15 MAI 1945
ESTADO

ADMINISTRAÇÃO DE REHABILITAÇÃO E ASSISTÊNCIA DAS NAÇÕES UNIDAS -

DEC

Washington, em 10 de Abril de 1945.

No. 11/~~148~~

S. DE E. DAS RELAÇÕES EXTERIORES
SERVIÇO DE COMUNICAÇÕES
15 MAI 1945
6441

Isenções, privilégios e imunidades concedidos à UNRRA.

954.(00)

Senhor Ministro,

Em relação ao assunto do telegrama dessa Secretaria de Estado, de 28 do mês passado, junto por cópia os seguintes documentos pertinentes às isenções, privilégios e imunidades concedidos à Administração de Rehabilitação e Assistência das Nações Unidas, de acôrdo com a Resolução no. 32, aprovada na Primeira Reuniao do Conselho, pelos Governos do Reino Unido, do Canadá e de Honduras, (Anexos nos. 1, 2, 3 e 4).

2. Quanto aos Estados Unidos da América, o Departamento de Estado preparou um projeto de lei cujas linhas gerais estão descritas no documento no. 5 que a êste acompanha.

Aproveito a oportunidade para renovar a Vossa Excelência os protestos da minha respeitosa consideração.

Delegado do Brasil

A Sua Excelência o Senhor Pedro Leão Velloso,
Ministro de Estado das Relações Exteriores.

PIA. Emb.Washington/ARANU/10/148/1945/Anexo.

No. 1 - Inglaterra

DIPLOMATIC PRIVILEGES (Extension)
Act, 1944
Chapter 44.

An Act to make provision as to the immunities, privileges and capacities of international organizations of which His Majesty's Government in the United Kingdom and foreign governments are members; to confer immunities and privileges on the staffs of such organizations and representatives of member governments and in respect of premises and documents of such organizations; to remove doubts as to the extent to which representatives of foreign Powers attending international conferences and the staffs of such representatives are entitled to diplomatic immunities; to amend the Diplomatic Privileges (Extension) Act, 1941; and for purposes connected with the matters aforesaid. (17th November,1944)

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. (I) This section shall apply to any organization declared by Order in Council to be an organization of which His Majesty's Government in the United Kingdom and the government of governments of one or more foreign sovereign Powers are members.
(2) His Majesty may by Order in Council:
a) provide that any organization to which this section applies (hereinafter referred to as "the organization") shall, to such extent as may be specified in the Order, have the immunities and privileges set out in Part I of the Schedule to this Act, and shall also have the legal capacities of a body corporate; b) confer upon such number of officers of the organization, other than British subjects, as may be specified in the Order, being the holders of such high offices in the organization as may be specified in the Order, and upon any person who is the representative of a member government on the governing body or any committee of the organization, to such extent as may be so specified, the immunities and privileges set out in Part II of the Schedule to this Act; c) confer upon such other classes of officers and servants of the organization (including British subjects holding such high offices as aforesaid or representing any member government as aforesaid) as may be specified in the Order to such extent as may be so specified, the immunities and privileges set out in Part III of the Schedule to this Act:
Provided that the Order in Council shall not confer any exemption from taxes or rates upon any person who is a British subject and whose usual place of abode is in the United Kingdom.
3) Where immunities and privileges are conferred on any persons by an Order in Council made under the last foregoing subsection, the Secretary of State:
a) shall compile a list of the persons entitled to immunities and privileges conferred under paragraph (c) of that subsection; b) shall cause any list compiled under this subsection to be published in the London, Edinburgh and Belfast Gazettes; and c) whenever any person ceases or begins to be entitled to the immunities and privileges to which any such list relates shall amend the list and cause a notice of the amendment, or, if he thins fit, and amended list, to be published as aforesaid.
4) Every list or notice published under the last foregoing subsection shall state the date from which the list or amendment takes or took effect; and the fact that any person is or was included or not included at any time among the persons entitled to the immunities and privileges in question may, if a list of those persons has been so published, be conclusively proved by producing the Gazette containing the list, or, as the case may be, the last list taking effect before that time, together with the Gazettes (if any) containing notices of the amendments taking effect before that time, and by showing that the name of that person is or was at that time included or not included in the said list.
5) Where privileges and immunities are conferred under paragraph (a) or paragraph (b) or subsection (2) of this section upon any organization or person, section seventy-eight of the War Damage Act, 1943 (which relates to the payment of

representatives.

