

The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies

A Commentary

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Annex XVIII—United Nations World Tourism Organization (UNWTO)

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Annex XVIII

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:*
 - (a) *All facilities in order to safeguard the independent exercise of their official functions;*
 - (b) *Maximum expeditiousness in the processing of their applications for visas, where required and when accompanied by a certificate that they are travelling on the business of the Organization. In addition such persons shall be granted facilities for speedy travel;*
 - (c) *In connection with subparagraph (b) 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 interest 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 the 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.*

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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.*

A. Introduction

- 1 The World Tourism Organization (which is designated in English by the acronym 'UNWTO' in order to avoid any confusion with the World Trade Organization (WTO))¹ is an international organization which offers very special features:
- a) It was established by a treaty adopted on 28 September 1970 by the General Assembly of the International Union of Official Travel Organizations (IUOTO), a non-governmental organization, and entered into force on 2 January 1975, which transformed the IUOTO into an inter-governmental organization.²
 - b) According to Art. 3(1) of its Statutes '[t]he fundamental aim of the Organization shall be the promotion and development of tourism with a view to contributing to economic development, international understanding, peace, prosperity, and universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. The Organization shall take all appropriate action to attain this objective.'
 - c) Aside from States (called 'Full Members')³ it includes two other categories of members: associate members consisting of 'territories or groups of territories not responsible for their external relations',⁴ and affiliate members coming from the private sector. According to Art. 7(1) the latter consist of 'both intergovernmental and non-governmental organizations, concerned with specialized interests in tourism and to commercial bodies and associations whose activities are related to the aims of the Organization or fall within its competence'.⁵ The affiliate members represent the private sector, educational institutions, tourism associations, and local tourism authorities; they are grouped in a Committee of Affiliate Members.

¹ As the Legal Adviser of the World Tourism Organization since 1991, the author of this contribution signed in 1995 an exchange of notes with his counterpart in the GATT by which the GATT guaranteed that the newly born World Trade Organization would always be referred to by the French acronym 'OMC' instead of 'WTO' whenever an official document of the organization would relate to tourism. This commitment has not been fulfilled.

² The mention of the IUOTO has been deleted from Art. 1 Statutes by Resolution 511 (XVII) adopted in Dakar on 2 December 2005, which introduced important amendments to the Statute, which have still not entered into force at the time of writing (December 2014).

³ On 31 December 2014, there were 156 full members. The Holy See and Palestine are permanent observers.

⁴ Art. 6(1) of the Statutes as in force since 1975. In 2005, the UNWTO General Assembly adopted a Resolution 511 (XVII) amending the Statutes, especially by suppressing the former status of associate members and extending the designation of 'Associate Member' to the former category of affiliate members. The maintenance of the previous status, rights, and obligations of associate membership was limited by the 'grand-father' clause in new Art. 6(1) to the territories 'already holding associate membership on 24 October 2003'—there remain six such associate members (Aruba, Flanders, Hong Kong, Macao, Madeira, and Puerto Rico). All non-State entities applying for associate membership now enjoy the former status of affiliate members.

⁵ Art. 7(1) Statutes of the UNWTO as in force. The former categories of associate and affiliate members have been merged by the 2005 amendment into a single category known as 'Associate Members' which continues in practice to be the former status of affiliate members; however, the amendment is still not in force. As of 31 December 2014, the UNWTO has more than 400 affiliate members.

For the rest, the structure of the UNWTO is quite typical. The General Assembly is the supreme organ of the organization and is composed of delegates representing full members and of representatives of associate and affiliate members; it meets every two years. The Executive Council is UNWTO's governing board; it is composed of representatives of full members elected on strictly geographical lines⁶ and meets at least twice a year. The Assembly elects the Secretary-General for a four-year term. He or she leads the Secretariat which is composed of about 110 full-time staff, making the UNWTO the smallest Specialized Agency. Both the General Assembly and the Executive Council can establish subsidiary bodies—among which is the World Committee on Tourism Ethics (WCTE), a subsidiary organ of the Assembly composed of independent experts in charge of implementing the Global Code of Ethics for Tourism, adopted by the General Assembly of the UNWTO in 1999.⁷

