

STANDING COMMITTEE ON PROGRAMMES AND FINANCE

Twenty-seventh Session

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

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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 110th Session, which took place from 26 to 29 November 2019, 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 given IOM’s status as a related organization within the United Nations system.”¹

Current situation

5. This report covers the period from 1 September 2019 to 31 August 2020.
6. One year after the sixth annual report of the Director General, four agreements meeting the criteria contained in Resolution No. 1266 have entered into force, with Cameroon, Qatar, Somalia and Tonga. The agreement with Mauritania which was signed on 28 May 2019 and meets the criteria

¹ Draft Report on the 110th Session of the Council (C/110/L/9 of 26 February 2020), paragraph 38.

contained in Resolution No. 1266 applies provisionally as of 24 December 2019, pending its entry into force upon receipt of the ratification instrument. One additional agreement acknowledging the Regional Office in Cairo and clarifying the privileges and immunities granted to IOM was signed with Egypt but has not yet entered into force. At the same time, an extension of an existing agreement that does not meet the criteria contained in the Resolution has entered into force with one other State.

7. In all, 100 of the 185 Member States, observer States and places where IOM has activities grant IOM privileges and immunities meeting the criteria contained in Resolution No. 1266. Ninety-eight are Member States and two are observer States. This means that 75 Member States, 6 observer States and 4 places where IOM has activities do not grant IOM privileges and immunities meeting the criteria contained in the Resolution.

8. The fact that 85 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. Since it became part of the United Nations system in September 2016, and given the clear need for IOM to be afforded substantively similar privileges and immunities to the United Nations specialized agencies, the Organization has stepped up its efforts in that regard. In total, since the entry of IOM into the United Nations system, the States providing IOM with privileges and immunities substantively similar to those granted to the United Nations specialized agencies in accordance with the Convention on the Privileges and Immunities of the Specialized Agencies (1947) has increased from 90 to 100.

10. 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 is continuing to collaborate with States to ensure that this fact is taken into account in the bilateral agreements concluded between States and IOM on privileges and immunities.

11. During the period covered by this report, IOM has pursued negotiations with 31 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 Cameroon, Qatar, Somalia and Tonga) and the provisional application of one agreement (with Mauritania).

The way forward

12. 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.

13. Due to other pressing priorities and a lack of resources, the Organization has been unable to increase its efforts to address this important matter. In its negotiations with States, IOM continues to use the standard bilateral template it has developed aimed at attaining privileges and immunities meeting the criteria contained in Resolution No. 1266.

14. The Director General still 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.