTERNATIONAL LABOUR ORGANIZATION

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Organization in its member States

An introductory guide

International Labour Office  
Geneva, 2011

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# Legal protection of the International Labour Organization in its member States

## An introductory guide

### *Introduction*

The International Labour Organization, like other international organizations, requires a framework of legal protection to fulfil its purposes, wherever it operates. This framework recognizes the ILO as a legal person with the *capacity to perform legal acts* in its member States, such as executing contracts, acquiring property and pursuing its legal rights. In addition, the Organization requires *privileges and immunities* which operate in the domestic legal system as a set of special rights, benefits and exemptions. The purpose of privileges and immunities is functional: they secure the Organization's independence and ability to perform its services, and encourage efficient operations and stable relations with its member States.

This Guide is intended to assist member States to better understand the framework of legal protection applicable to the ILO, and the means for giving effect to the ILO's privileges and immunities in their territory.

### *ILO Constitution: The basis for the ILO's legal protection*

Member States of the Organization agree to recognize the ILO's legal status and privileges and immunities when they accept the commitments of membership under the *Constitution of the International Labour Organisation*. The ILO Constitution recognizes that the ILO has "full juridical personality" and in particular the capacity to contract, acquire and dispose of property, and pursue its legal rights (*Article 39*). It also provides that the ILO "... shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes" and that "... such privileges and immunities shall be defined in a separate agreement to be prepared by the Organisation with a view to its acceptance by the States Members" (*Article 40*). These texts are found in the Documentary Annex to this Guide.

### *The ILO as a specialized agency of the United Nations under the 1947 Convention on specialized agencies*

As a specialized agency of the United Nations, the ILO can benefit from application of the Convention on the Privileges and Immunities of the Specialized Agencies (1947 Convention). The 1947 Convention, which was approved by the General Assembly of the United Nations on 21 November 1947, consists of an integrated set of standard clauses applicable to all specialized agencies, and 18 annexes, each of which relate to a particular specialized agency. Annex I relates to the ILO. As a result, it is essential for a member State to not only accede to the Convention but also to explicitly accept to apply Annex I for the ILO. When a member State that has already acceded to the Convention decides to accept Annex I, the State provides the United Nations with a subsequent notification of its undertaking to apply the provisions of the Convention to the ILO. (*See Convention, sections 41, 43.*) For examples of model instruments of ratification or subsequent notification involving the 1947 Convention and Annexes, see the Annex of model instruments.

The International Labour Conference has called on member States to fulfil their membership commitments by acceding to the 1947 Convention and accepting its Annex I concerning the ILO. (See above section: *ILO Constitution: The basis for ILO's legal protection.*) By a resolution adopted in July 1948 at its 31st Session, the International Labour Conference approved the clauses and Annex I of the 1947 Convention and invited ILO member States to accede to the Convention and apply its provisions to the ILO. In another resolution, the 1948 Conference requested Members, pending accession, to immediately accord the ILO as far as possible the benefit of the privileges and immunities provided in the Convention as modified by Annex I. The two Conference resolutions are found in the Documentary annex to this publication.

### *Member States' situation*

At the time of publication, more than 100 member States of the ILO have acceded to the 1947 Convention on the Privileges and Immunities of the Specialized Agencies and accepted Annex I relating to the ILO, while some 70 member States have yet to do so.

## Questions and answers

### 1. What are privileges and immunities?

Privileges and immunities are a set of special rights, benefits and exemptions which derive from international treaties and other sources of international law. They apply in various forms to international organizations, diplomats, consuls, and embassies of foreign states, and other entities. International organizations are recognized as *legal persons* which enables them to perform legal acts in their member States, such as executing contracts, acquiring property and pursuing its legal rights. To ensure independence in its operations, *privileges and immunities* apply directly to the Organization as a legal person and to its officials, and to some extent to representatives of its Members at meetings of the Organization. Certain privileges and immunities also apply to specified individuals – for the ILO, employers’ and workers’ members and deputy members of the Governing Body of the International Labour Office and experts serving on ILO committees or performing missions for the ILO. (*See Annex I to the 1947 Convention in the Documentary Annex to this Guide.*) Privileges and immunities are granted to the Organization’s officials and others working with it to serve the interests of the ILO and not for the personal benefit of the individuals themselves.

### 2. What are the different kinds of privileges and immunities?

The 1947 Convention on the Privileges and Immunities of the Specialized Agencies and its Annex I set out the minimum privileges and immunities to be applied to the ILO in the domestic legal system. The main categories of privileges and immunities are listed below and are further addressed in the questions and answers that follow:

- Immunity for the Organization from all legal process, and immunity for its officials in the exercise of their official acts, with broader immunity for executive officials (sections 4, 19, 21 and Annex I, paragraph 2).
- Inviolability of the ILO’s premises, property, assets and archives (sections 5, 6 of the Convention) and of its communications which receive special facilitation (sections 11, 12).
- Restriction from financial controls, regulations or moratoria in the holding and transfer of funds (sections 7, 8).

- Exemption for the Organization from direct taxes and, in certain cases, other taxes, and import and export prohibitions and restrictions, and exemption for staff members from income tax on their salaries and right of staff members to importation duty free upon arrival at a duty station (sections 9, 10, 19).
- Special arrangements for entry and exit, with freedom from immigration restrictions (section 19(c) and (e)), and recognition of the UN *laissez-passer* for ILO officials and ILO certificates to its experts and others acting on its behalf (sections 26–30).
- Representatives of member States attending ILO meetings are granted certain privileges and immunities similar to those granted to diplomats (sections 13–17 of the Convention) as are employers’ and workers’ members and deputy members of the ILO Governing Body and their substitutes (Annex I, paragraph 1).

