

No. 8679

**UNITED NATIONS
and
AUSTRIA**

**Agreement regarding the Headquarters of the United Nations
Industrial Development Organization (with exchange of
notes and aide-mémoire). Signed at New York, on
13 April 1967**

Official texts of the Agreement and the notes : English and German.

Official text of the aide-mémoire : English.

Registered ex officio on 7 July 1967.

**ORGANISATION DES NATIONS UNIES
et
AUTRICHE**

**Accord relatif au Siège de l'Organisation des Nations Unies
pour le développement industriel (avec échange de notes
et aide-mémoire). Signé à New York, le 13 avril 1967**

Textes officiels de l'Accord et des notes : anglais et allemand.

Texte officiel de l'aide-mémoire : anglais.

Enregistré d'office le 7 juillet 1967.

No. 8679. AGREEMENT¹ BETWEEN THE UNITED NATIONS AND THE REPUBLIC OF AUSTRIA REGARDING THE HEADQUARTERS OF THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION. SIGNED AT NEW YORK, ON 13 APRIL 1967

The United Nations and the Republic of Austria,

Considering that the United Nations General Assembly, by resolutions 2089 (XX) and 2152 (XXI) of 20 December 1965² and 17 November 1966,³ has established the United Nations Industrial Development Organization as a subsidiary organ of the General Assembly of the United Nations and, in response to an offer by the Republic of Austria, has, by resolution 2212 (XXI) of 17 December 1966,⁴ decided to establish the headquarters of that organization at Vienna;

Considering that the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946,⁵ to which the Republic of Austria is a party, is *ipso facto* applicable to the United Nations Industrial Development Organization;

Considering that it is desirable to conclude an agreement, complementary to the Convention on the Privileges and Immunities of the United Nations, to regulate questions not envisaged in that Convention arising as a result of the establishment of the headquarters of the United Nations Industrial Development Organization at Vienna;

Have agreed as follows :

Article I

DEFINITIONS

SECTION I

In this Agreement,

(a) The expression " the UNIDO " means the United Nations Industrial Development Organization;

¹ Came into force on 7 July 1967 by an exchange of notes between the Contracting Parties, in accordance with article XV, Section 47.

² United Nations, *Official Records of the General Assembly, Twentieth Session, Supplement No. 14 (A/6014)*, p. 28.

³ United Nations, *Official Records of the General Assembly, Twenty-first Session, Supplement No. 16 (A/6316)*, p. 24.

⁴ United Nations, *Official Records of the General Assembly, Twenty-first Session, Supplement No. 16 (A/6316)*, p. 42.

⁵ United Nations, *Treaty Series*, Vol. 1, p. 15 and Vol. 90, p. 327 (corrigendum to Vol. 1, p. 18).

(b) The expression “ the Government ” means the Federal Government of the Republic of Austria;

(c) The expression “ Executive Director ” means the Executive Director of the UNIDO or any officer designated to act on his behalf;

(d) The expression “ appropriate Austrian authorities ” means such federal, state, municipal or other authorities in the Republic of Austria as may be appropriate in the context and in accordance with the laws and customs applicable in the Republic of Austria;

(e) The expression “ laws of the Republic of Austria ” includes :

(i) the federal constitution and state constitutions; and

(ii) legislative acts, regulations and orders issued by or under authority of the Government or appropriate Austrian authorities;

(f) The expression “ headquarters seat ” means :

(i) the headquarters area with the building or buildings upon it, as may from time to time be defined in the supplemental agreements referred to in section 3; and

(ii) any other land or building which may from time to time be included, temporarily or permanently, therein in accordance with this Agreement or by supplemental agreement with the Government;

(g) The expression “ Member State ” means a State which is a Member of the United Nations, or a member of one of the specialized agencies, or a member of the International Atomic Energy Agency;

(h) The expression “ officials of the UNIDO ” means the Executive Director and all members of the staff of the UNIDO except those who are locally recruited and assigned to hourly rates;

(i) The expression “ General Convention ” means the Convention on the Privileges and Immunities of the United Nations approved by the General Assembly of the United Nations on 13 February 1946.

Article II

THE HEADQUARTERS SEAT

SECTION 2

(a) The permanent headquarters of the UNIDO shall be in the headquarters seat, and shall not be removed therefrom unless the United Nations should so decide. Any transfer of the headquarters temporarily to another place shall not constitute a removal of the permanent headquarters unless there is an express decision by the United Nations to that effect.

(b) Any building in or outside of Vienna which may be used with the concurrence of the Government for meetings convened by the UNIDO shall be temporarily included in the headquarters seat.

