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PROCLAMATION

*by the
State President*

of the Republic of South Africa

No. 41, 1993

GRANTING OF IMMUNITIES AND PRIVILEGES IN TERMS OF THE DIPLOMATIC IMMUNITIES AND PRIVILEGES ACT, 1989 (ACT No. 74 OF 1989), TO THE OBSERVERS FROM THE UNITED NATIONS, THE COMMONWEALTH, THE EUROPEAN COMMUNITY AND THE ORGANISATION FOR AFRICAN UNITY, PRESENT IN SOUTH AFRICA IN TERMS OF UNITED NATIONS SECURITY COUNCIL RESOLUTION 772 OF 17 AUGUST 1992

Under section 4 (c) of the Diplomatic Immunities and Privileges Act, 1989, I hereby confer upon the observers from the United Nations, the European Community, the Commonwealth and the Organisation for African Unity present in South Africa in terms of United Nations Security Council Resolution 772 of 17 August 1992 (hereinafter the "International Observers") the immunities and privileges as indicated in the Schedule hereto.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Twenty-third day of April, One thousand Nine hundred and Ninety-three.

F. W. DE KLERK,
State President.

By Order of the State President-in-Cabinet:

R. F. BOTHA,
Minister of the Cabinet.

PROKLAMASIE

*van die
Staatspresident*

van die Republiek van Suid-Afrika

No. 41, 1993

VERLENING VAN IMMUNITEITE EN VOORREGTE IN TERME VAN DIE WET OP DIPLOMATIEKE IMMUNITEITE EN VOORREGTE, 1989 (WET No. 74 VAN 1989), AAN DIE WAARNEMERS VAN DIE VERENIGDE NASIES, DIE GEMENEKES, DIE EUROPESE GEMEENSAP EN DIE ORGANISASIE VIR AFRIKA EENHEID, TEENWOORDIG IN SUID-AFRIKA IN TERME VAN VERENIGDE NASIES VEILIGHEIDSRAD RESOLUSIE 772 VAN 17 AUGUSTUS 1992

Kragtens artikel 4 (c) van die Wet op Diplomatieke Immunitate en Voorregte, 1989, verleen ek hierdeur aan die waarnemers van die Verenigde Nasies, die Gemenebes, die Europese Gemeenskap en die Organisasie vir Afrika Eenheid, teenwoordig in Suid-Afrika in terme van Verenigde Nasies Veiligheidsraad Resolusie 772 van 17 Augustus 1992 (hierna die "Internasionale Waarnemers") die immunitate en voorregte soos aangedui in die Bylae hierby.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad, op hede die Drie-entwintigste dag van April Eenduisend Negehoenderd Drie-en-negentig.

F. W. DE KLERK,
Staatspresident.

Op las van die Staatspresident-in-Kabinet:

R. F. BOTHA,
Minister van die Kabinet.

SCHEDULE

The following immunities and privileges granted to the International Observers in terms of the Diplomatic Immunities and Privileges Act, No. 74 of 1989, are set out hereunder:

1. Application of the Convention

The Government shall extend to the International Observers, and to services and goods procured in South Africa by the International Observers, the relevant privileges and immunities of the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946.

2. Privileges and immunities**2.1 International Observers shall—**

- (a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
- (b) be accorded the same immunities and facilities, in respect of their official baggage, as are accorded to diplomatic envoys;
- (c) be immune from any military service obligations or any other obligatory services;
- (d) be exempt, with respect to themselves, their spouses and other members of their households, from immigration restrictions and alien registration;
- (e) be exempt from taxation in respect of salaries and all other remuneration paid to them by their respective Headquarters;
- (f) enjoy exemption from any form of taxation on income derived by them from sources outside South Africa;
- (g) be accorded prompt clearance and insurance, without cost, of such visas, licences or permits, as required for proper fulfilment of their functions;
- (h) be permitted free movement within, to or from the country to the extent necessary for the carrying out of their functions;
- (i) be permitted to hold or maintain within the country, a freely convertible bank account and movable property and the right upon termination of employment with their Headquarters to take out of South Africa their funds for the lawful possession of which they can show good cause;
- (j) be accorded the same protection and repatriation facilities with respect to themselves, their spouses and dependent relatives and other members of their households as are accorded in time of international crises or national emergencies to diplomatic envoys;

BYLAE

Die volgende immuniteite en voorregte toegestaan aan die Internasionale Waarnemers in terme van die Wet op Diplomatieke Immuniteite en Voorregte, Wet No. 74 van 1989, word hieronder uiteengesit:

1. Toepassing van die Konvensie

Die Regering sal aan die Internasionale Waarnemers en die dienste en goedere deur hul in Suid-Afrika verkry, die relevante voorregte en immuniteite soos beliggaam in die Konvensie insake die Voorregte en Immuniteite van die Verenigde Nasies wat deur die Algemene Vergadering van die Verenigde Nasies op 13 Februarie 1946 aangeneem is, verleen.