5. Where diplomatic privileges and immunities have been extended by the Diplomatic Privileges (Extension) Act, 1941, to the members of the government of any foreign Power or of a provisional government, or to the members of any national committee or other foreign authority and, since such extension took effect, the government, committee or authority has ceased to be established, or has ceased to be wholly established, in the United Kingdom, the Act shall nevertheless continue to apply (so long as it remains in force), and be deemed never to have ceased to apply, in relation to members of that government, committee or authority, or persons employed on the official staff of any such member, who perform their functions wholly or partly in the United Kingdom.

6. This Act may be cited as the Diplomatic Privileges (Extension) Act, 1944.

SCHEDULE

Part I -

Immunities and privileges of the organization

1. Immunity from suit and legal process.
2. The like inviolability of oficial archives and premises occuped as offices as is accorded in respect of the official archives and premises of an envoy of a foreign sovereign Power accredited to His Majesty.
3. The like exemption or relief from taxes and rates, other than taxes on the importation of goods, as is accorded to a foreign sovereign Power.
4. Exemption from taxes on the importation of goods directly imported by the organization for its official use in the United Kingdom or for exportation, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the Revenue.

Part II -

Immunities and privileges of high officers and government representatives

1. The like immunity from suit and legal process as is accorded to an envoy of a foreign sovereign Power accredited to His Majesty.
2. The like inviolability of residence as is accorded to such an envoy.
3. The like exemption or relief from taxes and rates as is accorded to such an envoy.

Part III -

Immunities and privileges of other officers and servants

1. Immunity from suit and legal process in respect of things done or ommitted to be done in the course of the performance of official duties.
2. The following exemption or relief from taxes and rates:
a) in the case of a British subject who is a national or citizen of, or belongs to, any part of His Majesty's dominions outside the United Kingdom and would, if he were not a British subject, be qualified to receive the immunities or privileges set out in Part II of this Schedule, the like exemption or relief from taxes and rates as is accorded to an engoy of a foreign sovereign Power accredited to His Majesty;
b) in any other case exemption from income tax in respect of emoluments received as an officer or servant of the organization.

)PIA. EMB.Washington/ARANU/10/148/1945/Anexo.4.

no. 2 - Inglaterra

Statutory Rules and Orders - 1945 no. 79

Diplomatic Privileges - UNRRA

The Diplomatic Privileges (UNRRA) Order in Council, 1945.

At the Court at Buckingham Palace, the 24th day of January, 1945.

Present,
The King's Most Excellent Majesty in Council.

