

STANDING COMMITTEE ON PROGRAMMES AND FINANCE

Twenty-first Session

**FOURTH 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 107th Session, which took place from 5 to 8 December 2016, 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 in the United Nations system.”¹

Current situation

5. One year after the third annual report of the Director General, two agreements meeting the criteria contained in Resolution No. 1266 have entered into force, these being with Belize

¹ Draft Report on the 107th Session of the Council (C/107/L/25 of 30 March 2017), paragraph 51.

and Bangladesh. Agreements have been signed with four other States, but do not meet the criteria contained in the Resolution.

6. In all, 92 of the 184 Member States, observer States and places where IOM has activities grant IOM privileges and immunities meeting the criteria contained in Resolution No. 1266. Ninety-one are Member States, while one is a place where IOM has activities. This means that 75 Member States, 8 observer States and 9 places where IOM has activities do not grant IOM privileges and immunities meeting the criteria contained in the Resolution.

7. The Administration is addressing inadequate privileges and immunities in a proactive and systematic way, including by focusing on action at Headquarters level. The letters sent to 16 selected States in October 2015 by the then Chairperson of the IOM Council, inviting them to accord better privileges and immunities to IOM, resulted in an agreement being signed with Belize that meets the criteria contained in the Resolution.

Efforts following the entry of IOM into the United Nations system

8. 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 Director General is consequently stepping up his efforts to ensure that IOM is accorded privileges and immunities substantively similar to those of the United Nations and the United Nations specialized agencies.

9. In August and September 2017, the current 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.

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 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 issuance of the United Nations laissez-passer to IOM officials.

11. IOM is also pursuing negotiations with numerous States on matters related to privileges and immunities, and, following its entry into the United Nations system, has identified 35 States with which it is prioritizing and increasing its negotiation efforts. These efforts have so far resulted in an agreement being signed with Bangladesh that meets the criteria contained in Resolution No. 1266.

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. 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 will be exploring more actively the three approaches mentioned in the previous paragraph.

14. The Director General also continues to consider 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 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.