ACCEPTANCE OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES

Note by the Secretary-General

In the following document, the Secretary-General transmits to the General Assembly his report on acceptance of the Convention on Privileges and Immunities of the Specialized Agencies.
ACCEPTANCE OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES

1. It is recalled to the Members that the Convention and the Annex agreed upon between the Office of Legal Affairs of the United Nations and the Legal Adviser of the UNWTO, were submitted to the General Assembly, which approved them through resolution 489(XVI).

2. Pursuant to this same resolution, the Secretary-General has proceeded to carry out the necessary formalities for its final acceptance. The Secretary-General thus sent a communication to the United Nations Secretary-General in March 2006, requesting him to refer to the United Nations Economic and Social Council at its next session the text of the Annex to the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947 relating to the UNWTO.

3. The Economic and Social Council was unable to consider the draft annex during its substantive session of July 2006, owing to questions having been raised by a certain number of countries.

4. These questions had to do mainly with, on the one hand, the equal consideration of representatives of Associate Members and representatives of Full Members with regard to privileges and immunities in the exercise of their functions, and on the other hand, the granting of certain privileges and immunities to the representatives of Affiliate Members participating in the activities of the Organization in accordance with the Statutes, as well as to the chairpersons and members of the Strategic Group and of the World Committee on Tourism Ethics, as well as to experts in order to safeguard the independent exercise of their official functions.

5. The necessary clarifications were provided to the representatives of the States concerned, who agreed to transmit them to their respective governments.

6. It appeared, however, that a Member country of both organizations, Japan, was not convinced by the clarifications provided and wished that the text adopted by the General Assembly of the UNWTO be revised, eliminating various provisions initially foreseen.

7. The Secretary-General was then informed of this country's wish to participate in the eightieth session of the Council, which was held in June 2007, in order to state its point of view, in the form of a revised version proposed by this Government.

8. This session of the Council, through decision 14(LXXX), whose text is reproduced in Annex 1, recommended that the Secretary-General prepare a new text and requested him to gather possible observations by the Members of the Organization before proposing a final draft that would be submitted once again for approval to the United Nations Economic and Social Council.
9. The Secretary-General, with the assistance of the Legal Adviser, thus circulated to all the Members a new draft, which appears in Annex 2.

10. The Members will recall that another point of dispute was that of the granting of privileges and immunities to the family of the Deputy Secretary-General as provided for in other institutions of the United Nations. An agreement has been reached on this point and the problem has thus been resolved in a positive manner.

11. Subject to any further developments that may arise and that may make it possible to achieve a broader consensus, the Secretary-General submits this text to the Members, given that it has received the agreement of the majority of the Members that transmitted to him their comments on this subject.

12. In this regard, the Secretary-General informs the Members that he has also submitted to the Government of Japan the possibility of a compromise solution that would place the Affiliate Members within the category of experts.

13. Based on this suggestion, the Government of Japan has transmitted to the Secretariat a revised version of its previous proposal, which is attached as Annex 3. The Secretary-General notes that, in practice, both texts, through different ways, result in quite similar solutions for providing the Affiliate Members that contribute their expertise to the UNWTO with the essential facilities and protections, while limiting them to the strict exercise of their functions. He is therefore ready to support either of the texts or a third constituting a synthesis of the two.

14. At this stage, the Secretary-General therefore submits to the Assembly the revised version of the draft annex as approved by the last session of the Executive Council. The draft annex approved by the Assembly shall be transmitted to the Office of Legal Affairs of the United Nations for approval and to the Secretary-General of the United Nations, requesting him to refer it to the Economic and Social Council at its next session for the acceptance of the text of the Annex to the Convention on Privileges and Immunities of the Specialized Agencies relating to the UNWTO.
ANNEX 1

DECISION TAKEN BY THE EXECUTIVE COUNCIL AT ITS EIGHTIETH SESSION

(Hammamet, Tunisia, June 2007)

CE/DEC/14(LXXX)

Cooperation with the United Nations system

(b) Acceptance of the Convention on the Privileges and Immunities of the Specialized Agencies

Agenda item 7(b)
(document CE/80/7(b))

The Executive Council,

Having before it the document relative to the acceptance of the draft annex to the Convention relating to the World Tourism Organization,

Having heard the statements of various Members of the Executive Council and of Japan on this subject,

1. Observes that it does not have the ability to modify a draft adopted by consensus by the General Assembly;

2. Recommends notwithstanding that the Secretary-General, with the assistance of the Legal Adviser, prepare a new draft taking into account the concerns expressed by certain Members of the Executive Council and by Japan;

3. Requests the Secretary-General to gather the possible observations of the Full Members of the Organization before proposing a final draft that will be submitted again for approval to the United Nations Economic and Social Council in accordance with Section 35 of the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations; and

4. Notes that this new text will have to be submitted again for approval to the next session of the UNWTO General Assembly.
ANNEX 2

Annex

World Tourism Organization

In their application to the World Tourism Organization (hereinafter referred to as "the Organization"), the standard clauses shall operate subject to the following modifications:

1. Article V and Section 25, paragraphs 1 and 2 (I) of Article VII of the Convention shall extend to the representatives of Associate Members participating in the work of the Organization in accordance with the Statutes of the World Tourism Organization (hereinafter referred to as "the Statutes").