### 3. Why does the ILO need to have privileges and immunities in its member States?

Privileges and immunities secure the independence of the ILO’s functioning and facilitate its ability to fulfil its mandate efficiently and effectively in its member States. In general, the lack of recognition of privileges and immunities can create delays and other obstacles in delivering services in a timely and efficient manner, and can impede freedom of movement and the security necessary to fulfil the ILO’s mandate effectively. Difficulties may also arise where there are disparities in the level of privileges and immunities afforded to the ILO across different member States, or where the ILO is working together in one member State with other UN agencies whose officials may receive different treatment in the same duty station.

### 4. Why is a general and permanent framework important to the ILO’s work in its member States?

When an ILO member State is not a party to the 1947 Convention and does not apply Annex I to the ILO, the legal protections covered by this treaty need to be addressed during negotiations before the ILO commences any activities in the country. This can result in delays in the commencement or implementation of projects there while the application of the protections of the Convention and Annex I are being negotiated separately for each new project or transaction. However, where there is a general and permanent framework, the need to address specific issues each time is avoided and arrangements for the implementation of projects can be made more efficiently.

**5. Is it true that immunity allows the ILO to avoid responsibility?**

No, this is not true. While the Organization is immune from all legal process, and its officials possess immunity in the exercise of their official acts, this immunity from jurisdiction prevents the ILO from diverting its resources into domestic legal proceedings in the individual jurisdictions of its member States. (See sections 4, 19.) At the same time, the ILO has the right and the duty to waive the immunity of any official in any case where, in its opinion, the immunity would impede the course of justice and where it can be waived without injury to the Organization's interests. (See section 22.) In addition, the 1947 Convention specifically states that each specialized agency must make provision for appropriate modes of settlement of disputes, whether these concern contracts or similar matters, or disputes involving officials of the Organization. (See section 31.) The ILO has done so by insuring itself against tortious and other liability and by providing for arbitration and other means of settlement in case of disputes. This action on the part of the Organization helps to balance the immunity of the Organization from legal process by ensuring alternative means for settlement of disputes. Under the Convention, the Organization also has a general duty to cooperate with the authorities to facilitate the proper administration of justice and prevent the occurrence of any abuses in connection with the privileges and immunities accorded to its officials. (See section 23.)

**6. Why is the ILO exempt from paying certain taxes?**

The Organization is exempt from direct taxes and, in certain cases, other taxes, and customs duties and prohibitions and restrictions on imports and exports for official use, and its staff members are exempt from income tax on their salaries and from import duties in relocating to a new duty station. (See sections 9, 10, 19 of the Convention.) If this were not the case, taxes and duties levied and paid by the Organization through state contributions to its budget would in effect mean that member States were making indirect payments to other States; consequently, this would require a re-allocation of the contributions of other member States. Thus, the tax exemptions recognized in the 1947 Convention ensure that member State contributions are devoted to the interest of all the member States, wherever the ILO operates. In addition, the exemptions from taxation guaranteed by the Convention allow the ILO to direct its budgetary resources towards its cooperation activities instead of being consumed by taxes and charges.

**7. Do privileges and immunities make ILO operations more secure?**

Under the 1947 Convention, the premises, property, assets and archives of the Organization are inviolable, that is, immune from search, or any other form of interference by the authorities. (See sections 5, 6 of the Convention). Similarly, the

communications of the Organization are protected as confidential and its correspondence is given the same immunities and privileges as diplomatic correspondence. (See sections 11, 12.)

The recognition of privileges and immunities for the ILO in the domestic legal system is an important aspect of guaranteeing its physical security, and its absence increases the risk for the ILO, its operations, officials, delegates and experts. This is particularly so when officials are not granted immunity under national law from arrest and detention or when ILO premises are not clearly recognized as inviolable. In these situations where there is greater risk for the ILO, the availability of ILO staff to work in the country becomes limited, and the accomplishment of the aims of the Organization through its operations is hindered.

## **8. Why do representatives at ILO meetings have privileges and immunities?**

The privileges and immunities granted to representatives of Members at ILO meetings permit the Organization to convene the representatives of its member States in an organized and comprehensive manner, and enable those representatives to freely participate in the work of the Organization, to the benefit of all its Members. The 1947 Convention provides that representatives of member States attending ILO meetings are granted certain privileges and immunities including immunity from arrest or detention for acts done in their official capacity, from legal process of every kind, inviolability for their papers and documents, and various exemptions relating to entry and exit and other facilities. (See sections 13–16 of the Convention.) These provisions are also extended to employers' and workers' members and deputy members of the ILO Governing Body and their substitutes. (See Annex I to the Convention.)

## **9. Our country has already acceded to the Convention on the Privileges and Immunities of the United Nations (the 1946 Convention). Why does the ILO need to be covered by the separate 1947 UN Convention?**

The 1946 Convention contains similar provisions to the 1947 Convention (the "standard clauses") which extend to the United Nations but not to the ILO or other specialized agencies. Members who have already accepted the 1946 Convention should be familiar with the scope of the legal framework that the ILO is seeking be applied to it. Hence, accession to the 1947 Convention should present fewer legal obstacles for a member State that has already acceded to the 1946 Convention since it seeks to extend equivalent protection to the ILO under the 1947 Convention as the member State has extended to the UN under the 1946 Convention.