(c) The appropriate Austrian authorities shall take whatever action may be necessary to ensure that the UNIDO shall not be dispossessed of all or any part of the headquarters seat without the express consent of the United Nations.

SECTION 3

The Government grants to the UNIDO, and the UNIDO accepts from the Government, the permanent use and occupation of a headquarters seat as may from time to time be defined in supplemental agreements to be concluded between the UNIDO and the Government.

SECTION 4

(a) The United Nations shall for official purposes have the authority to install and operate a radio sending and receiving station or stations to connect at appropriate points and exchange traffic with the United Nations radio network. The United Nations as a telecommunications administration will operate its telecommunications services in accordance with the International Telecommunication Convention and the Regulations annexed thereto. The frequencies used by these stations will be communicated by the United Nations to the Government and to the International Frequency Registration Board.

(b) The Government shall, upon request, grant to the UNIDO for official purposes appropriate radio and other telecommunications facilities in conformity with technical arrangements to be made with the International Telecommunication Union.

SECTION 5

The UNIDO may establish and operate research, documentation and other technical facilities of any type. These facilities shall be subject to appropriate safeguards which, in the case of facilities which might create hazards to health or safety or interfere with property, shall be agreed with the appropriate Austrian authorities.

SECTION 6

The facilities provided for in sections 4 and 5 may, to the extent necessary for efficient operation, be established and operated outside the headquarters area. The appropriate Austrian authorities shall, at the request of the UNIDO, make

arrangements, on such terms and in such manner as may be agreed upon by supplemental agreement, for the acquisition or use by the UNIDO of appropriate premises for such purposes, and for the inclusion of such premises in the headquarters seat.

Article III

EXTRATERRITORIALITY OF THE HEADQUARTERS SEAT

SECTION 7

(a) The Government recognizes the extraterritoriality of the headquarters seat, which shall be under the control and authority of the UNIDO as provided in this Agreement.

(b) Except as otherwise provided in this Agreement or in the General Convention, and subject to any regulation enacted under section 8, the laws of the Republic of Austria shall apply within the headquarters seat.

(c) Except as otherwise provided in this Agreement or in the General Convention, the courts or other appropriate organs of the Republic of Austria shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place in the headquarters seat.

SECTION 8

(a) The UNIDO shall have the power to make regulations, operative within the headquarters seat, for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions. No law of the Republic of Austria which is inconsistent with a regulation of the UNIDO authorized by this section shall, to the extent of such inconsistency, be applicable within the headquarters seat. Any dispute between the UNIDO and the Republic of Austria as to whether a regulation of the UNIDO is authorized by this section or as to whether a law of the Republic of Austria is inconsistent with any regulation of the UNIDO authorized by this section, shall be promptly settled by the procedure set out in section 35. Pending such settlement, the regulation of the UNIDO shall apply and the law of the Republic of Austria shall be inapplicable in the headquarters seat to the extent that the UNIDO claims it to be inconsistent with the regulation of the UNIDO.

(b) The UNIDO shall from time to time inform the Government, as may be appropriate, of regulations made by it in accordance with sub-section (a).

(c) This section shall not prevent the reasonable application of fire protection or sanitary regulations of the appropriate Austrian authorities.

SECTION 9

(a) The headquarters seat shall be inviolable. No officer or official of the Republic of Austria, or other person exercising any public authority within the Republic of Austria, shall enter the headquarters seat to perform any duties therein except with the consent of, and under conditions approved by, the Executive Director. The service of legal process, including the seizure of private property, shall not take place within the headquarters seat except with the express consent of, and under conditions approved by, the Executive Director.

(b) Without prejudice to the provisions of the General Convention or article X of this Agreement, the UNIDO shall prevent the headquarters seat from being used as a refuge by persons who are avoiding arrest under any law of the Republic of Austria, who are required by the Government for extradition to another country, or who are endeavouring to avoid service of legal process.

Article IV

PROTECTION OF THE HEADQUARTERS SEAT

SECTION 10

(a) The appropriate Austrian authorities shall exercise due diligence to ensure that the tranquillity of the headquarters seat is not disturbed by any person or group of persons attempting unauthorized entry into or creating disturbances in the immediate vicinity of the headquarters seat, and shall provide on the boundaries of the headquarters seat such police protection as may be required for these purposes.

(b) If so requested by the Executive Director, the appropriate Austrian authorities shall provide a sufficient number of police for the preservation of law and order in the headquarters seat.

