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Federal Act on the Privileges, Immunities and Facilities and the Financial Subsidies granted by Switzerland as a Host State (Host State Act, HSA)

of 22 June 2007 (Status as at 1 January 2008)

The Federal Assembly of the Swiss Confederation,
on the basis of Article 54 paragraph 1 of the Federal Constitution,¹
and having considered the Dispatch to Parliament of the Federal Council dated
13 September 2006²,
decrees:

Chapter 1 Subject Matter

Art. 1

¹ This Act regulates, in the sphere of host state policy:

- a. the granting of privileges, immunities and facilities;
- b. the granting of financial subsidies and the provision of other support measures.

² Privileges, immunities, facilities, and financial subsidies arising under international law or other federal statutes are unaffected.

Chapter 2 Privileges, Immunities and Facilities

Section 1 Beneficiaries

Art. 2

¹ The Confederation may grant privileges, immunities and facilities to the following institutional beneficiaries:

- a. intergovernmental organisations;

AS 2007 6637

¹ SR 101

² BBl 2006 8017

- b. international institutions;
- c. quasi-governmental international organisations;
- d. diplomatic missions;
- e. consular posts;
- f. permanent missions or other representations to intergovernmental organisations;
- g. special missions;
- h. international conferences;
- i. secretariats or other bodies established under an international treaty;
- j. independent commissions;
- k. international courts;
- l. arbitration tribunals;
- m. other international bodies.

² The Confederation may grant privileges, immunities and facilities to the following natural persons (individual beneficiaries):

- a. individuals who, whether on a permanent or a temporary basis, are called to act in an official capacity at one of the institutional beneficiaries referred to in paragraph 1 above;
- b. eminent persons carrying out an international mandate;
- c. individuals entitled to accompany one of the individual beneficiaries referred to in letters a or b, including private household employees.

Section 2 Content, Scope of Application and Duration

Art. 3 Content

¹ The privileges and immunities include:

- a. inviolability of the person, premises, property, archives, documents, correspondence and diplomatic bag;
- b. immunity from legal proceedings and the enforcement of judgments;
- c. exemption from direct taxes;
- d. exemption from indirect taxes;
- e. exemption from customs duties and other import taxes;
- f. freedom to acquire, receive, hold, transfer and convert funds, currencies, cash and other movable property;
- g. freedom of communication, movement and travel;

- h. exemption from the Swiss social security system;
- i. exemption from Swiss entry and residence requirements;
- j. exemption from all personal services, from all public service and from all military duties or obligations of any kind.

² The facilities include:

- a. the procedures for access to the employment market for the individual beneficiaries referred to in Article 2, paragraph 2, letters a and c above;
- b. the right to use a flag and an emblem;
- c. the right to issue laissez passer and to have them accepted as travel documents by the Swiss authorities;
- d. facilities of registration of vehicles.

³ The Federal Council may accord additional facilities of a more minor nature than those set out in paragraph 2 above.

Art. 4 Scope of application

¹ The personal and material scope of application of the privileges, immunities and facilities shall be determined case by case in the light of:

- a. international law, Switzerland's international obligations, and international practice;
- b. the beneficiary's legal status and the importance of its role in international relations.

² Exemption from direct taxes may be granted to all the beneficiaries referred to in Article 2 above. However, in the case of individual beneficiaries within the meaning of Article 2, paragraph 2 who are Swiss nationals, the exemption shall be granted only if the institutional beneficiary to which they are called has adopted an internal tax system of its own, provided that this condition is in accordance with international law.

³ Exemption from indirect taxes may be granted to all beneficiaries referred to in Article 2 above. However, individual beneficiaries within the meaning of Article 2 paragraph 2 shall be exempted from value added tax and mineral oil tax only if they hold diplomatic status.

⁴ Exemption from customs duties and other import taxes may be granted to all the beneficiaries referred to in Article 2.

⁵ The Federal Council shall issue regulations on entry into Switzerland, residence and work for the individual beneficiaries referred to in Article 2, paragraph 2, subject to what is permissible under international law.

Art. 5 Duration

The duration of privileges, immunities and facilities may be limited.

Section 3

Requirements for Granting Privileges, Immunities and Facilities

Art. 6 General requirements

An institutional beneficiary may be accorded privileges, immunities and facilities if:

- a. it has its headquarters or a branch in Switzerland or carries out activities in Switzerland;
- b. its purposes are not for profit and are of international utility;
- c. it carries out activities in the sphere of international relations; and
- d. its presence in Switzerland is of special interest to Switzerland.

Art. 7 International institutions

An international institution may be accorded privileges, immunities and facilities if it:

- a. has structures similar to those of an intergovernmental organisation;
- b. performs functions of a governmental nature or functions typically assigned to an intergovernmental organisation; and
- c. enjoys international recognition in the international legal order, and in particular under an international treaty, a resolution of an intergovernmental organisation or a policy document adopted by a group of States.

Art. 8 Quasi-governmental international organisations

A quasi-governmental international organisation may be accorded privileges, immunities and facilities if:

- a. a majority of its members are states, organisations governed by public law, or entities performing functions of a governmental nature;
- b. it has structures similar to those of an intergovernmental organisation; and
- c. it operates in two or more States.

Art. 9 International conferences

An international conference may be accorded privileges, immunities and facilities if:

- a. it is convened under the aegis of an intergovernmental organisation, an international institution, a quasi-governmental international organisation, a secretariat or any other body established by an international treaty, under the aegis of Switzerland or at the initiative of a group of States; and
- b. a majority of participants represent States, intergovernmental organisations, international institutions, quasi-governmental international organisations, secretariats or other bodies established by international treaty.

Art. 10 Secretariats or other bodies established by international treaty

A secretariat or other body may be accorded privileges, immunities and facilities if it is established under an international treaty which assigns to it certain tasks with a view to the implementation of that treaty.

Art. 11 Independent commissions

An independent commission may be accorded privileges, immunities and facilities if:

- a. its legitimacy derives from a resolution of an intergovernmental organisation or of an international institution, or if it was established by a group of States or by Switzerland;
- b. it enjoys broad political and financial support among the international community;
- c. its mandate is to examine an issue of importance to the international community;
- d. its mandate is limited in time; and
- e. the granting of privileges, immunities and facilities contributes substantially to the fulfilment of its mandate.

Art. 12 International courts

An international court may be accorded privileges, immunities and facilities if it is established under an international treaty or by a resolution of an intergovernmental organisation or of an international institution.

Art. 13 Arbitration tribunals

An arbitration tribunal may be accorded privileges, immunities and facilities if:

- a. it is established under an arbitration clause in an international treaty or under an agreement between the subjects of international law who are parties to the arbitration; and
- b. the parties to the arbitration referred to in letter a above can show a particular need for the arbitration tribunal to sit in Switzerland.

Art. 14 Other international bodies

Any other international body may by way of exception be accorded privileges, immunities and facilities if:

- a. it works closely with one or more intergovernmental organisations or international institutions based in Switzerland or with States in carrying out tasks which are normally the responsibility of those intergovernmental organisations, international institutions or States;