

FREQUENTLY ASKED QUESTIONS
CONCERNING THE PRIVILEGES AND IMMUNITIES GRANTED TO PARTICIPANTS
IN THE SECOND PHASE OF THE
WORLD SUMMIT ON THE INFORMATION SOCIETY

1) **Question: Is there any category of Summit participants who do not enjoy privileges and immunities?**

Answer: No. Since the Summit is being held under the auspices of the United Nations, the Government of the host country, in signing the Host Country Agreement, has formally undertaken to guarantee **all** participants, including duly accredited observers representing NGOs, civil society entities and private sector businesses, privileges and immunities at least equivalent to those traditionally granted at major United Nations system summits or conferences. Naturally, the scope of such privileges and immunities will vary according to the respective statuses of the participants concerned. Similarly, duly accredited media representatives shall enjoy the facilities generally granted to them at such summits or conferences (see question 12 below).

2) **Question: What privileges and immunities are enjoyed by representatives of States?**

Answer: Pursuant to Article IV.1a) of the Host Country Agreement, representatives of Member States of the United Nations enjoy “*the privileges and immunities provided for in Sections 11 and 12 of Article IV of the 1946 Convention*” on privileges and immunities of the United Nations. Pursuant to Article IV.1.b) of the Host Country Agreement, representatives of States which are not members of the United Nations shall enjoy “*the privileges and immunities provided for in Sections 13 and 14 of Article V of the 1947 Convention*” on privileges and immunities of the specialized agencies.

These privileges and immunities include, inter alia, immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind, i.e. functional immunity; inviolability for all papers and documents; the right to use codes and to receive papers for correspondence by courier or in sealed bags; the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

It should be noted that, pursuant to Section 12 of the 1946 Convention and Section 14 of the 1947 Convention, in order to secure for representatives of States complete freedom of speech and complete independence in the discharge of their duties, the above-mentioned functional immunity from legal process shall remain valid beyond the end of the Summit itself.

3) **Question: What is the scope of the privileges and immunities granted to observers representing the specialized agencies, IAEA, WTO, the Preparatory commission for the Comprehensive Nuclear-Test-Ban Treaty Organization and the Organisation for the Prohibition of Chemical Weapons?**

Answer: Pursuant to Article IV.2 of the Host Country Agreement, such observers enjoy “*the privileges and immunities provided for in Articles VI and VIII of the 1947 Convention*” on privileges and immunities of specialized agencies.

These privileges and immunities include, for instance, immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity, i.e. functional immunity from legal process.

4) Question: What is the scope of the privileges and immunities granted to observers representing non-governmental organizations, civil society entities and private sector businesses?

Answer: These privileges and immunities shall be at least equivalent to those that have been granted to them at past United Nations summits, since they enjoy “*immunity of legal process in respect of words spoken or written and all acts done by them in their capacity as participants in the second phase of the Summit*” (Article IV.3 of the Host Country Agreement), i.e. functional immunity. It should be noted that this immunity applies to all entities directly accredited for the Summit or accredited through ECOSOC, and to all ITU Sector Members.

5) Question: What is the purpose of functional immunity?

Answer: Its purpose is to ensure that such observers may participate “*with complete independence in the second phase of the Summit*” (Article IV.3 of the Host Country Agreement).

6) Question: Which authority is empowered to waive such immunity?

Answer: Only the Secretary-General of the Summit is so empowered. However, he will do so only “*in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the purpose for which it is granted*” (Article IV.3 of the Host Country Agreement), i.e. if he deems that the immunity can be waived without undermining the complete independence that the observer concerned shall enjoy in respect of participation in the second phase of the Summit.

7) Question: Is the immunity from legal process limited in space and time?

Answer: No. By its very nature, functional immunity from legal process is defined in relation to the functions or mission for which it is granted and not the place where these functions or missions are accomplished or take place. Furthermore, the immunity from legal process shall continue to be granted after the person concerned has ceased exercising his/her functions or has completed his/her mission.

8) Question: Has the host country undertaken not to restrict entry, sojourn and free circulation of Summit participants on Tunisian territory?

Answer: Yes, pursuant to Article III.1 of the Host Country Agreement, the Government has undertaken to grant all Summit participants and duly accredited media representatives “*authorization to enter Tunisia and remain there throughout the whole duration of the functions or mission incumbent upon them in relation to the second phase of the Summit*”. Furthermore, the host Government has undertaken to “*take all necessary measures to issue the necessary visas and authorizations free of charge ... without delay and to facilitate free access and free circulation on Tunisian territory [for Summit participants and media representatives]*”.

9) Question: Is it possible to obtain visas on entry into Tunisia?

Answer: Article III.1 of the Host Country Agreement indeed provides that “*visas may, where necessary, be issued at points of entry into Tunisia*”.

10) Question: Is the commitment undertaken by the host country Government not to restrict entry, sojourn and free circulation of participants on Tunisia’s territory absolute?

Answer: No. Article V.1 of the Host Country Agreement acknowledges the host country’s right “*to take all due necessary precautions and measures in the interests of security and public order on Tunisian territory*”. Nonetheless, it should be emphasized that Article V.2 of the Agreement stipulates that the Government must contact the Secretary-General of the Union at the earliest

possible opportunity “in order to determine in collaboration with him the necessary measures to safeguard the interests of the Union and smooth functioning of the second phase of the Summit”. In other words, any measure taken by the Government of the host country under Article V that may have an impact on the functioning of the second phase of the Summit must be taken in collaboration with the Secretary-General of the Union. It should be pointed out that provisions of this type appear in various headquarters agreements concluded by the specialized agencies (ILO, FAO, ITU, WMO, ICAO, etc.).

11) Question: Is the principle of inviolability of the territory of the Summit recognized by the Host Country Agreement?

Answer: Yes,. The Summit perimeter is placed “under the exclusive authority of the Secretary-General of the Union (Article I.4 of the Host Country Agreement). Furthermore, pursuant to Article IV.5 of that Agreement, “the Summit perimeter is deemed to constitute an integral part of the Union’s premises”. Accordingly, “access thereto is placed under the authority and control” of the Secretary-General of the Union. Similarly, “the Summit perimeter is inviolable”.

12) Question: Do accredited media representatives enjoy specific measures under the Host Country Agreement?

Answer: Yes. First of all, Article III.1 of the Agreement also applies to accredited media representatives (no restriction on entry, sojourn and free circulation on Tunisia’s territory). Furthermore, Article IV.7 of the Agreement provides that the Government shall authorize the temporary importation “of the technical equipment required for their professional activity” free of duties and taxes.

Finally, the Appendix on communication, which is an integral part of the Agreement, enshrines the principle that the host country Government shall provide all journalists accredited to the Summit with conditions enabling them to exercise “their profession with complete independence pursuant to Article 19 of the Universal Declaration of Human Rights”. This commitment is not limited either in space or in time.

13) Question: Is the “Citizen Summit in Tunis” a parallel Event to the Summit ?

Answer: No. Consequently, the provisions of the Host Agreement between the Government of Tunisia and ITU do not apply to the “Citizen Summit in Tunis”.