In 2003, the World Tourism Organization became the sixteenth (and, as of today last) Specialized Agency to have adhered to the UN common system of salaries and allowances and the Joint Staff Pension Fund.⁸ The WTO General Assembly approved the transformation of the WTO into a UN Specialized Body by resolution 453(XV);⁹ the transformation was ratified by Resolution 58/232 of the UN General Assembly.¹⁰

B. Adoption of Annex XVIII

It was logical—although not compulsory¹¹—that, as a consequence of its transformation into a Specialized Agency of the UN, the UNWTO would accept the Specialized Agencies Convention. The process of acceptance was performed in accordance with Art. X Sections 35 and 36 of the Convention.

In July 2004, at its 73rd session, 'desirous of allowing the Organization to benefit from a coherent body of rules which are well established, proven and operational', the Executive Council requested 'the Secretary-General to prepare, with the assistance of the Legal Adviser, a draft annex in accordance with the guidelines indicated in Annex 2 of document CE/73/6(c),^[12] and to submit it to ECOSOC for consideration in accordance with the provisions of section 35 of the Convention'.¹³ This was not exactly in accordance with Art. X Section 35 which provides for a draft annex established *by the UN*; accordingly

⁶ UNWTO has six regional commissions (Africa, the Americas, East Asia and the Pacific, Europe, the Middle East, and South Asia) which play an important role in the life of the organization. An oddity of the organization is that, as host country of UNWTO's headquarters, Spain has a permanent seat on the Executive Council.

⁷ WTOGA Res 406(XIII), 1 October 1999, 'Approval of the Global Code of Ethics for Tourism'. WTOGA, Res 607(XIX), 14 October 2011, 'Reform of the World Committee on Tourism Ethics' significantly reformed the Committee in particular by restricting the number of its members and reinforcing their independence.

⁸ See WTOGA Res 339(XI), 22 October 1995, 'Social protection of the Organization's staff.'

⁹ WTOGA Res 453(XV) 'Transformation of the Organization into a specialized agency of the United Nations' (24 October 2003); as a consequence, the UNWTO accepted the authority of the ICSC (at para 9).

¹⁰ UNGA Res 58/232, 23 December 2003, 'Agreement between the United Nations and the World Tourism Organization.'

¹¹ See Section 35 Specialized Agencies Convention.

¹² Note by the Legal Adviser, 5 April 2004, 'Follow-up of the transformation of the Organisation into a specialized agency of the United Nations—Accession to the Convention on the Privileges and Immunities of the Specialized Agencies' (on file with the author).

¹³ CE/DEC/13(LXXIII), 8 July 2004.

the UNWTO Legal Adviser transmitted the Executive Council's Resolution to the UN Legal Adviser together with his report where he outlined his views on the main points to be taken into consideration.¹⁴ In response, dated 22 November 2004, the UN Legal Adviser drew attention to the procedure to be followed and commented on the issues raised by his counterpart.¹⁵

- 6 Following several exchanges between the Office of the UN Legal Adviser and the UNWTO Legal Adviser, a first draft of the UNWTO Annex to the Convention was agreed in October 2005.¹⁶ It was approved by the General Assembly on 2 December 2005.¹⁷ The draft was then transmitted to ECOSOC¹⁸ which twice decided to defer the consideration of the draft. The reason for these postponements was the questions raised by a group of States and two individual States¹⁹ about the privileges and immunities of the representatives of the associate and affiliate members and to members of two groups of experts.²⁰ Except for Japan, the States in question were not members of the UNWTO²¹ and did not maintain their objections after an explanatory meeting held at the New York headquarters of the UN in November 2006;²² however, Japan maintained its reservations and suggested an alternative text.²³
- 7 In June 2007, the Executive Council recommended that 'a new text taking into account the concerns expressed by certain Members... and by Japan be prepared and submitted for approval to the next session of the UNWTO General Assembly'.²⁴
- 8 In conformity with this request the Secretary-General transmitted to the General Assembly two amended texts, one prepared by the Legal Adviser and approved by the majority of the States which had responded to the consultation initiated at the request of the Executive Council, and another proposed by Japan;²⁵ the two drafts were in fact rather similar and the General Assembly finally approved a 'median' consensual text²⁶ which was then transmitted to ECOSOC,²⁷ which approved it on 29 April 2008.²⁸ The