Whereas by Section I of the Diplomatic Privileges (Extension) Act, 1944, (7 and 8 Geo. VI. Ch.44) (hereinafter referred to as the Act) it is enacted that the privisions of that Section shall apply to any organization declared by Order in Council to be an organization of which His Majesty's Government in the United Kingdom and the Government or Governments of one or more foreign sovereign powers are members and that His Majesty may, by Order in Council, provide that any such organization shall, to the extent specified in the Order, have the immunities and privileges set out in Part I of the Schedule to the Act and confer upon representatives of member Governments on the Governing Body or any Committee of the Organization, and upon officers and servants of the Organization, the immunities and privileges set out in Parts II or III of the said Schedule to the extent specified in the Order:
Now, therefore, His Majesty, by virtue and in exercise of the powers in this behalf by the aforesaid Act or otherwise in His Majesty vested, is pleased by and with the advice of His Privy Council to order and it is hereby ordered as follows:
Article I - The United Nations Relief and Rehabilitation Administration (hereinafter referred to as UNRRA) is an organization of which His Majesty's Government in the United Kingdom and the Governments of foreign sovereign powers are members.
Article II - UNRRA shall have the immunities and privileges set forth in Part I of the Schedule to the Act and the legal capacities of a body corporate.
Article III - One representative of each member Government on the Council of UNRRA, and one such representative on a standing Committee of Unrra, not being in either case a British subject, shall, save to the extent to which in any case the Government of any such representative may see fit to waive any immunity or privilege and without prejudice to any immunities and privileges which any such person may be entitled to claim by virtue of any other office which he may from time to time hold, have all the immunities and privileges specified in Part II of the Schedule to the Act for the period for which his name appears as a person so entitled on the list compiled by the Secretary of State in accordance with sub-section (3) of Section I of the Act.
Article IV. Officers of UNRRA, not being British subjects and holding the offices of Director-General or Deputy Director-General and not exceeding at any one time eight in number, shall, for the period for which their names appear as persons so entitled on the list compiled by the Secretary of State in accordance with sub-section (3) of Section I of the Act, have all the immunities and privileges specified in Part II of the Schedule to the Act save to the extent that UNRRA may in any case waive any of the said immunities or privileges.
Article V - (1) The persons to whom this Article applies shall have the immunities and privileges specified in paragraph I and, if they are nationals or citizens of, or belong to, any part of His Majesty's dominions outside the United Kingdom, those specified in paragraph 2 (a) of Part III of the Schedule to the Act:
Provided that -
1) in the case of persons referred to in sub-paragraph (a) of paragraph (2) of this Article, the government appointing such representatives may waive any immunity or privilege;
2) in the case of persons referred to in sub-paragraph (b) of paragraph (2) of this Article, UNRRA may waive any immunity or privilege; and
3) the exemption or relief from taxes and rates, specified in the said paragraph 2 (a) or Part III of the Schedule, shall not extend to any person whose usual place of abode is in the United Kingdom.
(2) This Article applies to
(a) British subjects who are the representatives of a member government on the council or a standing committee of UNRRA: and
(b) British subjects who hold any of the offices in UNRRA referred to in Article

Article 4 hereof.
Article 6 - (1) The persons to whom this Article applies shall have the immunities and privileges specified in paragraph I and paragraph 2 (b) of Part III of the Schedule to the Act:
Provided that -
(i) UNRRA may waive any immunity or privilege; and
(ii) the exemption from income tax specified in the said paragraph 2 (b) or Part III of the Schedule shall not extend to any British subject whose usual place of abode is in the United Kingdom.
(2) This Article applies to the following officers of UNRRA: all Assistant Deputy Directors General, all Directors, all Heads of Sections, all Principal Officers, all Administrative Officers.
Article 7 - All officers of UNRRA other than those referred to in Articles 4, 5 and 6 above shall have the exemption from income tax specified in paragraph 2 (b) of Part III of the Schedule to the Act:
Provided that -
(i) UNRRA may waive any privilege; and
(ii) this privilege shall not extend to any British subject whose usual place of abode is in the United Kingdom.
Article 8 - This Order may be cited as "the Diplomatic Privileges (UNRRA) Order in Council, 1945". It shall enter into force as from this day's date.
And the Right Honourable Robert Anthony Eden, His Majesty's Principal Secretary of State for Foreign Affairs, is to give the necessary directions herein.

E. C. E. Leadbitter.

PIA. Emb. Washington/ARANU/10/148/1945/Anexo.6.

No. 3 - Canadá

Department of External Affairs - Canadá

Ottawa, December 19th, 1944.

Reply to be Addressed to:
The Under-Secretary of State
For External Affairs
Ottawa

Dear Sir,

I am enclosing a copy of an Order-in-Council which has been passed in order to extend to UNRRA the exemptions and privileges contemplated by Resolution 32 of the First Meeting of the Council.

You will notice that no reference has been made in the Order-in-Council to facilities in respect of foreign exchange controls. The reason is that the facilities extended to foreign governments have not been laid down in any statute or Order-in-Council but are merely conferred by administrative action. It has been thought desirable to follow the same procedure in the case of UNRRA.

The Canadian Government has instructed the Foreign Exchange Control Board to grant to the Administration of UNRRA the same facilities, privileges, immunities ane exemptions in respect of foreign exchange control as are granted to member governments.

It will avoid any misunderstanding if I point out that, in accordance with the procedure applied in the case of member governments, exports from Canada of goods purchased by UNRRA which are not paid for out of the Canadian contribution to UNRRA should be paid for in United States funds or in Canadian dollars acquired by the sale of United States funds to a bank in Canada. In other words, Canadian dollars acquired through the unofficial exchange market will bot be good payment for exports from Canada in the name of UNRRA.