SECTION 11

The appropriate Austrian authorities shall take all reasonable steps to ensure that the amenities of the headquarters seat are not prejudiced and that the purposes for which the headquarters seat is required are not obstructed by any use made of the land or buildings in the vicinity of the headquarters seat. The UNIDO shall take all reasonable steps to ensure that the amenities of the land in

the vicinity of the headquarters seat are not prejudiced by any use made of the land or buildings in the headquarters seat.

Article V

PUBLIC SERVICES IN THE HEADQUARTERS SEAT

SECTION 12

(a) The appropriate Austrian authorities shall exercise, to the extent requested by the Executive Director, their respective powers to ensure that the headquarters seat shall be supplied with the necessary public services, including without limitation by reason of this enumeration, electricity, water, sewerage, gas, post, telephone, telegraph, local transportation, drainage, collection of refuse, fire protection and snow removal from public streets, and that such public services shall be supplied on equitable terms.

(b) In case of any interruption or threatened interruption of any such services, the appropriate Austrian authorities shall consider the needs of the UNIDO as being of equal importance with those of essential agencies of the Government, and shall take steps accordingly to ensure that the work of the UNIDO is not prejudiced.

(c) The Executive Director shall, upon request, make suitable arrangements to enable duly authorized representatives of the appropriate public services bodies to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the headquarters seat under conditions which shall not unreasonably disturb the carrying out of the functions of the UNIDO.

(d) Where gas, electricity, water or heat is supplied by appropriate Austrian authorities, or where the prices thereof are under their control, the UNIDO shall be supplied at tariffs which shall not exceed the lowest comparable rates accorded to Austrian governmental administrations.

Article VI

COMMUNICATIONS, PUBLICATIONS AND TRANSPORTATION

SECTION 13

(a) All official communications directed to the UNIDO, or to any of its officials at the headquarters seat, and all outward official communications of the

UNIDO, by whatever means or in whatever form transmitted, shall be immune from censorship and from any other form of interception or interference with their privacy. Such immunity shall extend, without limitation by reason of this enumeration, to publications, still and moving pictures, films and sound recordings.

(b) The UNIDO shall have the right to use codes and to dispatch and receive correspondence and other official communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

SECTION 14

(a) The Government recognizes the right of the UNIDO freely to publish and broadcast within the Republic of Austria in the fulfilment of its purpose.

(b) It is, however, understood that the UNIDO shall respect any laws of the Republic of Austria, or any international conventions to which the Republic of Austria is a party, relating to copyrights.

SECTION 15

The UNIDO shall be entitled for its official purposes to use the railroad facilities of the Government at tariffs which shall not exceed the lowest comparable passenger fares and freight rates accorded to Austrian governmental administrations.

Article VII

FREEDOM FROM TAXATION

SECTION 16

(a) The UNIDO, its assets, income and other property shall be exempt from all forms of taxation, provided, however, that such tax exemption shall not extend to the owner or lessor of any property rented by the UNIDO.

(b) In so far as the Government, for important administrative considerations, may be unable to grant to the UNIDO exemption from indirect taxes which constitute part of the cost of goods purchased by or services rendered to the UNIDO, including rentals, the Government shall reimburse the UNIDO for such taxes by the payment, from time to time, of lump sums to be agreed upon by the UNIDO and the Government. It is, however, understood that the UNIDO will not claim reimbursement with respect to minor purchases. With respect to such taxes, the UNIDO shall at all times enjoy at least the same exemp-

tions and facilities as are granted to Austrian governmental administrations or to chiefs of diplomatic missions accredited to the Republic of Austria, whichever are the more favourable. It is further understood that the UNIDO will not claim exemption from taxes which are in fact no more than charges for public utility services.

(c) All transactions to which the UNIDO is a party, and all documents recording such transactions, shall be exempt from all taxes, recording fees, and documentary taxes.

(d) Articles imported or exported by the UNIDO for official purposes shall be exempt from customs duties and other levies, and from prohibitions and restrictions on imports and exports.

(e) The UNIDO shall be exempt from customs duties and other levies, prohibitions and restrictions on the importation of service automobiles, and spare parts thereof, required for its official purposes.

(f) The Government shall, if requested, grant allotments of gasoline or other fuels and lubricating oils for each such automobile operated by the UNIDO in such quantities as are required for its work and at such special rates as may be established for diplomatic missions in the Republic of Austria.

(g) Articles imported in accordance with sub-sections (d) and (e) or obtained from the Government in accordance with sub-section (f) of this section, shall not be sold by the UNIDO in the Republic of Austria within two years of their importation or acquisition, unless otherwise agreed upon by the Government.