**10. Our country has already acceded to the 1947 Convention and accepted some of its Annexes. Why do we need to apply a separate Annex in addition to the 1947 Convention?**

There are 18 Annexes to the 1947 Convention relating to different specialized agencies. Member States have to specify which annexes they intend to apply. To extend coverage of the 1947 Convention to the ILO they need to explicitly notify their intention to apply Annex I. It is not enough to have extended it to other agencies – the Convention does not operate in that way since each specialized agency has its particular mandate, structure and way of functioning which are addressed in the separate Annexes. However, where the 1947 Convention has already been given effect in the domestic legal system in respect of any other UN specialized agency, the extension of coverage to the ILO should not present any significant new practical hurdle.

**11. How are nationals covered by the 1947 Convention?**

Except as otherwise provided in the Convention, officials working in duty stations in their countries of nationality possess privileges and immunities on an equal basis with non-national ILO officials. This ensures equality of treatment among officials regardless of where they are stationed. In so doing, they are not disadvantaged or subject to discriminatory treatment simply because they are executing their duties in the member State of which they are nationals. From an operational perspective, the ILO's freedom to assign officials anywhere, even to duty stations in their country of nationality, supports the independence of the ILO's functioning. In relation to national service obligations, the Convention provides special arrangements for officials of specialized agencies in relation to the States of which they are nationals. (See section 20.) In relation to representatives of member States, the provisions relating to privileges and immunities (see Q.8 above) do not apply in relation to the State of which the person is a national, or is or has been a representative. (See section 17 of the Convention.)

**12. What about abuse by officials of their privileges and immunities?**

Safeguards against abuse are built into the 1947 Convention and its Annex I relating to the ILO which specifically provide that the protections afforded to representatives of Members, ILO officials and experts of the Organization are in the interests of the Organization and not for the personal benefit of the individuals themselves. In relation to officials and experts of the ILO it provides that the Organization has the right and the duty to waive the immunity of any official or expert in

any case where the immunity would impede the course of justice, and it can be waived without prejudice to the interests of the Organization. Other safeguards are addressed in Q.5 above.

### 13. Are there other options to accord the ILO privileges and immunities aside from the 1947 Convention and its Annex I?

Yes, privileges and immunities can also be accorded to the ILO through bilateral agreements with member States. These may be ad hoc agreements relating to specific projects or activities, or standing agreements relating to technical cooperation or the establishment of an office of the Organization in the member State. While ad hoc agreements only last as long as the project or activity and take time to negotiate, a standing bilateral agreement can be established on a more lasting basis, thus facilitating cooperation between the ILO and the State concerned. However, for all activities and relations between member States and the ILO, the act of according privileges and immunities through accession to the 1947 Convention and application of its Annex I ensures that the same minimum legal framework applies to all operations and relations of the ILO with the country, and will remain in place without a time-bound limitation. (See section 39 of the Convention.)

### 14. Does the ILO monitor whether its member States have granted privileges and immunities or other legal protections to the Organization?

In 1948, the International Labour Conference invited ILO member States to accede to the Convention and to apply the provisions to the ILO through Annex I relating to the ILO. (For a copy of the resolution, see the Documentary Annex to this Guide.) The Governing Body of the International Labour Office recently considered the issue of privileges and immunities in 2008 and again in 2009. In the context of technical cooperation, the Governing Body recognized the necessity of obtaining independent recognition of the ILO's privileges and immunities, particularly in the framework of activities within the UN system. Despite the close working relationship with UNDP, the ILO does not normally benefit automatically from a similar status in countries, although it is often assumed that it does. Rather, the ILO is in need of independent application of the 1947 Convention and Annex I to its operations. The Governing Body therefore called upon member States that have not yet done so to accede to the 1947 Convention and apply Annex I relating to the ILO.

## Documentary annex

### Constitution of the International Labour Organisation, articles 39 and 40

#### *Article 39*

The International Labour Organisation shall possess full juridical personality and in particular the capacity:

- (a) to contract;
- (b) to acquire and dispose of immovable and movable property;
- (c) to institute legal proceedings.

#### *Article 40*

1. The International Labour Organisation shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Delegates to the Conference, members of the Governing Body and the Director-General and officials of the Office shall likewise enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organisation.

3. Such privileges and immunities shall be defined in a separate agreement to be prepared by the Organisation with a view to its acceptance by the States Members.

## **Resolution concerning the privileges and immunities of the International Labour Organisation**

Adopted on 10 July 1948 by the International Labour Conference  
at Its Thirty-First Session

Whereas the Constitution of the International Labour Organisation, as amended by the 1946 Instrument of Amendment, provides that the International Labour Organisation shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes and that delegates to the Conference, members of the Governing Body and the Director-General and officials of the Office shall likewise enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organisation; and

Whereas the General Assembly of the United Nations adopted on 13 February 1946 a resolution contemplating the unification as far as possible of the privileges and immunities enjoyed by the United Nations and the various specialised agencies; and

Whereas consultations concerning the implementation of the aforesaid resolution have taken place between the United Nations and the specialised agencies, including the International Labour Organisation; and

Whereas by a resolution adopted on 21 November 1947 the General Assembly of the United Nations approved a Convention on the privileges and immunities of the specialised agencies which is submitted to the specialised agencies for acceptance and to every Member of the United Nations and every other State Member of one or more of the specialised agencies for accession; and

Whereas the Convention on the privileges and immunities of the specialised agencies approved by the General Assembly of the United Nations consists of standard clauses applicable to all specialised agencies and of draft annexes relating to each of the agencies; and