¹⁴ Letter of the UNWTO Legal Adviser to the UN Legal Adviser, 7 November 2004; as to the points on which adaptations were needed, see MN 6–13.

¹⁵ The only point of concern was the meaning of the word 'members'—see MN 8.

¹⁶ See the comparative Table in the Addendum to this contribution.

¹⁷ UNWTO GA Res 489(XVI) 2005, 'Acceptance of the Convention on the Privileges and Immunities of the Specialized Agencies'; see also UN-Docs. A/16/10(b), November 2005, and A/16/10(b) Add.1, October 2005.

¹⁸ See the Note of the UN Secretary-General dated 11 May 2006 (UN-Doc. CE/78/6(b), May 2006).

¹⁹ Japan, the US, Canada, Australia, and New Zealand grouped in the 'JUSCANZ' and individually Japan and the US; see UN-Doc. CE/79/6(b), November 2006, 'Acceptance of the Convention on the Privileges and Immunities of the Specialized Agencies.'

²⁰ See MN 10.

²¹ But Puerto Rico is an associate member of the UNWTO.

²² Representatives of Canada and Japan, the Principal Officer of the UN Office of Legal Affairs, the Legal Adviser of the UNWTO, and the UNWTO Representative to the UN participated in this meeting.

²³ Reproduced as an Annex to UN-Doc. CE/80/7(b), May 2007, 'Cooperation with the United Nations System—Acceptance of the Convention on the Privileges and Immunities of the Specialized Agencies.'

²⁴ CE/DEC/14(LXXX), 13 June 2007.

²⁵ *ibid.* Annex 3.

²⁶ UNWTO GA Res 545(XVII), 29 November 2007, 'Acceptance of the Convention on the Privileges and Immunities of the Specialized Agencies.'

²⁷ See UN-Doc. E/2008/8, 20 March 2008, 'Convention on the Privileges and Immunities of the Specialized Agencies: revised draft annex relating to the World Tourism Organization.'

²⁸ ECOSOC, Dec. 2008/210, 29 April 2008, 'Convention on the Privileges and Immunities of the Specialized Agencies: revised draft annex relating to the World Tourism Organization.'

Executive Council of UNWTO did so at its 83rd session, on 14 June 2008²⁹ pursuant to the mandate received from the General Assembly.³⁰

The annex entered into force on 30 July 2008 as Annex XVIII to the Convention. As of 9 December 2014, there are only nine Parties.³¹

C. Main Issues

The Table reproduced at the end of this chapter compares the text of Draft Annex XVIII 10 initially prepared by the UNWTO Legal Adviser in 2004, the draft as revised by the Office of the UN Legal Adviser in 2005, and the text of Annex XVIII as finally adopted in 2008. It points to the main issues which made the adoption process so long and difficult. They are related to the marked peculiarities of the organization, in particular its mixed membership (see MN 1).

The extension of the privileges and immunities as granted by Art. V to State represen- 11 tatives of full members (States) to representatives of associate members inasmuch as they participate in the work of the organization in accordance with the Statutes was accepted without too much reluctance.³² The text of para 1 of Annex XVIII is based on para 1 of Annex II (FAO).³³

The issue of the affiliate members was more tricky. Initially, the Legal Adviser had 12 proposed to model the provisions of the UNWTO Annex on those of para 1 of Annex I (ILO) applicable to the employers' and workers' members of the Governing Body of that organization.³⁴ This proposal met with strong objections. In his letter of 22 November 2004 (see MN 5) the UN Legal Adviser wrote:

²⁹ Executive Council, CE/DEC/9 (LXXXIII), 'Acceptance of the Convention on the Privileges and Immunities of the Specialized Agencies', UN-Doc. CE/83/6 Add.1 ('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, 1. Welcomes the approval, on 29 April 2008, by the United Nations Economic and Social Council of the draft annex relative to the Organization concerning the privileges and immunities of the specialized agencies; 2. Notes furthermore that this acceptance is not prejudicial to the regime of privileges and immunities provided for in the agreements already concluded between the Organization and Spain; and 3. Approves the text of the annex and authorizes the Secretary-General to notify the United Nations of this approval, pursuant to the mandate he received from the General Assembly through resolution 545(XVII).')

³⁰ UNWTO GA Res 545(XVII), 29 November 2007, 'Acceptance of the Convention on the Privileges and Immunities of the Specialized Agencies'; see UN-Docs. A/17/24 and A/17/24 Add.1.

³¹ Angola (9 May 2012), Austria (14 January 2010), Bulgaria (1 July 2010), Germany (5 April 2011), Morocco (8 July 2009), Portugal (8 November 2012), San Marino (21 February 2013), Serbia (25 January 2010), and Switzerland (25 September 2012). By Resolutions 564(XVIII) of 8 October 2009, 'Participation in the United Nations system's coordination mechanisms' and 628 (XX) of 29 August 2013, 'Situation of amendments to the Statutes and the Financing Rules', the General Assembly called upon member States to accept Annex XVIII.

³² Regrettably the question of the entity entitled to waive the immunity of the representatives of associate members has not been solved. This could become an issue since, as a matter of definition, these territories are 'not responsible for their external relations' (see MN 1).

³³ The associate members of the FAO are defined very similarly to the UNWTO associate members (see Art. II (11) Constitution of the FAO).

³⁴ See UN-Doc. CE/73/66(c), May 2004, Annex II, 'Points to which it would certainly be advisable to draw the attention of the Economic and Social Council of the United Nations with a view to the preparation of the draft annex relative to the WTO'. Para. 1 of Annex I reads: 'Article V (other than paragraph (c) of section 13) and section 25, paragraphs 1 and 2(I), of article VII shall extend to the employers' and workers' members and deputy members of the Governing Body of the International Labour Organisation and their substitutes, except that any waiver of the immunity of any such person member under section 16 shall be by the Governing Body.'

[W]e wish to point out that the term 'members' as it is used in Article V and section 25 of the Convention means Sovereign States—that is a fundamental assumption of both the Convention and the Convention on the Privileges and Immunities of the United Nations. We believe that Member States will have difficulty applying Article V to non-sovereign entities such as the affiliate members of the WTO. We are also concerned about the implications raised by the fact that most of the latter members are private entities.

- 13 The draft annex proposed as a result of the exchange of views between the Office of the UN Legal Adviser and the UNWTO Legal Adviser provided nevertheless for quite a number of privileges and immunities in favour of the representatives of the affiliate members 'participating in the activities of the Organisation in accordance with the Statutes...'³⁵ This draft was strongly opposed by some States of the UN (see MN 8) and it was Japan's maintained objection on this point (see MN 8) supported by some other UNWTO member States,³⁶ which resulted in the final re-drafting which, significantly, avoids using the word 'immunities'. As a consequence, the representatives of the affiliate members are only granted 'facilities in order to safeguard the independent exercise of their official functions', for obtaining visas and for speedy travel arrangements. Moreover, para 5 of the Annex, which was added *in extremis*, provides that: 'paragraphs 3 and 4 above shall apply to representatives of Affiliate Members performing missions for the Organization as experts'.
- 14 The question of the immunities and privileges to be granted to experts exercising functions on behalf of the organization initially raised the same kind of difficulties. However, at the end of the day, fairly extensive privileges and immunities were granted, para 3 of Annex XVIII being modelled on the usual clause concerning experts in the majority of other annexes to the Specialized Agencies Convention.³⁷ Although there could have been some doubts initially concerning the applicability of para 3 to the members of the important WCTE (see MN 2) there is no more room for doubt following the 2011 reform of the Committee.³⁸
- 15 Para 6 of Annex XVIII extends '[t]he privileges and immunities, exemptions and facilities referred to in section 21 of the standard clauses... to the Deputy Secretary-General of the Organization, his/her spouse and minor children'. While such clauses are rather usual in the annexes to the Specialized Agencies Convention³⁹ when certain high ranking officials play an important role in the organization,⁴⁰ only Annex IV (UNESCO) includes their children and spouses, which probably explains the reservations by some States against this extension in the UNWTO Annex, which was however maintained.
- 16 Another matter of concern for the membership of the UNWTO was the fate of the pre-existing privileges and immunities resulting from the Convention between the World Tourism Organization and Spain concerning the organization's legal status in Spain of