Article VIII

FINANCIAL FACILITIES

SECTION 17

(a) Without being subject to any financial controls, regulations or moratoria of any kind, the UNIDO may freely :

- (i) Purchase any currencies through authorized channels and hold and dispose of them;
- (ii) Operate accounts in any currency;
- (iii) Purchase through authorized channels, hold and dispose of funds, securities and gold;

- (iv) Transfer its funds, securities, gold and currencies to or from the Republic of Austria, to or from any other country, or within the Republic of Austria; and
- (v) Raise funds through the exercise of its borrowing power or in any other manner which it deems desirable, except that with respect to the raising of funds within the Republic of Austria, the UNIDO shall obtain the concurrence of the Government.

(b) The Government shall assist the UNIDO to obtain the most favourable conditions as regards exchange rates, banking commissions in exchange transactions and the like.

(c) The UNIDO shall, in exercising its rights under this section, pay due regard to any representations made by the Government in so far as effect can be given to such representations without prejudicing the interests of the UNIDO.

Article IX

SOCIAL SECURITY AND PENSION FUND

SECTION 18

The United Nations Joint Staff Pension Fund shall enjoy legal capacity in the Republic of Austria and shall enjoy the same exemptions, privileges and immunities as the UNIDO itself.

SECTION 19

The UNIDO shall be exempt from all compulsory contributions to, and officials of the UNIDO shall not be required by the Government to participate in, any social security scheme of the Republic of Austria.

SECTION 20

The Government shall make such provision as may be necessary to enable any official of the UNIDO who is not afforded social security coverage by the UNIDO to participate, if the UNIDO so requests, in any social security scheme of the Republic of Austria. The UNIDO shall in so far as possible, arrange, under conditions to be agreed upon, for the participation in the Austrian social security system of those locally recruited members of its staff who do not participate in the United Nations Joint Staff Pension Fund or to whom UNIDO does not grant social security protection at least equivalent to that offered under Austrian law.

Article X

TRANSIT AND RESIDENCE

SECTION 21

(a) The Government shall take all necessary measures to facilitate the entry into and sojourn in Austrian territory and shall place no impediment in the way of the departure from Austrian territory of the persons listed below; it shall ensure that no impediment is placed in the way of their transit to or from the headquarters seat and shall afford them any necessary protection in transit :

- (i) Members of permanent missions and other representatives of Member States, their families and other members of their households, as well as clerical and other auxiliary personnel and the spouses and dependent children of such personnel;
- (ii) Officials of the UNIDO, their families and other members of their households;
- (iii) Officials of the United Nations or of one of the specialized agencies or of the International Atomic Energy Agency, attached to the UNIDO, and those who have official business with the UNIDO, and their spouses and dependent children;
- (iv) Representatives of other organizations, with which the UNIDO has established official relations, who have official business with the UNIDO;
- (v) Persons, other than officials of the UNIDO, performing missions authorized by the UNIDO or serving on committees or other subsidiary organs of the UNIDO, and their spouses;
- (vi) Representatives of the press, radio, film, television or other information media, who have been accredited to the UNIDO in its discretion after consultation with the Government;
- (vii) Representatives of other organizations or other persons invited by the UNIDO to the headquarters seat on official business. The Executive Director shall communicate the names of such persons to the Government before their intended entry.

(b) This section shall not apply in the case of general interruptions of transportation, which shall be dealt with as provided in section 12 (b) and shall not impair the effectiveness of generally applicable laws relating to the operations of means of transportation.

(c) Visas, where required for persons referred to in this section, shall be granted without charge and as promptly as possible.

(d) No activity performed by any person referred to in sub-section (a) in his official capacity with respect to the UNIDO shall constitute a reason for preventing his entry into or his departure from the territory of the Republic of Austria or for requiring him to leave such territory.

(e) No person referred to in sub-section (a) shall be required by the Government to leave the Republic of Austria save in the event of an abuse of the right of residence, in which case the following procedure shall apply:

- (i) No proceeding shall be instituted to require any such person to leave the Republic of Austria except with the prior approval of the Federal Minister for Foreign Affairs of the Republic of Austria;
- (ii) In the case of a representative of a Member State, such approval shall be given only after consultation with the Government of the Member State concerned;
- (iii) In the case of any other person mentioned in sub-section (a), such approval shall be given only after consultation with the Executive Director, and if expulsion proceedings are taken against any such person, the Executive Director shall have the right to appear or to be represented in such proceedings on behalf of the person against whom such proceedings are instituted; and
- (iv) Persons who are entitled to diplomatic privileges and immunities under section 28 shall not be required to leave the Republic of Austria otherwise than in accordance with the customary procedure applicable to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to the Republic of Austria.

