

**Proposals for further consideration by the Chairman
on Organization/Implementational Arrangements**

ARTICLE IX

THE ORGANIZATION

(E) PRIVILEGES AND IMMUNITIES

47. The Organization shall enjoy on the territory and in any other place under the jurisdiction or control of a State Party such legal capacity and such privileges and immunities as are necessary for the exercise of its functions.

48. Delegates of States Parties, together with their alternates and advisers, representatives of members elected to the Executive Council, together with their alternates and advisers, the Director-General and the staff of the Organization shall enjoy such privileges and immunities as are necessary in the independent exercise of their functions in connection with the Organization.

49. The legal capacity, privileges and immunities referred to in this Article shall be defined in an agreement on the privileges and immunities of the Organization to be concluded between the Organization and the States Parties as well as in an agreement between the Organization and the State in which the Organization is seated. Such agreements shall be considered and approved in accordance with paragraph 22 (i) and (j).

50. The immunities enjoyed by the Organization, the Director-General and the staff of the Organization may be waived in accordance with the provisions of this Protocol and its Annexes as well as of the agreements referred to in paragraph 49 above.

51. The Organization shall not be held liable for any breach of confidentiality committed by members of the Technical Secretariat unless otherwise decided in accordance with paragraph 52.

52. The Conference shall take the decision on the waiver of immunity of the Organization and of the Director-General of the Organization. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgement, for which a separate waiver shall be necessary. The Conference, taking into account the recommendations of the Executive Council, shall take its decisions on the waiver of immunity of the Organization from both jurisdiction and execution of judgement by unanimous consent of States Parties present and voting. The Conference shall take its decisions on the waiver of immunity of the Director-General from both jurisdiction and execution of judgement as a matter of substance in accordance with paragraph 19 above, by consensus. Waiver shall always be express.

53. The Director-General shall have the right to waive the immunity of any member of an investigation or visiting team or the other staff of the Technical Secretariat in any case where, in his or her opinion, the immunity would impede the course of justice and can be waived without prejudice to the implementation of the provisions of this Protocol. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgement, for which a separate waiver shall be necessary. Waiver shall always be express.

54. Notwithstanding paragraph 49, the privileges and immunities enjoyed by the members of an investigation or visiting team during the conduct of an investigation or visit shall be those set forth in paragraphs ... of this Article.

55. In deciding whether to waive immunity in cases of breach of confidentiality, the Director-General or the Conference of the States Parties, as appropriate, shall request and take into consideration the views of the Confidentiality Commission.

56. Following acceptance of the list of designated personnel as provided for in paragraphs 1 to 16 of Annex D, section I, each State Party shall be obliged to issue, in conformity with its national visa-related laws and regulations and upon application by any person from the list of designated personnel, multiple entry/exit and/or transit visas and other relevant documents to enable each member of an investigation or visit team to enter, to remain on, or to transit its territory for the sole purpose of carrying out investigation or visit activities on the territory of the receiving State Party. Each State Party shall issue the necessary visa or travel documents for this purpose not later than 48 hours in the case of investigations, and 120 hours in the case of visits, after receipt of the application. Such documents issued by the receiving State Party shall be valid for at least two years after their provision and shall be reissued, if needed. These documents shall enable the investigation and visit personnel to remain on, or to transit its territory as long as is necessary for carrying out the investigation or visit activities.

57. To exercise their functions effectively, members of the investigation or visiting team shall be accorded by the receiving State Party and the host State Party privileges and immunities as set forth in subparagraphs (a) to (i). Privileges and immunities shall be granted to members of the investigation or visiting team for the sake of this Protocol and not for the personal benefit of the individuals themselves. Such privileges and immunities shall be accorded to them for the entire period between arrival on and departure from the territory of the receiving State Party and host State Party, and thereafter with respect to acts previously performed in the exercise of their official functions in accordance with their mandate.

(a) The members of the investigation or visiting team shall be accorded the same inviolability as is enjoyed by diplomatic agents pursuant to Article 29 of the Vienna Convention on Diplomatic Relations of 18 April 1961.

(b) The living quarters and office premises occupied by the investigation or visiting team carrying out investigation or visit activities pursuant to this Protocol shall be accorded the same inviolability and protection as are accorded to the premises of diplomatic

agents pursuant to Article 30, paragraph 1, of the Vienna Convention on Diplomatic Relations.

(c) The papers and correspondence, including records, of the investigation or visiting team shall enjoy the same inviolability as is accorded to all papers and correspondence of diplomatic agents pursuant to Article 30, paragraph 2, of the Vienna Convention on Diplomatic Relations. The investigation or visiting team shall have the right to use codes for their communications with the Technical Secretariat, in accordance with Annex D, section I, paragraphs 57 and 58.

(d) Samples to be taken in accordance with the relevant provisions of this Protocol, and approved equipment carried by members of the investigation or visiting team shall be inviolable subject to provisions contained in this Protocol and exempt from all customs duties.

(e) The members of the investigation or visiting team shall be accorded the same immunities as are accorded to diplomatic agents pursuant to Article 31, paragraphs 1, 2 and 3, of the Vienna Convention on Diplomatic Relations.

(f) The members of the investigation or visiting team carrying out prescribed activities pursuant to this Protocol shall be accorded the exemption from dues and taxes accorded to diplomatic agents pursuant to Article 34 of the Vienna Convention on Diplomatic Relations.

(g) The members of the investigation or visiting team shall be permitted to bring into the territory of the receiving State Party or host State Party, without payment of any customs duties or related charges, articles for personal use, with the exception of articles the import or export of which is prohibited by law or controlled by quarantine regulations.

(h) The members of the investigation or visiting team shall be accorded the same currency and exchange facilities as are accorded to representatives of foreign governments on temporary official missions.

(i) The members of the investigation or visiting team shall not engage in any professional or commercial activity for personal profit on the territory of the receiving State Party or the host State.

58. When transiting the territory of States Parties other than the receiving State Party, the members of the investigation or visiting team shall be accorded the same privileges and immunities as are enjoyed by diplomatic agents pursuant to Article 40, paragraph 1, of the Vienna Convention on Diplomatic Relations. Papers and correspondence, including records, samples to be taken in accordance with the relevant provisions of this Protocol, and approved equipment, carried by them, shall be accorded the privileges and immunities set forth in paragraph 57 (c) and (d), without prejudice to Annex D, section I, paragraph 40.

59. Without prejudice to their privileges and immunities the members of the investigation or visiting team shall be obliged to respect the laws and regulations of the receiving State Party or host State as well as the transited State Party and, to the extent that is consistent with the investigation or visit mandate, shall be obliged not to interfere in the internal affairs of that State. If the receiving State Party or host State Party considers that there has been an abuse of privileges and immunities by the members of the investigation or visiting team, consultations shall be held between the State Party and the Director-General to determine whether such an abuse has occurred and, if so determined, to prevent a repetition of such abuse.

[60. Observers shall be accorded the same privileges and immunities accorded to investigators pursuant to this section, except for those accorded pursuant to paragraph 57 (d).]