There is nothing in the Order-in-Council to exempt from Canadian income tax persons ordinarily resident in Canada, who may be employed outside Canada by UNRRA. It is the understanding of the Canadian Government that the other governments have not extended a corresponding exemption in the case of their nationals or residents.

Yours sincerely

a) W. A. Robertson
Under-Secretary of State
for External Affairs

The Director General,
United Nations Relief and
Rehabilitation Administration
Washington, D. C.

PIA. Emb. Washington/ARANU/10/148/1945/Anexo.7.

ORDER -

1 - This Order may be cited as the United Nations Relief and Rehabilitation Administration Order, 1944.

2 - The Administration shall have power to acquire, hold and convey property, to enter into contracts and undertake obligations, to designate or create agencies, and to review the activities of agencies so created, to manage undertakins, and in general to perform any legal act appropriate to its objects and purposes.

3 - The Administration shall have the right to sue or be sued, but no suit or other proceeding (other than a proceeding by way of set-off or counter claim or cross-action) against the Administration shall be entertained by any court without the expressed consent in writing of the Director General of the Administration, or unless provided for in any contract entered into by or on behalf of the Administration.

4 - The premises occupied by the Administration in Canada shall be inviolable, that is to say, no peace officer, sheriff, bailiff, member of the Armed Forces, or other public authority of like nature, may enter them in the exercise of his duties without the consent of the Director General of the Administration.

5 - The archives of the Administration in Canada shall be inviolable.

6 - The Administration shall be exempt from income and corporation taxes, customs duties, excise taxes on cables, telegrams, radio and long distance telephone messages sent by and charged to the Administration, on cheques issued by the Administration, on transportation tickets, seats, berths and other sleeping accomodation where the transportation company issues periodic invoices to the Administration and on sales and excise taxes on purchases of the Administration where the amout of the purchase exceeds $25.00 at one time.

7. - The representatives of member governments on the Council of the Administration and its Committees and the officials and employees of the Administration, when engaged in the business of the Administration, shall enjoy immunity from legal process of any kind in respect of acts performed by them in their official capacity and falling within their functions as such.

8 - Representatives, officials or other employees of the Administration, resident in Canada, other than persons who were ordinarily resident in Canada prior to their employment with the Administration shall enjoy immunity from taxation on official salaries, allowances or other emoluments received from the Administration.

9 - The Minister of National Revenue may, by regulation, provide for exemption from duty and taxes in respect of articles imported for the personal or official use of representatives of member governments on the Council and its Committees and of officials and employees of the Administration.

A. D. P. Heeney
Clerk of the Privy Council

PIA. Emb. Washington/ARANU/10/148/1945/Anexo.8.

No. 4 - Honduras -

N. B. - On 12 December a reply was received from the Ambassador of Honduras confirming the Agreement contained herein. This agreement is subject to confirmation by the Honduras Government.

6 December 1944.

My dear Mr. Ambassador,

With reference to my letter of February 24, 1944, concerning certain facilities, privileges, immunities and exemptions as recommended in resolutions 32, 34 and 36 of the First Session of the Council of the United Nations Relief and Rehabilitation Administration, addressed to the Minister of Foreign Affairs of Honduras and subsequent correspondence, I am pleased to know that by way of implementing said resolutions, but subject to the approval of the Government of Honduras, Your Excellency will confirm the following understanding:

1. The Government of the Republic of Honduras (hereinafter called, "The Government of Honduras") having signed and ratified the agreement for the United Nations Relief and Rehabilitation Administration (hereinafter called the "Administration") of 9 November 1943 and in order to implement the Resolutions of the Council of the Administration, recognizes as a juridical person, in accordance with the laws of Honduras, the United Nations Relief and Rehabilitation Administration with its principal office domiciled in Washington, D. C., U. S. A.