(f) This section shall not prevent the requirement of reasonable evidence to establish that persons claiming the rights granted by this section come within the classes described in sub-section (a), or the reasonable application of quarantine and health regulations.

SECTION 22

The Executive Director and the appropriate Austrian authorities shall, at the request of either of them, consult as to methods of facilitating entrance into the Republic of Austria, and as to the use of available means of transportation, by persons coming from abroad who wish to visit the headquarters seat and who do not enjoy the privileges provided by section 21.

Article XI

REPRESENTATIVES TO THE UNIDO

SECTION 23

Representatives of Member States to meetings of or convened by the UNIDO, and those who have official business with the UNIDO, shall, while exercising their functions and during their journey to and from Austria, enjoy the privileges and immunities provided in article IV of the General Convention.

SECTION 24

Members of permanent missions to the UNIDO shall be entitled to the same privileges and immunities as the Government accords to members, having comparable rank, of diplomatic missions accredited to the Republic of Austria.

SECTION 25

Permanent missions to the UNIDO of States Members of the Industrial Development Board and those of Member States shall enjoy the same privileges and immunities as are accorded to diplomatic missions in the Republic of Austria.

SECTION 26

The UNIDO shall communicate to the Government a list of persons within the scope of this article and shall revise such list from time to time as may be necessary.

Article XII

OFFICIALS OF THE UNIDO

SECTION 27

Officials of the UNIDO shall enjoy within and with respect to the Republic of Austria the following privileges and immunities :

(a) Immunity from legal process of any kind in respect of words spoken or written, and of acts performed by them in their official capacity; such immunity to continue notwithstanding that the persons concerned may have ceased to be officials of the UNIDO;

- (b) Immunity from seizure of their personal and official baggage;
- (c) Immunity from inspection of official baggage, and if the official comes within the scope of section 28, immunity from inspection of personal baggage;
- (d) Exemption from taxation in respect of the salaries, emoluments, indemnities and pensions paid to them by the UNIDO for services past or present or in connexion with their service with the UNIDO;
- (e) Exemption from any form of taxation on income derived by them from sources outside the Republic of Austria;
- (f) Exemption, with respect to themselves, their spouses, their dependent relatives and other members of their households from immigration restrictions and alien registration;
- (g) Exemption from national service obligations, provided that, with respect to Austrian nationals, such exemption shall be confined to officials whose names have, by reason of their duties, been placed upon a list compiled by the Executive Director and approved by the Government; provided further that should officials, other than those listed, who are Austrian nationals, be called up for national service, the Government shall, upon request of the Executive Director, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption of the essential work of the UNIDO;
- (h) Freedom to acquire or maintain within the Republic of Austria or elsewhere foreign securities, foreign currency accounts, and other movable, and, under the same conditions applicable to Austrian nationals, immovable property; and at the termination of their UNIDO employment, the right to take out of the Republic of Austria through authorized channels without prohibition, or restriction, their funds in the same currency and up to the same amounts as they had brought into the Republic of Austria;
- (i) The same protection and repatriation facilities with respect to themselves, their spouses, their dependent relatives and other members of their households as are accorded in time of international crisis to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to the Republic of Austria; and
- (j) The right to import for personal use, free of duty and other levies, prohibitions and restrictions on imports :
- (i) Their furniture and effects in one or more separate shipments, and thereafter to import necessary additions to the same;
 - (ii) One automobile every four years; and
 - (iii) Limited quantities of certain articles for personal use or consumption and not for gift or sale; the UNIDO may establish a commissary for the sale of

such articles to its officials and members of delegations. A supplemental agreement shall be concluded between the UNIDO and the Government to regulate the exercise of these rights.

SECTION 28

In addition to the privileges and immunities specified in section 27 :

(a) The Executive Director shall be accorded the privileges and immunities, exemptions and facilities accorded to Ambassadors who are heads of missions;

(b) A senior official of the UNIDO, when acting on behalf of the Executive Director during his absence from duty, shall be accorded the same privileges and immunities, exemptions and facilities as are accorded to the Executive Director; and

(c) Other officials having the professional grade of P-5 and above, and such additional categories of officials as may be designated, in agreement with the Government, by the Executive Director in consultation with the Secretary-General of the United Nations on the ground of the responsibilities of their positions in the UNIDO, shall be accorded the same privileges and immunities, exemptions and facilities as the Government accords to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to the Republic of Austria.

SECTION 29

(a) The UNIDO shall communicate to the Government a list of officials of the UNIDO and shall revise such list from time to time as may be necessary.