³⁵ See the Table in the Addendum to this chapter, second column. For an explanation of this draft provision, see UN-Doc. A/16/10(b), November 2005, Annex 2, 'Explanatory Note'.

³⁶ Including Croatia, the Philippines, Spain, and the UK.

³⁷ However, Annexes V (IMF), VI (World Bank), VIII (International Postal Union), IX (International Communication Union), X (International Refugee Organization), XI (World Meteorological Organization), XIII (International Finance Corporation), and XIV (International Development Association) do not include such a clause.

³⁸ See n 8.

³⁹ See Annexes I (ILO), II (FAO), VII (WHO), XII (IMO), and XVII (UNIDO).

⁴⁰ This was the case of the UNWTO Deputy Secretary-General when the annex was discussed. For the time being, the Secretary-General has no deputy.

10 November 1975,⁴¹ the Supplemental Agreement of 19 May 1977, and the Headquarters Agreement of 10 March 1980. As explained earlier,⁴² Spain has acquired an exceptionally dominant role inside the UNWTO and was anxious that its agreements with the organization should not be overtaken by the new instrument. In spite of the assurances given at the very early stages of discussion of the annex,⁴³ drawing attention to Art. X Section 39 Specialized Agencies Convention which, in conformity with the principle *lex specialis*, preserves 'the rights and immunities which have been, or may hereafter be, accorded by any State to any specialized agency by reason of the location in the territory of that State of its headquarters or regional offices', Spain insisted that this primacy be recalled in each and every resolution related to the adoption of the Specialized Agencies Convention.⁴⁴

In sum, although the adoption process of Annex XVIII was rather difficult, the end result is satisfactory and does correspond to the particular characteristics of the seventeenth Specialized Agency of the UN. That is, it would do so if it were generally implemented. Unfortunately, this is not the case. 17

D. Application of Annex XVIII

The main reason for this most unsatisfactory implementation of the Convention and its Annex XVIII is that the latter has been accepted by only nine member States (see MN 5) of which Spain is not one. 18

Although a Party to the Convention since 1974,⁴⁵ Spain continues strictly to apply only the 1975 Headquarters Agreement in its relations with the UNWTO. As a result—and these are only some examples among others: the organization is bound to pay VAT on goods and services it buys for its official uses; Spain grants no privilege or immunity for experts undertaking missions for the organization; in one case (in the late 1980s), Spain ignored the organization's reminder that the State had to formally request a waiver of the immunity of an official enjoying a diplomatic status before arresting and judging him for a criminal offence; recently, Spain demanded that a specific agreement be concluded (and approved by the Spanish Parliament) in order to have a meeting of the UN System Chief Executives Board for Coordination held in Madrid. 19

On occasion, Spain's refusal to respect the privileges and immunities usually granted to international organizations can have far reaching negative consequences. Thus, UNWTO has encountered problems with the receipt of its regular contributions from certain 20

⁴¹ Agreement concerning the Legal Status of the World Tourism Organization in Spain, 1047 UNTS 85.

⁴² See n 6.

⁴³ See eg the Legal Adviser's Note of 5 April 2004 (n 13).