2. Subject to the approval of the Government of Honduras, the Administration is hereby granted all the rights, privileges and immunities enjoyed by other international entities similar to those enjoyed by foreign diplomatic missions accredited to the Government of Honduras, vis:

a) The premises, occupied by the Administration or in which its service are installed, and its archives are hereby declared inviolable. The Administration is immune from suit or legal process.

b) The Administration is hereby exempted from all taxes, direct or indirect, including income tax, property tax, stamp tax, sales tax, customs duties and tonnage dues, if aby, with the exemption of such municipal fees and/or assessments as protected by the Constitution of Honduras.

c) Every facility in respect of foreign exchange control is hereby extended to the Administration.

d) The official correspondence of the Administration is hereby accorded the same treatment as is accorded the correspondence of other international entities or that is enjoyed by foreign diplomatic missions in respect of telephone, telegraph, radio and mail or postal facilities, including the use of diplomatic pouch or courier and the use of telegraphic codes and cable addresses, free from censorship or customs inspection.

e) Officials and employees of the Administration, and members of their families, if any, shall enjoy the same privileges and immunities as are costumarily enjoyed by officials of comparable rank of foreign diplomatic missions and the members of their families, unless the immunity is waived in writing by the Administration. To facilitate the extension of privileges and immunities to officials and employees of the Administration and to facilitate their travel on official business, each official or employee travelling on official business will be provided with a certificate of identity issued by the Director General.

f) The officials and employees of the Administration will receive the same treatment with respect to passports and visas as is accorded to the officials of comparable rank of foreign diplomatic missions or other international entities.

Sincerely yours,

s) Roy F. Hendrickson
Acting Director General

His Excellency
Dr. Julian R. Caceres
Ambassador of Honduras

PIA. Emb. Washington/ARANU/10/148/1945/Anexo.9.

No. 5 - Estados Unidos da América

Memorandum on Actions Taken by Member Governments on Privileges, Immunities and Facilities to be Accorded to UNRRA and its Personnel, with special reference to the United States Immunities Bill.

Resolutions Nos. 32, 34 and 36 recommend that member governments accord to the Administration and its personnel certain facilities, privileges, immunities and exemptions as they accord to each other.

The Resolutions further requested the Director General to initiate negotiations with member governments to bring such arrangements into operation.

Accordingly, on 24 February 1944, the Director General issued identic notes to all member governments urging their prompt implementation of the above-mentioned resolutions.

Replies giving assurance of prompt action on the matter have been received from a number of member governments, some of which have been taking active steps towards implementation by administrative and legislative action.

The Government of the United Kingdom have passed an Act of Parliament, and thereunder, an Order-in-Council making the usual diplomatic privileges and immunities available to representatives of member governments on the UNRRA Council and its Committees, to high officials of the Administration and, to a slightly limited extent, employees of UNRRA.

The Government of Canada also passed an Act and an Order-in-Council implementing the above-mentioned resolutions.

The Ambassador of Honduras exchanged notes with the Director General agreeing on the facilities, privileges, immunities and exemptions to be granted to UNRRA and its personnel in accordance with the legislative and constitutional procedure of Honduras.

Other governments having implemented or about to implement the resolutions above include the following:

Australia
Belgium
China
Cuba
Czechoslovakia (also Basic Agreement)
Dominican Republic
Greece (Also Basic Agreement)
Luxembourg
Netherlands.

The Department of State of the Government of the Unites States, having assured the Director General that active steps are being taken to implement the above-mentioned resolutions, is in the course of preparing a bill to be submitted to Congress.

Briefly, the United States Immunities Bill embodies the following provisions:

1. It recognizes UNRRA as a juridical or legal person with right to acquire, hold, convey or alienate property and to do other legal acts.
2. It exempts UNRRA from lawsuits and juridical process of any form.
3. It exempts UNRRA from customs duties and taxes.
4. It makes UNRRA premises and its archives inviolable.
5. It grants to UNRRA certain communication facilities such as diplomatic status for couriers and pouches, the use of ciphers and codes.
6. It also extends immunity from suits and juridical process to officials and employees of UNRRA in respect of official acts.
7. It exempts UNRRA officials and employees who are not nationals of the United States from income tax on official salaries or emoluments and also from certain local social security taxes.

It is expected that this bill will soon go to Congress and receive favorable action thereon. It is, of course, understood that the proposed legislation covers only such matters as are absolutely essential as a legislative measure. Facilities or arrangements which can be granted without legislative action can always be extended through administrative action.

6 April 1945.