(b) The Government shall furnish persons within the scope of this article with an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to all Austrian authorities.

SECTION 30

The provisions of this article shall apply to other officials of the United Nations who are attached to the UNIDO or to other United Nations offices set up with the consent of the Government in the Republic of Austria. They shall also apply to officials of the specialized agencies and the International Atomic Energy Agency attached to the UNIDO on a continuing basis.

Article XIII

EXPERTS ON MISSION FOR UNIDO

SECTION 31

Experts (other than officials of the UNIDO coming within the scope of article XII) performing missions authorized by, serving on committees or other subsidiary organs of, or consulting at its request in any way with, the UNIDO shall enjoy, within and with respect to the Republic of Austria, the following privileges and immunities so far as may be necessary for the effective exercise of their functions :

(a) Immunity in respect of themselves, their spouses and their dependent children from personal arrest or detention and from seizure of their personal and official baggage ;

(b) Immunity from legal process of any kind with respect to words spoken or written, and all acts done by them, in the performance of their official functions, such immunity to continue notwithstanding that the persons concerned may no longer be employed on missions for, serving on committees of, or acting as consultants for, the UNIDO, or may no longer be present at the headquarters seat or attending meetings convened by the UNIDO ;

(c) Inviolability of all papers, documents and other official material ;

(d) The right, for the purpose of all communications with the UNIDO, to use codes and to dispatch or receive papers, correspondence or other official material by courier or in sealed bags ;

(e) Exemption with respect to themselves and their spouses from immigration restrictions, alien registration and national service obligations ;

(f) The same protection and repatriation facilities with respect to themselves, their spouses, their dependent relatives and other members of their households as are accorded in time of international crisis to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to the Republic of Austria ;

(g) The same privileges with respect to currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions ; and

(h) The same immunities and facilities with respect to their personal and official baggage as the Government accords to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to the Republic of Austria.

SECTION 32

Where the incidence of any form of taxation depends upon residence, periods during which the persons designated in section 31 may be present in the Republic of Austria for the discharge of their duties shall not be considered as periods of residence. In particular, such persons shall be exempt from taxation on their salaries and emoluments received from the UNIDO during such periods of duty and shall be exempt from all tourist taxes.

SECTION 33

(a) The UNIDO shall communicate to the Government a list of persons within the scope of this article and shall revise such list from time to time as may be necessary.

(b) The Government shall furnish persons within the scope of this article with an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to all Austrian authorities.

Article XIV

SETTLEMENT OF DISPUTES

SECTION 34

The UNIDO shall make provision for appropriate methods of settlement of :

(a) Disputes arising out of contracts and disputes of a private law character to which the UNIDO is a party; and

(b) Disputes involving an official of the UNIDO who, by reason of his official position, enjoys immunity, if such immunity has not been waived.

SECTION 35

(a) Any dispute between the UNIDO and the Government concerning the interpretation or application of this Agreement or of any supplemental agreement, or any question affecting the headquarters seat or the relationship between the UNIDO and the Government, which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators : one to be chosen by the Executive Director, one to be chosen by the Federal Minister for Foreign Affairs of the Republic of Austria, and the third, who shall be chairman of the tribunal, to be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the third within six

months following the appointment of the first two arbitrators, such third arbitrator shall be chosen by the President of the International Court of Justice at the request of the UNIDO or the Government.

(b) The Secretary-General of the United Nations or the Government may ask the General Assembly to request of the International Court of Justice an advisory opinion on any legal question arising in the course of such proceedings. Pending the receipt of the opinion of the Court, an interim decision of the arbitral tribunal shall be observed by both parties. Thereafter, the arbitral tribunal shall render a final decision, having regard to the opinion of the Court.

Article XV

GENERAL PROVISIONS

SECTION 36

The Republic of Austria shall not incur by reason of the location of the headquarters seat of the UNIDO within its territory any international responsibility for acts or omissions of the UNIDO or of its officials acting or abstaining from acting within the scope of their functions, other than the international responsibility which the Republic of Austria would incur as a Member of the United Nations.

SECTION 37

Without prejudice to the privileges and immunities accorded by this Agreement, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the Republic of Austria. They also have a duty not to interfere in the internal affairs of this State.

SECTION 38

(a) The Executive Director shall take every precaution to ensure that no abuse of a privilege or immunity conferred by this Agreement shall occur, and for this purpose shall establish such rules and regulations as may be deemed necessary and expedient, for officials of the UNIDO and for such other persons as may be appropriate.