Whereas this Convention becomes applicable to each specialised agency only when the final text of the annex relating to that agency has been adopted by it and transmitted to the Secretary-General of the United Nations; and

Whereas this Convention in no way limits or prejudices the privileges and immunities which have been or may hereafter be accorded by any State to any specialised agency by reason of the location in the territory of that State of its headquarters or regional offices:

The General Conference of the International Labour Organisation,

Desiring to define the privileges and immunities of the International Labour Organisation within the meaning of paragraph 3 of article 40 of the Constitution of the Organisation,

Accepts on behalf of the International Labour Organisation the standard clauses of the Convention on the privileges and immunities of the specialised agencies as modified by the annex relating to the International Labour Organisation attached to the present Resolution;

Authorises the Director-General of the International Labour Office to transmit to the Secretary-General of the United Nations the said annex and to inform him that the International Labour Organisation accepts the standard clauses as modified by the said annex and undertakes to give effect to the provisions indicated in section 37 of the standard clauses in accordance with the terms thereof;

Invites the States Members of the International Labour Organisation to accede to the Convention on the privileges and immunities of the specialised agencies and to undertake to apply the provisions thereof to the International Labour Organisation; and

Authorises the Director-General to communicate the text of the Convention on the privileges and immunities of the specialised agencies, including the annex relating to the International Labour Organisation, to those of the Members of the International Labour Organisation which are not Members of the United Nations and to invite them to accede thereto in accordance with the terms of Article 42 of the Convention.

**Text of the 1947 Convention on the Privileges and Immunities  
of the Specialized Agencies  
as adopted by the International Labour Conference  
on 10 July 1948**

*Standard clauses of the Convention on the Privileges  
and Immunities of the Specialized Agencies*

Whereas the General Assembly of the United Nations adopted on 13 February 1946 a resolution contemplating the Unification as far as possible of the privileges and immunities enjoyed by the United Nations and by the various specialised agencies; and

Whereas consultations concerning the implementation of the aforesaid resolution have taken place between the United Nations and the specialised agencies;

Consequently, by a resolution adopted on 21 November 1947 the General Assembly has approved the following Convention, which is submitted to the specialised agencies for acceptance and to every Member of the United Nations and to every other State Member of one or more of the specialised agencies for accession.

*Article I*

DEFINITION AND SCOPE

*Section 1*

In this Convention:

- (i) The words “standard clauses” refer to the provisions of Articles II to IX.
- (ii) The words “specialised agencies” mean:
  - (a) the International Labour Organisation;
  - (b) the Food and Agriculture Organization of the United Nations;
  - (c) the United Nations Educational, Scientific and Cultural Organization;
  - (d) the International Civil Aviation Organization;
  - (e) the International Monetary Fund;
  - (f) the International Bank for Reconstruction and Development;
  - (g) the World Health Organization;
  - (h) the Universal Postal Union;
  - (i) the International Telecommunication Union; and
  - (j) any other agency in relationship with the United Nations in accordance with articles 57 and 63 of the Charter.
- (iii) The word “Convention” means, in relation to any particular specialised agency, the standard clauses as modified by the final (or revised) text of the annex transmitted by that agency in accordance with sections 36 and 38.

- (iv) For the purposes of Article III, the words “property and assets” shall also include property and funds administered by a specialised agency in furtherance of its constitutional functions.
- (v) For the purposes of Articles V and VII, the expression “representatives of Members” shall be deemed to include all representatives, alternates, advisers, technical experts and secretaries of delegations.
- (vi) In sections 13, 14, 15 and 25, the expression “meetings convened by a specialised agency” means meetings of (1) its assembly and of its executive body (however designated), and (2) of any commission provided for in its constitution; (3) of any international conference convened by it, and (4) of any committees of any of these bodies.
- (vii) The term “executive head” means the principal executive official of the specialised agency in question, whether designated “Director-General” or otherwise.

### *Section 2*

Each State party to this Convention in respect of any specialised agency to which this Convention has become applicable in accordance with section 37 shall accord to, or in connection with, that agency the privileges and immunities set forth in the standard clauses on the conditions specified therein, subject to any modification of those clauses contained in the provisions of the final (or revised) annex relating to that agency and transmitted in accordance with sections 36 or 38.

## *Article II*

### JURIDICAL PERSONALITY

### *Section 3*

The specialised agencies shall possess juridical personality. They shall have the capacity (a) to contract, (b) to acquire and dispose of immovable and movable property, (c) to institute legal proceedings.

## *Article III*

### PROPERTY, FUNDS AND ASSETS

### *Section 4*

The specialised agencies, their property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case they have expressly waived their immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

### *Section 5*

The premises of the specialised agencies shall be inviolable. The property and assets of the specialised agencies, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

### *Section 6*

The archives of the specialised agencies, and in general all documents belonging to them or held by them, shall be inviolable, wherever located.

### *Section 7*

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

- (a) the specialised agencies may hold funds, gold or currency of any kind and operate accounts in any currency;
- (b) the specialised agencies may freely transfer their funds, gold or currency from one country to another or within any country and convert any currency held by them into any other currency.

### *Section 8*

Each specialised agency shall, in exercising its rights under section 7 above, pay due regard to any representations made by the government of any State party to this Convention in so far as it is considered that effect can be given to such representations without detriment to the interests of the agency.

### *Section 9*

The specialised agencies, their assets, income and other property shall be:

- (a) exempt from all direct taxes; it is understood, however, that the specialised agencies will not claim exemption from taxes which are, in fact, no more than charges for public utility services;
- (b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the specialised agencies for their official use; it is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the government of that country;
- (c) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of their publications.