⁴⁴ See eg UN-Doc. CE/DEC/13(LXXIII) stressing twice that it was necessary to preserve 'the exclusive application of the Headquarters Agreement concluded between Spain and the Organization in the latter's relations with the host State' and 'that the provisions of the Headquarters Convention cannot override those of the Headquarters Agreement with Spain, whose provisions shall continue to apply in an exclusive manner, pursuant to section 39 of the Convention' (para 2), or UN-Doc. A/RES/489(XVI) in which the General Assembly notes that the acceptance of the Convention 'will not undermine the system of privileges and immunities provided for in the agreements already concluded between the Organization and Spain' (preamble) or, in the same terms, UN-Doc. A/RES/545(XVII).

⁴⁵ See <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=III-2&chapter=3&lang=en> last accessed 7 January 2015.

members. The organization has a bank account in a Spanish bank. Complying with Spanish and EU regulations on the prevention of money laundering, the bank blocks the entry of these contributions and requests a significant amount of information from UNWTO before it proceeds to finalize the transfer to the UNWTO's bank account. This delays the receipt of regular contributions by UNWTO and can also create other problems (up to the point that on one occasion a certain country had paid its arrears due to the EC so it could vote⁴⁶ but the contribution was still not in UNWTO's bank account at the time of voting due to the bank's policy). Most importantly, this represents an undue interference in the functioning of the organization and is contrary to the Headquarters Agreement and the Specialized Agencies Convention.

- 21 The very restrictive behaviour of Spain is all the more troubling since Art. 3 of the 1975 Convention refers to all the immunities and privileges normally accorded to international organizations of a universal character, of which the Specialized Agencies Convention constitutes the most authoritative expression. Moreover, paradoxically, the privileges and immunities refused to the UNWTO—the only Specialized Agency having its main seat in Spain—are granted by the Spanish Government to the other UN offices located in Spain. However, the situation may improve as UNWTO and the host State are currently negotiating a new headquarters agreement which should allow the organization the benefit of both the Specialized Agencies Convention and Annex XVIII.
- 22 The very limited acceptance of Annex XVIII raises problems for UNWTO not only in its relations with the host State, but also with the States on the territory of which it acts—in particular when meetings are held in other States, which is quite usually the case for the meetings of the main organs (the General Assembly and the Executive Council) and of the WCTE as well as for the meetings of the regional commissions or for the conferences held under the auspices of the organization, or in the framework of the technical assistance it provides. Thus, recently, an African country deducted taxes of 20 per cent from the instalments that had been transferred to UNWTO by the UNPD for the implementation of technical assistance; since the agreement concerning the project mentioned the Specialized Agencies Convention that this country had ratified (although it had not accepted Annex XVIII), the organization could invoke its exemption from tax on the basis of Art. III Section 9.⁴⁷ This example confirms the appropriateness of the organization's position which, inasmuch as possible, attempts to include in the agreements, which must be concluded on a case-by-case basis, an express reference to the Specialized Agencies Convention and Annex XVIII. But this is not always feasible since States which are not Parties to the Convention and/or have not accepted Annex XVIII can refuse to mention these instruments.
- 23 Even in such cases, when problems of privileges and immunities arose (such as the raising of taxes on the basis of a voluntary contribution or refusal of a visa to a participant

⁴⁶ See Rule 13 of the Financing Rules ('A Member which is in arrears in the payment of its financial contributions to the Organization's expenditure shall be deprived of the privileges enjoyed by the Members in the form of services and the right to vote in the Assembly and the Council if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two financial years.'). This Rule was amended in 1981, but the amendment is still not in force. See also Art. 34 of the Statutes.