(b) Should the Government consider that an abuse of a privilege or immunity conferred by this Agreement has occurred, the Executive Director shall, upon request, consult with the appropriate Austrian authorities to determine

whether any such abuse has occurred. If such consultations fail to achieve a result satisfactory to the Executive Director and to the Government, the matter shall be determined in accordance with the procedure set out in section 35.

SECTION 39

This Agreement shall apply irrespective of whether the Government maintains or does not maintain diplomatic relations with the State concerned and irrespective of whether the State concerned grants a similar privilege or immunity to diplomatic envoys or nationals of the Republic of Austria.

SECTION 40

Whenever this Agreement imposes obligations on the appropriate Austrian authorities, the ultimate responsibility for the fulfilment of such obligations shall rest with the Government.

SECTION 41

The provisions of this Agreement shall be complementary to the provisions of the General Convention. In so far as any provision of this Agreement and any provision of the General Convention relate to the same subject matter, the two provisions shall, wherever possible, be treated as complementary, so that both provisions shall be applicable and neither shall narrow the effect of the other.

SECTION 42

This Agreement shall be construed in the light of its primary purpose of enabling the UNIDO at its headquarters in the Republic of Austria fully and efficiently to discharge its responsibilities and fulfil its purposes.

SECTION 43

Consultations with respect to modification of this Agreement shall be entered into at the request of the United Nations or the Government. Any such modification shall be by mutual consent.

SECTION 44

The UNIDO and the Government may enter into such supplemental agreements as may be necessary.

SECTION 45

This Agreement shall apply, *mutatis mutandis*, to other offices of the United Nations set up with the consent of the Government in the Republic of Austria.

SECTION 46

This Agreement shall cease to be in force :

- (i) By mutual consent of the United Nations and the Government; or
- (ii) If the permanent headquarters of the UNIDO is removed from the territory of the Republic of Austria, except for such provisions as may be applicable in connexion with the orderly termination of the operations of the UNIDO at its permanent headquarters in the Republic of Austria and the disposal of its property therein.

SECTION 47

This Agreement shall enter into force upon an exchange of notes between the Secretary-General of the United Nations and the duly authorized representative of the Federal President of the Republic of Austria.

DONE at New York, in duplicate, in the English and German languages, both being equally authentic, on this thirteenth day of April 1967.

For the United Nations :
On behalf
of the Secretary-General :

C. A. STAVROPOULOS
Under-Secretary
Legal Counsel

For the Republic
of Austria :

Carl H. BOBLETER
Under-Secretary of State
for Foreign Affairs

EXCHANGE OF NOTES

I

New York, 13 April 1967

Sir,

With reference to the Agreement between the United Nations and the Republic of Austria regarding the Headquarters of the United Nations Industrial Development Organization, to which I have this day affixed my signature, I have the honour to propose that :

(1) In accordance with the Financial Regulations of the United Nations, the articles mentioned in paragraph (g) of Section 16 of this Agreement may be disposed of without charge only for the benefit of international organizations or charitable institutions.

(2) Having regard to Article 38 (1) of the Vienna Convention on Diplomatic Relations¹ and to the practice of Austria, the Republic of Austria will accord members of permanent missions referred to in Section 24 of the Agreement, who are Austrian nationals or stateless persons resident in Austria, only the immunity from legal process of every kind in respect of words spoken or written and all acts done by them in their capacity as members of permanent missions.

(3) Officials of the UNIDO or other United Nations organs or experts on missions for the United Nations who are Austrian nationals and stateless persons resident in Austria shall enjoy only those privileges and immunities provided in the General Convention, it being understood, nevertheless, that such privileges and immunities include exemption from taxation on pensions paid to them by the Pension Fund of the United Nations.

In addition, officials of UNIDO who are Austrian nationals or stateless persons resident in Austria shall have access to the Commissary to be established in accordance with paragraph (j) (iii) of Section 27 of the Agreement, the exercise of this right being regulated by the supplemental agreement as envisaged in the above-mentioned provision of the Agreement.

(4) In accordance with the practice of the Republic of Austria which is in conformity with Article 42 of the Vienna Convention on Diplomatic Relations to which Austria is a party, diplomatic agents accredited to the Republic of Austria may not practise for personal profit any professional or commercial activity.

¹ United Nations, *Treaty Series*, Vol. 500, p. 95.

It is understood that the same restriction shall apply to all persons to whom the Agreement accords the same privileges and immunities as are accorded to members, having comparable rank, of diplomatic missions in the Republic of Austria.

(5) Persons to whom the Agreement applies, who are not Austrian nationals or stateless persons resident in Austria, shall not benefit from Austrian regulations on allowances for children.