### *Section 10*

While the specialised agencies will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which

form part of the price to be paid, nevertheless when the specialised agencies are making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, States parties to this Convention will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

## *Article IV*

### FACILITIES IN RESPECT OF COMMUNICATIONS

#### *Section 11*

Each specialised agency shall enjoy, in the territory of each State party to this Convention in respect of that agency, for its official communications, treatment not less favourable than that accorded by the government of such State to any other government, including the latter's diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications, and press rates for information to the press and radio.

#### *Section 12*

No censorship shall be applied to the official correspondence and other official communication of the specialised agencies.

The specialised agencies shall have the right to use codes and to despatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

Nothing in this section shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a State party to this Convention and a specialised agency.

## *Article V*

### REPRESENTATIVES OF MEMBERS

#### *Section 13*

Representatives of Members at meetings convened by a specialised agency shall, while exercising their functions and during their journeys to and from the place of meeting, enjoy the following privileges and immunities:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage, and in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind;
- (b) inviolability for all papers and documents;
- (c) the right to use codes and to receive papers or correspondence by courier or in sealed bags;

## *Legal protection of the International Labour Organization in its member States*

- (d) exemption in respect of themselves and their spouses from immigration restrictions, aliens' registration or national service obligations in the State they are visiting or through which they are passing in the exercise of their functions;
- (e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions.

### *Section 14*

In order to secure for the representatives of Members of the specialised agencies at meetings convened by them complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

### *Section 15*

Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members of the specialised agencies at meetings convened by them are present in a member State for the discharge of their duties shall not be considered as periods of residence.

### *Section 16*

Privileges and immunities are accorded to the representatives of Members not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the specialised agencies. Consequently, a Member not only has the right but is under a duty to waive the immunity of its representatives in any case where, in the opinion of the Member, the immunity would impede the course of justice and where it can be waived without prejudice to the purpose for which the immunity is accorded.

### *Section 17*

The provisions of sections 13, 14 and 15 are not applicable in relation to the authorities of a State of which the person is a national or of which he is or has been a representative.

## *Article VI*

### OFFICIALS

### *Section 18*

Each specialised agency will specify the categories of officials to which the provisions of this Article and of Article VIII shall apply. It shall communicate them to

the governments of all States parties to this Convention in respect of that agency and to the Secretary-General of the United Nations. The names of the officials included in these categories shall from time to time be made known to the above-mentioned governments.

### *Section 19*

Officials of the specialised agencies shall:

- (a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
- (b) enjoy the same exemptions from taxation in respect of the salaries and emoluments paid to them by the specialised agency and on the same conditions as are enjoyed by officials of the United Nations;
- (c) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;
- (d) be accorded the same privileges in respect of exchange facilities as are accorded to officials of comparable rank of diplomatic missions;
- (e) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as officials of comparable rank of diplomatic missions;
- (f) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

### *Section 20*

The officials of the specialised agencies shall be exempt from national service obligations, provided that, in relation to the States of which they are nationals, such exemption shall be confined to officials of the specialised agencies whose names have, by reason of their duties, been placed upon a list compiled by the executive head of the specialised agency and approved by the State concerned.

Should other officials of specialised agencies be called up for national service, the State concerned shall, at the request of the specialised agency concerned, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption in the continuation of essential work.

### *Section 21*

In addition to the immunities and privileges specified in sections 19 and 20, the executive head of each specialised agency, including any official acting on his behalf during his absence from duty, shall be accorded in respect of himself, his spouse and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

### *Section 22*

Privileges and immunities are granted to officials in the interests of the specialised agencies only and not for the personal benefit of the individuals themselves. Each specialised agency shall have the right and the duty to waive the immunity of any official in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the specialised agency.

### *Section 23*

Each specialised agency shall co-operate at all times with the appropriate authorities of member States to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuses in connection with the privileges, immunities and facilities mentioned in this Article.

## *Article VII*

### ABUSE OF PRIVILEGE

### *Section 24*

If any State party to this Convention considers that there has been an abuse of a privilege or immunity conferred by this Convention, consultations shall be held between that State and the specialised agency concerned to determine whether any such abuse has occurred and, if so, to attempt to ensure that no repetition occurs. If such consultations fail to achieve a result satisfactory to the State and the specialised agency concerned, the question whether an abuse of a privilege or immunity has occurred shall be submitted to the International Court of Justice in accordance with section 32. If the International Court of Justice finds that such an abuse has occurred, the State party to this Convention affected by such abuse shall have the right, after notification to the specialised agency in question, to withhold from the specialised agency concerned the benefits of the privilege or immunity so abused.

### *Section 25*

1. Representatives of Members at meetings convened by specialised agencies, while exercising their functions and during their journeys to and from the place of meeting, and officials within the meaning of section 18, shall not be required by the territorial authorities to leave the country in which they are performing their functions on account of any activities by them in their official capacity. In the case, however, of the abuse of privileges of residence committed by any such person in activities in that country outside his official functions, he may be required to leave by the government of that country provided that:

2. (I) Representatives of Members, or persons who are entitled to diplomatic immunity under section 21, shall not be required to leave the country otherwise than

in accordance with the diplomatic procedure applicable to diplomatic envoys accredited to that country.

(II) In the case of an official to whom section 21 is not applicable, no order to leave the country shall be issued other than with the approval of the Foreign Minister of the country in question, and such approval shall be given only after consultation with the executive head of the specialised agency concerned; and, if expulsion proceedings are taken against an official, the executive head of the agency shall have the right to appear in such proceedings on behalf of the person against whom they are instituted.