2. Voorregte en immuniteite**2.1 Internasionale Waarnemers geniet die volgende immuniteite en voorregte:**

- (a) Immuniteit teen regsprosedures ten opsigte van die geskrewe en gesproke woord en alle dade in hul amptelike hoedanigheid verrig;
- (b) immuniteit en fasiliteite met betrekking tot hulle amptelike bagasie, soortgelyk aan dié wat diplomatieke gesante geniet;
- (c) immuniteit teen die verrigting van militêre of enige ander verpligte diens;
- (d) vrystelling van immigrasie beperkinge en vreemdelinge registrasie ten opsigte van hulself, eggenotes en ander lede van hul huishouding;
- (e) vrystelling van belasting met betrekking tot hulle salarisse en alle ander vergoeding wat deur hulle onderskeie Hoofkwartiere aan hulle betaal word;
- (f) vrystelling van enige vorm van belasting op inkomste afkomstig van bronne buite Suid-Afrika;
- (g) spoedige uitklarings en die toestaan, sonder koste, van sodanige visums, lisensies of permitte, waar benodig vir die behoorlike uitvoering van hul funksie;
- (h) vrye beweging binne of na en van die land tot die mate benodig vir die uitvoering van hulle funksies;
- (i) toegelaat word om binne die land 'n vrylik inwisselbare bankrekening en roerende goedere te besit en die reg om by diensbeëindiging by die betrokke Hoofkwartier daardie fondse uit Suid-Afrika te neem waarvan vir die wettige besit rekenskap gegee kan word;
- (j) beskerming en repatriasie fasiliteite ten opsigte van hulself, eggenotes, afhanklike familieleden en ander lede van hulle huishouding soortgelyk aan dié wat in tye van internasionale krisisse of nasionale noodgevalle aan diplomatieke gesante verleen word;

(k) be permitted to import for personal use, free of duty and other levies, prohibitions or restrictions on imports—

(i) their furniture and personal effects in one or more shipments and thereafter to import necessary additions, not the same, including automobiles, according to the regulations applicable in South Africa to diplomatic representatives accredited in South Africa and/or resident members of international organisations;

(ii) reasonable quantities of certain articles for personal use or consumption and not for gift or sale.

2.2 The archives of the International Observers, including all the papers, documents, correspondence, books, films, tapes, registers, databases and computerised documentation belonging to or held by them, shall be inviolable.

2.3 No restriction will be placed on the International Observers introducing foreign currency into South Africa to fund their operations nor on the repatriation of any such funds to any countries abroad. The same privileges in regard to movement of funds related to their activities will be accorded to the International Observers as are made available to all foreign embassy bank accounts in South Africa.

2.4 The International Observers shall enjoy, together with their vehicles and equipment, freedom of movement within South Africa. The South African Government shall be consulted in advance with respect to large movements of personnel, stores or vehicles through airports or on railways or roads used for general traffic within South Africa.

3. Flags, emblems and markings

The International Observers shall display their respective Organisation's flag, and/or emblem at or on their offices, premises, official vehicles or otherwise as agreed. Vehicles and aircraft of the International Observers shall carry distinctive emblems or markings, which shall be timeously notified to the Government.

4. Exemption from taxation and customs duties on imports and exports

The International Observers shall be exempted from all dues and taxes, direct or indirect, personal or real, national, regional or municipal, other than such as represent payment for specific services rendered. Thus the Government shall exempt the International Observers from excise duties, sales

(k) vrystelling van aksynsbelasting, ander heffings en sodanige beperkinge in soverre dit nie in stryd is met sanitêre regulasies nie, ten opsigte van die invoer vir persoonlike gebruik van—

(i) meubels en persoonlike eiendom in een of meer verskepinge en daarna die invoer van nodige toevoegings anders as wat reeds ingevoer is, insluitende motorvoertuie, in ooreenstemming met die regulasies in Suid-Afrika van toepassing op diplomatieke verteenwoordigers geakkrediteer in Suid-Afrika en/of residensiële lede van internasionale organisasies;

(ii) redelike hoeveelhede van sekere artikels vir persoonlike gebruik of konsumpsie maar nie vir doeleindes van geskenke of verkope nie.