(6) Without prejudice to the provisions of Sections 18 (e) and 22 (e) of the General Convention and Section 27 (h) of the Agreement, officials and experts of the UNIDO shall be allowed, over and above the facilities granted by the Agreement, to make transfers to other countries up to a maximum amount of one thousand U. S. dollars (U. S. \$1,000.00) per year, to the debit of accounts in Austrian Schilling held in their names at Austrian credit institutions.

If officials or experts of the UNIDO wish to make Austrian currency transfers exceeding the amount mentioned above, such transfers shall be authorized by the Austrian authorities up to the amount of all salary previously received in Austrian currency by the person concerned from the UNIDO, provided that the UNIDO agrees that the amount to be transferred shall be deducted from transferable Austrian currency balances of the UNIDO.

If the United Nations agrees to this proposal, I have the honour to propose that this note and your note of confirmation shall constitute an Agreement between the Republic of Austria and the United Nations, entering into force on the same day as the Headquarters Agreement.

Accept, Sir, the renewed assurances of my highest consideration.

Carl H. BOBLETER
Under-Secretary of State for Foreign Affairs

His Excellency U Thant
United Nations
New York, N.Y.

II

New York, 13 April 1967

Sir,

I am directed by the Secretary-General to refer to your note of 13 April 1967, which reads as follows :

[See note I]

I have the honour to confirm that the United Nations agrees with the above proposal and that your note and this reply will constitute an Agreement between the United Nations and the Republic of Austria, entering into force on the same day as the Headquarters Agreement.

Accept, Sir, the assurances of my highest consideration.

C. A. STAVROPOULOS
Under-Secretary
Legal Counsel

His Excellency Dr. Carl Bobleter
Under-Secretary of State for Foreign Affairs
New York, N.Y.

AIDE-MÉMOIRE

Desiring that the "Advance Party" may enjoy the privileges and immunities provided in the Headquarters Agreement even before the entering into force of this agreement the following measures are envisaged by the Austrian authorities :

1) A Certificate will be issued to the members of the "Advance Party"; this Certificate may be presented to all Austrian authorities and reads as follows :

"The Federal Ministry for Foreign Affairs certifies that the United Nations Industrial Development Organization (UNIDO), a subsidiary organ of the General Assembly of the United Nations transfers its headquarters from New York to Vienna. In view of the establishment of the UNIDO's headquarters in Vienna a Headquarters Agreement was concluded between the Republic of Austria and the United Nations; this agreement was approved by the Council of Ministers and was signed on 13 April 1967. The Headquarters Agreement as a treaty involving changes in ordinary laws has to be submitted to parliament for approval and to be ratified by the Federal President. This agreement is not yet entered into force, but has already been submitted to parliament for approval. The Headquarters Agreement entitles the UNIDO and its officials *inter alia* to the following rights going in part beyond the scope of the Convention on Privileges and Immunities of the United Nations (*Federal Law Gazette* N. 126/1957) :

"a) Officials of the UNIDO, their families and other members of their households shall enter freely into Austrian territory; visas where required shall be granted without charge and as promptly as possible.

"b) Officials of the UNIDO enjoy immunity from seizure of their personal and official baggage and immunity from inspection of official baggage.

"c) Officials of the UNIDO are free to acquire and maintain within the Republic of Austria foreign securities, foreign currency accounts and other movable and under the same conditions as applicable to Austrian nationals immovable property.

"d) The UNIDO shall be entitled for its official purpose to use Austrian railroad facilities at tariffs which shall not exceed the lowest comparable passenger fares and freight rates accorded to Austrian governmental administrations.

"e) The headquarters seat shall be supplied with the necessary public services on equitable terms.

"f) The UNIDO shall be granted for official purposes appropriate radio and other telecommunication facilities.

"g) The UNIDO, its assets, income and other property shall be exempt from all forms of taxation; all transactions to which the UNIDO is

a party and all documents recording such transactions shall be exempt from all taxes, recording fees and documentary taxes.

“ *h*) The UNIDO may freely purchase any currencies, funds, securities and gold through authorized channels; it shall get assistance from the Austrian Government to obtain the most favourable conditions as regards exchange-rates, banking-commissions in exchange transactions and the like.

“ The Federal Ministry for Foreign Affairs asks to aid the UNIDO and its officials in establishing the headquarters in Vienna and to have due regard to the provisions of the already signed Headquarters Agreement. ”

2) Officials of the UNIDO entering into Austrian territory and bearing the aforementioned certificate will enjoy already before the entering into force of the Headquarters Agreement all privileges concerning customs-duties provided in this agreement.

New York, 13 April 1967

[SEAL]