### Article VIII

#### LAISSEZ-PASSER

##### Section 26

Officials of the specialised agencies shall be entitled to use the United Nations *laissez-passer* in conformity with administrative arrangements to be concluded between the Secretary-General of the United Nations and the competent authorities of the specialised agencies, to which agencies special powers to issue *laissez-passer* may be delegated. The Secretary-General of the United Nations shall notify each State party to this Convention of each administrative arrangement so concluded.

##### Section 27

States parties to this Convention shall recognise and accept the United Nations *laissez-passer* issued to officials of the specialised agencies as valid travel documents.

##### Section 28

Applications for visas, where required, from officials of specialised agencies holding United Nations *laissez-passer*, when accompanied by a certificate that they are travelling on the business of a specialised agency, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

##### Section 29

Similar facilities to those specified in section 28 shall be accorded to experts and other persons who, though not the holders of United Nations *laissez-passer* have a certificate that they are travelling on the business of a specialised agency.

##### Section 30

The executive heads, assistant executive heads, heads of departments and other officials of a rank not lower than head of department of the specialised agencies, travelling on United Nations *laissez-passer* on the business of the specialised agencies, shall be granted the same facilities for travel as are accorded to officials of comparable rank in diplomatic missions.

## *Article IX*

### SETTLEMENT OF DISPUTES

#### *Section 31*

Each specialised agency shall make provision for appropriate modes of settlement of:

- (a) disputes arising out of contracts or other disputes of private character to which the specialised agency is a party;
- (b) disputes involving any official of a specialised agency who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of section 22.

#### *Section 32*

All differences arising out of the interpretation or application of the present Convention shall be referred to the International Court of Justice unless in any case it is agreed by the parties to have recourse to another mode of settlement. If a difference arises between one of the specialised agencies on the one hand, and a Member on the other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with article 96 of the Charter and article 65 of the Statute of the Court and the relevant provisions of the agreements concluded between the United Nations and the specialised agency concerned. The opinion given by the Court shall be accepted as decisive by the parties.

## *Article X*

### ANNEXES AND APPLICATION TO INDIVIDUAL SPECIALISED AGENCIES

#### *Section 33*

In their application to each specialised agency, the standard clauses shall operate subject to any modifications set forth in the final (or revised) text of the annex relating to that agency, as provided in sections 36 and 38.

#### *Section 34*

The provisions of the Convention in relation to any specialised agency must be interpreted in the light of the functions with which that agency is entrusted by its constitutional instrument.

#### *Section 35*

Draft annexes 1 to 9 are recommended to the specialised agencies named therein. In the case of any specialised agency not mentioned by name in section 1, the

Secretary-General of the United Nations shall transmit to the agency a draft annex recommended by the Economic and Social Council.

### *Section 36*

The final text of each annex shall be that approved by the specialised agency in question in accordance with its constitutional procedure. A copy of the annex as approved by each specialised agency shall be transmitted by the agency in question to the Secretary-General of the United Nations and shall thereupon replace the draft referred to in section 35.

### *Section 37*

The present Convention becomes applicable to each specialised agency when it has transmitted to the Secretary-General of the United Nations the final text of the relevant annex and has informed him that it accepts the standard clauses, as modified by this annex, and undertakes to give effect to sections 8, 18, 22, 23, 24, 31, 32, 42 and 45 (subject to any modification of section 32 which may be found necessary in order to make the final text of the annex consonant with the constitutional instrument of the agency) and any provisions of the annex placing obligations on the agency. The Secretary-General shall communicate to all Members of the United Nations and other States Members of the specialised agencies certified copies of all annexes transmitted to him under this section and of revised annexes transmitted under section 38.

### *Section 38*

If, after the transmission of a final annex under section 36, any specialised agency approves any amendments thereto in accordance with its constitutional procedure, a revised annex shall be transmitted by it to the Secretary-General of the United Nations.

### *Section 39*

The provisions of this Convention shall in no way limit or prejudice the privileges and immunities which have been, or may hereafter, be accorded by any State to any specialised agency by reason of the location in the territory of that State of its headquarters or regional offices. This Convention shall not be deemed to prevent the conclusion between any State party thereto and any specialised agency of supplemental agreements adjusting the provisions of this Convention or extending or curtailing the privileges and immunities thereby granted.

### *Section 40*

It is understood that the standard clauses, as modified by the final text of an annex sent by a specialised agency to the Secretary-General of the United Nations under section 36 (or any revised annex sent under section 38), will be consistent with

the provisions of the constitutional instrument then in force of the agency in question, and that if any amendment to that instrument is necessary for the purpose of making the constitutional instrument so consistent, such amendment will have been brought into force in accordance with the constitutional procedure of that agency before the final (or revised) annex is transmitted.

The Convention shall not itself operate so as to abrogate, or derogate from, any provisions of the constitutional instrument of any specialised agency or any rights or obligations which the agency may otherwise have, acquire, or assume.

## *Article XI*

### FINAL PROVISIONS

#### *Section 41*

Accession to this Convention by a Member of the United Nations and (subject to section 42) by any State Member of a specialised agency shall be effected by deposit with the Secretary-General of the United Nations of an instrument of accession, which shall take effect on the date of its deposit.

#### *Section 42*

Each specialised agency concerned shall communicate the text of this Convention together with the relevant annexes to those of its Members which are not Members of the United Nations and shall invite them to accede thereto in respect of that agency by depositing an instrument of accession to this Convention in respect thereof either with the Secretary-General of the United Nations or with the executive head of the specialised agency.