2.2 Die argiewe van die Internasionale Waarnemers, met insluiting van alle papiere, dokumente, korrespondensie, boeke, films, bandopnames, registers, databasisse en gerekenariseerde dokumentasie wat hul eiendom is of deur hul gehou word, is onskendbaar.

2.3 Geen beperking sal geplaas word op die Internasionale Waarnemers om vreemde geldeenhede in die land in te bring om hulle werksaamhede te finansier of om enige sodanige fondse na enige land in die buitenland te repatrieer nie. Dieselfde voorregte met betrekking tot die beweging van fondse wat verband hou met hulle funksies sal aan die Internasionale Waarnemers verleen word as wat aan vreemde ambassade bankrekening in Suid-Afrika toegeken word.

2.4 Die Internasionale Waarnemers, hulle voertuie en toerusting geniet vryheid van beweging binne Suid-Afrika. Die Suid-Afrikaanse Regering moet vroegtydig geraadpleeg word rakende grootskaalse beweging van personeel, voorrade of voertuie deur lughawens of op spoorweë of paaie bedoel vir normale verkeer binne Suid-Afrika.

3. Vlae, embleme en kentekens

Die Internasionale Waarnemers sal die vlae, en/of embleme van hulle onderskeie Organisasies by of op hulle kantoorpersele, amptelike voertuie of andersins soos ooreengekom, vertoon. Voertuie en vliegtuie van die Internasionale Waarnemers sal uitkenbare embleme of kentekens dra waarvan die Regering betyds verwittig sal word.

4. Vrystelling van belasting en doeanegelde op invoere en uitvoere

Die Internasionale Waarnemers is vrygestel van alle gelde en belasting, direk of indirek, persoonlik of reël, nasionaal, streeks- of munisipaal, met uitsluiting van bedrae betaalbaar vir spesifieke dienste gelewer. Die Regering sal die Internasionale Waarnemers vrystel van aksynsbelasting,

tax and value-added tax, and from taxes on the sale or purchase of movable property in South Africa. The respective Headquarters and the Government shall agree on the appropriate administrative arrangements for the disposal of movable property, and for the remission or refund of the amount duty, tax or levy where it is not feasible to make direct exemption.

5. Communication facilities

5.1 The International Observers shall enjoy, in respect of their official communications, treatment not less favourable than that accorded by the Government to any other government including its diplomatic missions or to other inter-governmental/international organisations with regard to tariffs and charges on mail, cablegrams, telephotos, telephone, telegraph, telex and other communications, as well as rates for information to the press and radio.

5.2 The Government shall ensure the inviolability of the official communications and correspondence of the International Observers and shall not apply any censorship to their communications and correspondence. Such inviolability, shall extend to publications, photographs, slides, films and sound recordings and any such other not specified here.

5.3 The International Observers shall have the right to use codes and to dispatch and receive correspondence and other materials by courier or in sealed bags which courier and bag shall be accorded the same privileges and immunities as those accorded to diplomatic couriers and bags.

5.4 The International Observers shall have the right to erect and operate radio and other telecommunications equipment, on frequencies registered with the respective Organisations which have been coordinated with the South African authorities and on frequencies allocated by them, between its officers, within and outside South Africa; provided that this right shall not, without the consent of the South African authorities, extend to point to point radio communication. In all instances licenses where applicable must be issued by the authorities concerned.

6. Entry, residence, departure and travel documents

The International Observers shall have the right to enter into, reside in and depart from South Africa through agreed points of entry and exit. Documents of identification such as national passports and United Nations Laissez Passer, held by the International Observers, shall be accepted as valid travel/identification documents by the Government and holders of such documents shall be granted facilities for speedy travel to, through and from South Africa free of charge.

verkoopbelasting, belasting op toegevoegde waarde en van belasting op die koop of verkoop van roerende eiendom in Suid-Afrika. Die onderskeie Hoofkwartiere en die Regering sal ooreenkom oor die toepaslike administratiewe reëlings vir die hantering van roerende eiendom en vir die kwytskelding of terugbetaling van belastingsoffheffings waar dit nie uitvoerbaar is om direkte vrystelling te verleen nie.

5. Kommunikasie fasiliteite

5.1 Die Internasionale Waarnemers geniet met betrekking tot hulle amptelike kommunikasies, nie minder gunstige behandeling as wat die Regering aan enige ander regering, ingesluit sy diplomatieke missies of aan ander inter-regerings/internasionale organisasies verleen nie ten aansien van tariewe en kostes verbonde aan pos, kabelgramme, telefoto's, telefone, telegramme, telekse en ander vorms van kommunikasie, asook tariewe vir inligting aan die pers en radio.