⁴⁷ At the time when this chapter was written, settlement of this issue seemed imminent (on the basis of Art. III Section 9).

to a conference), the organization usually succeeds in resolving the issue by invoking the Specialized Agencies Convention and Annex XVIII. However, some issues remain unresolved. This is particularly so in the case of Japan, the seat of a UNWTO office which is not recognized by the host State as a legal person.⁴⁸

Addendum

Successive Drafts of Annex XVIII

2004 Draft Annex XVIII ⁴⁸	2005 Revised Draft Annex XVIII	2008 Annex XVIII
<p>1. Article V and VII shall extend to the representatives of Associate Members of the Organization. Any waiver of the immunity of the Chairman under section 16 shall be by the Executive Council of the Organization.</p> <p>2. i) Representatives of Affiliate Members, serving on organs and bodies of, or performing missions for, the Organization, shall be granted the following privileges and immunities, to the extent necessary to safeguard the effective exercise of their official functions:</p> <p>a) Immunity from personal arrest or seizure of their personal baggage;</p> <p>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;</p> <p>c) exemption in respect of themselves and their spouses from immigration restrictions, aliens' registration, or national service</p>	<p>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').</p> <p>2. Representatives of Affiliate Members participating in the activities of the Organization in accordance with the Statutes, as well as the Chairpersons and members of the Strategic Group of the Organization, and of the World Committee on Tourism Ethics shall be granted the following privileges, immunities, and facilities, in order to safeguard the independent exercise of their official functions:</p> <p>(a) In respect of words spoken or written and 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 exercising the activities of the Organization;</p> <p>(b) Applications for visas, where required and when accompanied by a certificate that they are traveling on the business of the</p>	<p>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 (herein after referred to as 'the Statutes').</p> <p>2. Representatives of Affiliate Members, participating in the activities of the Organization in accordance with the Statutes, shall be granted:</p> <p>(a) All facilities in order to safeguard the independent exercise of their official functions;</p> <p>(b) Maximum expeditiousness in the processing of their applications for visas, where required and when accompanied by a certificate that they are travelling on the business of the Organization. In addition such persons shall be granted facilities for speedy travel;</p> <p>(c) In connection with subparagraph (b) above, the principle contained in the last sentence of section 12 of the standard clauses shall apply.</p>

(continued)

⁴⁸ Prepared by the Legal Adviser of the UNWTO—the original document, which, was not officially circulated was in French.

Continued

2004 Draft Annex XVIII⁴⁸

2005 Revised Draft Annex XVIII

2008 Annex XVIII

obligations in the State which they are visiting or through which they are passing in the exercise of their functions;

d) 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;

e) Inviolability for all papers and documents relating to the work on which they are engaged for the Organization.

ii) Representatives of Associate Members shall be granted privileges and immunities listed in Article 2 i) during journeys in connection with the exercise of their functions

iii) Privileges and immunities are granted to the representatives of Associate Members in the interests of the Organization and not for the personal benefit of the individuals themselves. The Organization shall have the right and the duty to waive the immunity of any experts in any case where in its opinion the immunity would impede the course of justice, and it can be waived without prejudice to the interests of the Organization.

iv) This provision is without prejudice to privileges and immunities granted to representatives of Associate Members by other legal instruments

3. i) Experts (other than officials coming within the scope of article VI) serving on committees of, or performing missions for, the Organization shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions, including the time spent on journeys in connection

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 the representatives of Affiliates Members, as well as to the Chairpersons and members of the Strategic Group of the Organization and of the Committee on Tourism Ethics 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 such individual 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

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with service on such committees or missions

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) 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;

d) Inviolability for all papers and documents relating to the work on which they are engaged for the Organization.

ii) In connection with (d) of 3 above, the principle contained in the last sentence of section 12 of the standard clauses shall be applicable.

iii) Privileges and immunities are granted to the representatives of Associate Members in the interests of the Organization and not for the personal benefit of the individuals themselves. The Organization shall have the right and the duty to waive the immunity of any experts in any case where in its opinion the immunity would impede the course of justice, and it can be waived without prejudice to the interests of the Organization.

iv) Privileges, immunities, exemptions and facilities set out in the present paragraph 3 shall extend to members of the World Committee on Tourism Ethics.

spent on journeys in connexion 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.

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.

(continued)

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2004 Draft Annex XVIII ⁴⁸	2005 Revised Draft Annex XVIII	2008 Annex XVIII
4. 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.	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.	4. Privileges and immunities are granted to the experts in the interest 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 the 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.