#### *Section 43*

Each State party to this Convention shall indicate in its instrument of accession the specialised agency or agencies in respect of which it undertakes to apply the provisions of this Convention. Each State party to this Convention may by a subsequent written notification to the Secretary-General of the United Nations undertake to apply the provisions of this Convention to one or more further specialised agencies. This notification shall take effect on the date of its receipt by the Secretary-General.

#### *Section 44*

This Convention shall enter into force for each State party to this Convention in respect of a specialised agency when it has become applicable to that agency in accordance with section 37 and the State party has undertaken to apply the provisions of the Convention to that agency in accordance with section 43.

### *Section 45*

The Secretary-General of the United Nations shall inform all Members of the United Nations, as well as all Members of the specialised agencies, and executive heads of the specialised agencies of the deposit of each instrument of accession received under section 41 and of subsequent notifications received under section 43. The executive head of a specialised agency shall inform the Secretary-General of the United Nations and the Members of the agency concerned of the deposit of any instrument of accession deposited with him under section 42.

### *Section 46*

It is understood that, when an instrument of accession or a subsequent notification is deposited on behalf of any State, this State will be in a position under its own law to give effect to the terms of this Convention, as modified by the final texts of any annexes relating to the agencies covered by such accessions or notifications.

### *Section 47*

1. Subject to the provisions of paragraphs 2 and 3 of this section, each State party to this Convention undertakes to apply this Convention in respect of each specialised agency covered by its accession or subsequent notification, until such time as a revised Convention or annex shall have become applicable to that agency and the said State shall have accepted the revised Convention or annex. In the case of a revised annex, the acceptance of States shall be by a notification addressed to the Secretary-General of the United Nations, which shall take effect on the date of its receipt by the Secretary-General.

2. Each State party to this Convention, however, which is not, or has ceased to be, a Member of a specialised agency, may address a written notification to the Secretary-General of the United Nations and the executive head of the agency concerned to the effect that it intends to withhold from that agency the benefits of this Convention as from a specified date, which shall not be earlier than three months from the date of receipt of the notification.

3. Each State party to this Convention may withhold the benefit of this Convention from any specialised agency which ceases to be in relationship with the United Nations.

4. The Secretary-General of the United Nations shall inform all member States parties to this Convention of any notification transmitted to him under the provisions of this section.

### *Section 48*

At the request of one-third of the States parties to this Convention, the Secretary-General of the United Nations will convene a conference with the view to its revision.

**Section 49**

The Secretary-General of the United Nations shall transmit copies of this Convention to each specialised agency and to the government of each Member of the United Nations.

## *Annex to the Convention relating to the International Labour Organisation*

In their application to the International Labour Organisation the standard clauses shall operate subject to the following provisions:

1. Article V (other than paragraph (c) of section 13) and section 25 paragraphs 1 and 2 (I) of Article VII shall extend to the employers' and workers' members and deputy members of the Governing Body of the International Labour Office and their substitutes; except that any waiver of the immunity of any such person member under section 16 shall be by the Governing Body.

2. The privileges, immunities, exemptions and facilities referred to in section 21 of the standard clauses shall also be accorded to any Deputy Director-General of the International Labour Office and any Assistant Director-General of the International Labour Office.

3. (i) Experts (other than officials coming within the scope of Article VI) serving on committees of, or performing missions for, the Organisation shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions, including the time spent on journeys in connection with service on such committees or missions:

- (a) immunity from personal arrest or seizure of their personal baggage;
  - (b) in respect of words spoken or written or acts done by them in the performance of their official functions, immunity of legal process of every kind, such immunity to continue notwithstanding that the persons concerned are no longer serving on committees of, or employed on missions for, the Organisation;
  - (c) the same facilities in respect of currency and exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign governments on temporary official missions;
  - (d) inviolability of their papers and documents relating to the work on which they are engaged for the Organisation.
- (ii) In connection with (d) of 3(i) above, the principle contained in the last sentence of section 12 of the standard clauses shall be applicable.
  - (iii) Privileges and immunities are granted to the experts of the Organisation in the interests of the Organisation and not for the personal benefit of the individuals themselves. The Organisation shall have the right and the duty to waive the immunity of any expert in any case where in its opinion the immunity would impede the course of justice, and it can be waived without prejudice to the interests of the Organisation.

## **Resolution concerning interim arrangements in regard to the privileges and immunities of the International Labour Organisation**

Adopted on 10 July 1948 by the International Labour Conference at Its Thirty-First Session

Whereas the General Assembly of the United Nations has recognised that it is necessary that the specialised agencies should enjoy, at the earliest possible date, the privileges and immunities essential for an efficient exercise of their respective functions, and has pointed out that a considerable delay will necessarily ensue before the Convention on privileges and immunities of the specialised agencies becomes operative in the case of the various agencies; and

Whereas the General Assembly has therefore recommended that the States Members of the United Nations, pending their formal accession to the general Convention concerning the privileges and immunities of specialised agencies, including the annexes relating to each agency, should immediately accord as far as possible to or in connection with the specialised agencies, the benefit of the privileges and immunities provided in the said general Convention and its annexes, it being understood that the specialised agencies may take any necessary parallel action in regard to those of their Members which are not Members of the United Nations:

The General Conference of the International Labour Organisation

Recommends that the States Members of the International Labour Organisation, whether or not they are Members of the United Nations, should, pending their formal accession to the general Convention concerning the privileges and immunities of the specialised agencies as modified by the annex relating to the International Labour Organisation, immediately accord as far as possible to and in connection with the International Labour Organisation the benefit of the privileges and immunities provided for in the said general Convention as modified by the annex relating to the International Labour Organisation.