5.2 Die Regering sal die onskendbaarheid van die amptelike kommunikasie en korrespondensie van die Internasionale Waarnemers verseker en geen sensuur op hulle kommunikasie en korrespondensie toepas nie. Onskendbaarheid, is ook van toepassing op publikasies, foto's, skyfies, films en klankopnames en enige ander vorm van kommunikasie wat nie spesifiek hier aangedui is nie.

5.3 Die Internasionale Waarnemers het die reg om kodes te gebruik en om korrespondensie en ander materiaal te stuur en te ontvang per koerier, of in verseëde sakke in welke geval die koerier en die sakke dieselfde voorregte en immunitate sal geniet as wat aan diplomatieke koeriers en sakke toegeken word.

5.4 Die Internasionale Waarnemers sal die reg hê om radio- en ander telekommunikasie toerusting op te rig en te gebruik op frekwensies geregistreer deur die onderskeie Organisasies wat met die Suid-Afrikaanse owerhede gekoördineer is asook frekwensies wat aan hulle toegeken is deur die Suid-Afrikaanse owerhede vir kommunikasie tussen hul kantore binne en buite Suid-Afrika; met dien verstande dat die reg nie sonder die toestemming van die Suid-Afrikaanse owerhede uitgebrei mag word na punt-tot-punt radiokommunikasie nie. Waar van toepassing moet lisensies deur die bevoegde owerhede uitgereik word.

6. Binnekoms, verblyf, vertrek en reisdokumente

Die Internasionale Waarnemers het die reg op binnekoms, verblyf in en vertrek vanuit Suid-Afrika deur ooreengekome punte van binnekoms en vertrek. Identifikasiedokumente soos nasionale paspoorte en VN Laissez Passer, van die Internasionale Waarnemers, sal as geldige reis-/identifikasiedokumente deur die Regering aanvaar word en aan die houers van sodanige dokumente sal fasiliteite kosteloos toegestaan word vir spoedige reis na, deur en van Suid-Afrika.

7. Identification

- 7.1 The Government shall, at the request of the respective Headquarters of the International Observers, issue to each Observer as soon as possible after such Observer's assignment to South Africa, the appropriate certificate of identity.
- 7.2 International Observers shall be required to present, but not surrender, their certificates of identity upon demand of an authorised official of the Government.
- 7.3 The International Observers shall, upon the termination of employment ensure that their South African certificates of identity are returned promptly to the issuing authority.

8. Waiver of immunity

Privileges and immunities are granted to the International Observers in the interests of their respective Organisations and not for the personal benefit of the individuals concerned. Accordingly, the International Organisations or any other person authorised thereto, may waive the immunity of any of the International Observers where the immunity would impede the course of justice and it can be waived without prejudice to the interests of the International Organisations.

9. Security

The Government shall take all the necessary measures, as may be agreed, to ensure the security and protection of the safety of the International Observers.

7. Identifikasie

- 7.1 Die Regering sal, op versoek van die onderskeie Hoofkantore van die Internasionale Waarnemers, aan elke Waarnemer so spoedig moontlik na die toewysing van sodanige Waarnemer aan Suid-Afrika, die toepaslike identiteitsertifikaat uitreik.
- 7.2 Van Internasionale Waarnemers sal verwag word om op versoek van 'n gemagtigde beampte van die regering hulle identiteitsertifikate te toon, maar hoef dit nie te oorhandig nie.
- 7.3 Die Internasionale Waarnemers sal, by hul diensbeëindiging verseker dat hulle Suid-Afrikaanse identiteitsertifikate so spoedig moontlik aan die betrokke owerheid terugbesorg word.

8. Afstanddoening van immunititeit

Voorregte en immunitete word toegestaan aan die Internasionale Waarnemers in belang van hulle onderskeie Organisasies en nie vir die persoonlike voordeel van die betrokke individue nie. Dienooreenkomstig kan die Internasionale Organisasies of enige ander persoon daartoe gemagtig, afstand doen van die immunitet van enige van die Internasionale Waarnemers, waar sodanige immunitet die verloop van die regsproses sal belemmer en geskied afstanddoening sonder benadeling van die belange van die Internasionale Organisasies.

9. Veiligheid

Die Regering sal al die nodige stappe doen, waarop ooreengekom mag word, om die veiligheid en beskerming van die Internasionale Waarnemers te verseker.

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