2. Representatives of Affiliate Members, participating in the activities of the Organization in accordance with the Statutes shall be granted the following privileges, immunities, and facilities, in order to safeguard the independent exercise of their official functions:
   
   (a) Immunity from legal process in respect of acts done by them strictly in the performance of official functions of the Organization;
   
   (b) Applications for visas, where required and when accompanied by a certificate that they are traveling on the business of the Organization, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel;
   
   (c) In connection with sub-paragraph (b) above, the principle contained in the last sentence of Section 12 of the standard clauses shall apply;
   
   (d) Immunity from legal process as referred to in sub-paragraph (a) above is granted to representatives of Affiliates Members solely in the interests of the Organization and not for the personal benefit of the individuals themselves. The Secretary-General of the Organization shall have the right and the duty to waive the immunity of such individuals in any case where in his/her opinion the immunity would impede the course of justice, and can be waived without prejudice to the interests of the Organization.

3. Experts, other than officials coming within the scope of Article VI of the Convention, serving on organs and bodies of, or performing missions for, the Organization shall be accorded such privileges and immunities as are necessary for the independent and effective exercise of their functions, including the time spent on journeys in connection with service on organs and bodies or missions. In particular they shall be accorded:
(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 from legal process of every kind, such immunity to continue notwithstanding that the persons concerned are no longer serving on organs and bodies of, or employed on mission for, the Organization;

(c) Inviolability for all papers and documents relating to the work on which they are engaged for the Organization;

(d) For the purpose of their communications with the Organization, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) 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.

4. Privileges and immunities are granted to the experts in the interests of the Organization and not for the personal benefit of the individuals themselves. The Secretary-General of the Organization shall have the right and the duty to waive the immunity of any expert in any case where, in his/her opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the Organization.

5. The privileges and immunities, exemptions and facilities referred to in section 21 of the standard clauses shall also be accorded to the Deputy Secretary-General of the Organization, his/her spouse and minor children.
ANNEX 3

Annex

World Tourism Organization

In their application to the World Tourism Organization (hereinafter referred to as "the Organization"), the standard clauses shall operate subject to the following modifications:

1. Article V and Section 25, paragraphs 1 and 2 (i) of Article VII of the Convention shall extend to the representatives of Associate Members participating in the work of the Organization in accordance with the Statutes of the World Tourism Organization (hereinafter referred to as "the Statutes").

2. Representatives of Affiliate Members, participating in the activities of the Organization in accordance with the Statutes shall be granted the following facilities, in order to safeguard the independent exercise of their official functions:

   (a) Applications for visas, where required and when accompanied by a certificate that they are traveling on the business of the Organization, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel;

   (b) In connection with sub-paragraph (a) above, the principle contained in the last sentence of Section 12 of the standard clauses shall apply;

3. Experts, other than officials coming within the scope of Article VI of the Convention, serving on organs and bodies of, or performing missions for, the Organization shall be accorded such privileges and immunities as are necessary for the independent and effective exercise of their functions, including the time spent on journeys in connection with service on organs and bodies or missions. In particular they shall be accorded:

   (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 from legal process of every kind, such immunity to continue notwithstanding that the persons concerned are no longer serving on organs and bodies of, or employed on mission for, the Organization;

   (c) Inviolability for all papers and documents relating to the work on which they are engaged for the Organization;
(d) For the purpose of their communications with the Organization, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) 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.

4. Privileges and immunities are granted to the experts in the interests of the Organization and not for the personal benefit of the individuals themselves. The Secretary-General of the Organization shall have the right and the duty to waive the immunity of any expert in any case where, in his/her opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the Organization.

5. Notwithstanding paragraph 2 above, paragraphs 3 and 4 above shall apply to representatives of Affiliate members performing missions for the Organization as experts.

6. The privileges and immunities, exemptions and facilities referred to in section 21 of the standard clauses shall also be accorded to the Deputy Secretary-General of the Organization, his/her spouse and minor children.