

**STANDING COMMITTEE ON PROGRAMMES AND FINANCE**

**Twenty-third Session**

**FIFTH ANNUAL REPORT OF THE DIRECTOR GENERAL  
ON IMPROVEMENTS IN THE PRIVILEGES AND IMMUNITIES  
GRANTED TO THE ORGANIZATION BY STATES**



## **FIFTH ANNUAL REPORT OF THE DIRECTOR GENERAL ON IMPROVEMENTS IN THE PRIVILEGES AND IMMUNITIES GRANTED TO THE ORGANIZATION BY STATES**

### **Background**

1. The Council adopted Resolution No. 1266 on improving the privileges and immunities granted to the Organization by States on 26 November 2013.
2. In the Resolution, the Council:
  - (a) Calls on Member States, observer States and other States where the Organization has activities to grant the Organization privileges and immunities substantively similar to those that the United Nations specialized agencies are entitled to in accordance with the Convention on the Privileges and Immunities of the Specialized Agencies (1947);
  - (b) Requests the Director General to engage with all Member States, observer States and other States where the Organization has activities which do not grant the Organization privileges and immunities substantively similar to those that the United Nations specialized agencies are entitled to in accordance with the Convention on the Privileges and Immunities of the Specialized Agencies (1947), with a view to concluding agreements that provide for the granting of such privileges and immunities to the Organization, and calls on States to cooperate fully with the Director General in this regard;
  - (c) Further requests the Director General to evaluate the long-term possibility of developing a multilateral agreement consistent with the Convention on the Privileges and Immunities of the Specialized Agencies (1947);
  - (d) Also requests the Director General to report annually to the Council, through the Standing Committee on Programmes and Finance, on the implementation of this Resolution.
3. Since Resolution No. 1266 was adopted, the Director General and the Deputy Director General have regularly raised the issue of privileges and immunities during their visits to several countries.
4. As at previous sessions since the adoption of Resolution No. 1266, at its 108th Session, which took place from 28 November to 1 December 2017, the Council endorsed the recommendation of the Standing Committee on Programmes and Finance and again “called on Member States to grant the Organization privileges and immunities substantially similar to those granted to the specialized agencies of the United Nations, particularly now that IOM was a related organization within the United Nations system.”<sup>1</sup>

### **Current situation**

5. This report covers the period from 1 October 2017 to 30 September 2018.
6. One year after the fourth annual report of the Director General, four agreements meeting the criteria contained in Resolution No. 1266 have entered into force, these being with Chad,<sup>2</sup> Dominica,

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<sup>1</sup> Draft Report on the 108th Session of the Council (C/108/L/20 of 17 April 2018), paragraph 50.

<sup>2</sup> It should be noted that the previous agreement between IOM and Chad met the criteria contained in Resolution No. 1266, but did not follow the latest IOM template.

Eswatini and Turkey. An agreement meeting the criteria contained in the Resolution has been signed with Bahrain, but has not yet entered into force. At the same time, agreements or extensions of existing agreements that do not meet the criteria contained in the Resolution have entered into force with four other States.

7. In all, 95 of the 187 Member States, observer States and places where IOM has activities grant IOM privileges and immunities meeting the criteria contained in Resolution No. 1266. All ninety-five are Member States. This means that 77 Member States, 8 observer States and 7 places where IOM has activities do not grant IOM privileges and immunities meeting the criteria contained in the Resolution.

8. The fact that 92 Member States, observer States and places where IOM has activities do not grant IOM privileges and immunities meeting the criteria contained in Resolution No. 1266 leads to gaps in terms of legal protection. This is of particular concern when IOM is requested to rapidly implement projects in specific States.

### **Efforts following the entry of IOM into the United Nations system**

9. On 19 September 2016, IOM became a related organization within the United Nations system. This underscored the need for the Organization to benefit from the same privileges and immunities granted to all other organizations that are part of the United Nations system. The Organization therefore stepped up its efforts to ensure that IOM is accorded privileges and immunities substantively similar to those of the United Nations and the United Nations specialized agencies.

10. In August and September 2017, the Chairperson of the IOM Council sent letters to 10 Member States seeking their support for improving IOM's privileges and immunities following the entry of IOM into the United Nations system. None of those Member States have granted IOM improved privileges and immunities; however, negotiations are ongoing with eight of them.

11. On 20 June 2017, IOM signed an administrative arrangement with the United Nations concerning the issuance of the United Nations laissez-passer to IOM officials. IOM has started to convey this development bilaterally to the States which grant the Organization privileges and immunities substantively similar to those granted to the United Nations specialized agencies by virtue of the 1947 Convention. With the States which do not grant IOM such privileges and immunities, the Organization will be entering into an exchange of letters to ensure the recognition of the United Nations laissez-passer issued to IOM officials.

12. During the period covered by this report, IOM has pursued negotiations with 30 States on matters related to privileges and immunities. As mentioned in paragraph 6 above, these efforts resulted in the entering into force of four agreements meeting the criteria contained in Resolution No. 1266 (with Chad, Dominica, Eswatini and Turkey) and the signing of one agreement meeting the criteria contained in Resolution No. 1266 (with Bahrain).

### **The way forward**

13. Regarding operative paragraph 3 of Resolution No. 1266, concerning the long-term possibility of developing a multilateral agreement consistent with the Convention on the Privileges and Immunities of the Specialized Agencies (1947), there are three possible approaches. The first is to develop a standard bilateral template that is agreed to by the Council and used for all States without deviation, an approach used by the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization. The second is to develop a unique multilateral instrument to be ratified by States and to replace any existing bilateral agreements. The International Atomic Energy Agency has such a multilateral instrument. The third approach, which is followed by the World Trade Organization, is to

insert a provision into the Constitution that States shall grant IOM privileges and immunities substantially similar to those in the 1947 Convention. Such a provision should also supersede any existing bilateral agreements as soon as it enters into force.

14. Given the entry of IOM into the United Nations system and the need to ensure consistency among all Member States and with other organizations of the United Nations system regarding the privileges and immunities granted to IOM by States, the Director General is exploring more actively the three approaches mentioned in the previous paragraph. A standard bilateral template has been developed, and broader consultations will be held when resources permit.

15. The Director General also considers that his efforts to engage States will be strengthened if the Council remains seized of the matter and reiterates its call for Member States, observer States and places where the Organization has activities to grant the Organization privileges and immunities meeting the criteria contained in Resolution No.1266, that is to say, substantively similar to those that the United Nations specialized agencies are entitled to in accordance with the 1947 Convention. This will strengthen the Organization's ability to work on an equal footing with the other organizations that are part of the United Nations system.