## Annex of model instruments

### **Model instrument of accession to the Convention on the Privileges and Immunities of the Specialized Agencies and its Annexes**

(To be signed by the Head of State, Head of Government or Minister for Foreign Affairs and transmitted to the UN Treaty Office – <http://treaties.un.org>)

[NAME OF STATE]

#### **ACCESSION**

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WHEREAS the Convention on the Privileges and Immunities of the Specialized Agencies was approved by the General Assembly of the United Nations on 21 November 1947,

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs] declare that [name of State], having considered the abovementioned Convention, accedes to the same and undertakes faithfully to perform and carry out the stipulations therein contained in respect of the following specialized [agency/agencies]: [select appropriate names of specialized agencies from the following list]

✓ International Labour Organization (ILO) – Annex I to the Convention on the Privileges and Immunities of the Specialized Agencies

[Food and Agriculture Organization of the United Nations (FAO) – Second revised text of Annex II to the Convention on the Privileges and Immunities of the Specialized Agencies]

[International Civil Aviation Organization (ICAO) – Annex III to the Convention on the Privileges and Immunities of the Specialized Agencies]

[United Nations Educational, Scientific and Cultural Organization (UNESCO) – Annex IV to the Convention on the Privileges and Immunities of the Specialized Agencies]

[International Monetary Fund (IMF) – Annex V to the Convention on the Privileges and Immunities of the Specialized Agencies]

*Legal protection of the International Labour Organization in its member States*

[International Bank for Reconstruction and Development (IBRD) – Annex VI to the Convention on the Privileges and Immunities of the Specialized Agencies]

[World Health Organization (WHO) – Third revised text of Annex VII to the Convention on the Privileges and Immunities of the Specialized Agencies]

[Universal Postal Union (UPU) – Annex VIII to the Convention on the Privileges and Immunities of the Specialized Agencies]

[International Telecommunication Union (ITU) – Annex IX to the Convention on the Privileges and Immunities of the Specialized Agencies]

[International Refugee Organization (dissolved) – Annex X to the Convention on the Privileges and Immunities of the Specialized Agencies]

[World Meteorological Organization (WMO) – Annex XI to the Convention on the Privileges and Immunities of the Specialized Agencies]

[International Maritime Organization (IMO) – Second revised text of Annex XII to the Convention on the Privileges and Immunities of the Specialized Agencies]

[International Finance Corporation (IFC) – Annex XIII to the Convention on the Privileges and Immunities of the Specialized Agencies]

[International Development Association (IDA) – Annex XIV to the Convention on the Privileges and Immunities of the Specialized Agencies]

[World Intellectual Property Organization (WIPO) – Annex XV to the Convention on the Privileges and Immunities of the Specialized Agencies]

[International Fund for Agricultural Development (IFAD) – Annex XVI to the Convention on the Privileges and Immunities of the Specialized Agencies]

[United Nations Industrial Development Organization (UNIDO) – Annex XVII to the Convention on the Privileges and Immunities of the Specialized Agencies]

[World Tourism Organization (UNWTO) – Annex XVIII to the Convention on the Privileges and Immunities of the Specialized Agencies]

IN WITNESS WHEREOF, I have signed this instrument of accession at [place] on [date].

[Signature]

**Model instrument of subsequent notification  
concerning application of the Convention on the Privileges  
and Immunities of the Specialized Agencies  
and its Annexes to further specialized agencies**

(To be signed by the Head of State, Head of Government or Minister for Foreign Affairs and transmitted to the UN Treaty Office – <http://treaties.un.org>)

[NAME OF STATE]

**SUBSEQUENT NOTIFICATION**

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WHEREAS [NAME OF STATE] is a party to the Convention on the Privileges and Immunities of the Specialized Agencies approved by the General Assembly of the United Nations on 21 November 1947,

WHEREAS [NAME OF STATE] desires to undertake to apply the provisions of this Convention to one or more further specialized agencies as provided under section 43 of the Convention,

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs] declare that [name of State], as a party to the abovementioned Convention, undertakes faithfully to perform and carry out the provisions of the Convention to the following specialized [agency/agencies]: [select appropriate names of specialized agencies from the following list]

✓ International Labour Organization (ILO) – Annex I to the Convention on the Privileges and Immunities of the Specialized Agencies

[Food and Agriculture Organization of the United Nations (FAO) – Second revised text of Annex II to the Convention on the Privileges and Immunities of the Specialized Agencies]

[International Civil Aviation Organization (ICAO) – Annex III to the Convention on the Privileges and Immunities of the Specialized Agencies]

[United Nations Educational, Scientific and Cultural Organization (UNESCO) – Annex IV to the Convention on the Privileges and Immunities of the Specialized Agencies]

[International Monetary Fund (IMF) – Annex V to the Convention on the Privileges and Immunities of the Specialized Agencies]

[International Bank for Reconstruction and Development (IBRD) – Annex VI to the Convention on the Privileges and Immunities of the Specialized Agencies]

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*Legal protection of the International Labour Organization in its member States*

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[World Tourism Organization (UNWTO) – Annex XVIII to the Convention on the Privileges and Immunities of the Specialized Agencies]

IN WITNESS WHEREOF, I have signed this instrument at [place] on [date].

[Signature]



