Agenda item 9

Progress report on the establishment of the UNWTO Regional and Thematic Offices

The UNWTO is going green. All General Assembly documents are available on the UNWTO website at www.unwto.org or use the Quick Response code here.

A/25/9 Add.1
Samarkand, 17 October 2023
Original: English

Executive summary

Further to document A/25/9 rev.1, the present document informs the General Assembly about the status of the drafting process of the Host Country Agreement between UNWTO and the Federative Republic of Brazil concerning the Regional Office for the Americas in Rio de Janeiro.

Action by the General Assembly

DRAFT RESOLUTION

The General Assembly,

Having examined the Addendum A/25/9 Add.1,

1. Ratifies the decision of the Executive Council on the approval of the Host Country Agreement between UNWTO and the Federative Republic of Brazil concerning the legal framework for the Regional Office for the Americas in Rio de Janeiro;

2. Endorses the decision of the Executive Council that the entry into force of the Host Country Agreement between UNWTO and the Federative Republic of Brazil concerning the legal framework for the Regional Office for the Americas in Rio de Janeiro shall be subject to the conclusion of the supplementary agreement between UNWTO and the Federative Republic of Brazil on the financial and administrative arrangements of the Office, and completion by Brazil of the internal procedures necessary for the establishment of the Office in accordance with the legal and operational framework adopted by the General Assembly in resolution 740(XXIV);

3. Authorizes the Secretary-General to sign the Host Country Agreement between UNWTO and the Federative Republic of Brazil concerning the legal framework for the Regional Office for the Americas in Rio de Janeiro subject to the abovementioned conditions; and

1 This is a draft resolution. For the final resolution adopted by the Assembly, please refer to the Resolutions document issued at the end of the session.
2 Paragraph subject to the corresponding decision to be adopted at the 119th session of the Executive Council (17 October 2023, Samarkand, Uzbekistan). Find the draft decisions in the following link: www.unwto.org/events/119-executive-council
3 Ibid.
4 Ibid.
4. *Urges* the Government of Brazil and the Secretariat to continue negotiations to finalize the supplementary agreement concerning the financial and administrative arrangements of the Office and to complete all other procedures required to allow for the entry into force of the Host Country Agreement.
I. The draft Host Country Agreement on the Regional Office for the Americas in Rio de Janeiro

1. In its decision 5(CXV), the 115th session of the Executive Council approved, subject to the ratification of the General Assembly, the establishment of a Regional Office in Brazil, provided that it is in compliance with the legal and operational framework governing Regional and Thematic Offices, as adopted by the General Assembly through resolution 740(XXIV) (hereinafter “the Framework”).

2. Following negotiations between the Secretariat and the Government of Brazil dating back to 2021, the Agreement between UNWTO and the Federative Republic of Brazil has been divided into two parts, as done with that with the Government of Morocco on the Regional Office in Marrakech: (i) the Host Country Agreement establishing the legal framework for the Regional Office in Rio de Janeiro (hereafter referred to as “the Host Country Agreement”), and (ii) a separate written agreement on the financial and administrative arrangements of the Office (hereafter referred to as “the Separate Agreement”).

3. As also foreseen in the draft Host Country Agreement on the Regional Office in Marrakech, the Host Country Agreement on the Regional Office in Rio de Janeiro will enter into force upon meeting the following requirements: (i) approval by the Executive Council, pending ratification by the General Assembly, (ii) written notification by the Government of Brazil of completion of its internal procedures necessary for it to become effective, and (iii) entry into force of the Separate Agreement.

4. The Secretariat has received on 13 October 2023 a final draft version of the draft Host Country Agreement to be concluded within the framework of the 25th session of the General Assembly.

5. The Secretariat notes with appreciation that the Government of Brazil undertakes to apply to UNWTO the benchmark generally enjoyed by the organizations of the United Nations system in the territory of Brazil, to the point of exceeding the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies (hereinafter “the Specialized Agencies Convention”), for example, in connection with the privileges, immunities, exemptions and facilities of officials who are not Brazilian nationals or permanent residents of Brazil.

6. Nevertheless, Brazil has requested that the privileges and immunities of experts on mission who are Brazilian nationals or permanent residents of Brazil be limited to their official acts, which restricts the scope of privileges and immunities granted to these individuals by paragraph 3 of the Annex XVIII of the Specialized Agencies Convention.

7. Consequently, the above-mentioned provision under Article 6(7) of the draft Host Country Agreement is submitted to the consideration of the Executive Council and the General Assembly to provide instructions to the Secretariat for the conclusion of the Host Country Agreement.

8. The Secretariat and the Government of Brazil will continue in the negotiations of the Separate Agreement and other procedures necessary for the entry into force of the Host Country Agreement and the establishment of the Regional Office in Rio de Janeiro.

Status of Experts on Mission who are Brazilian nationals or permanent residents of Brazil

1. The following provision has been introduced by Brazil under Article 6(7) of the draft Host Country Agreement:

   “In the case of [experts] referred to in paragraph 6, if they are Brazilians or permanent residents in Brazil, they will only enjoy the privileges and immunities relating to official acts carried out in the performance of their functions.”
2. Through said provision, Brazil is introducing a restriction to the privileges and immunities afforded to Experts on Mission⁵ who are Brazilian nationals or permanent residents of Brazil, as opposed to other Experts on Mission. Consequently, Experts on Mission are accorded the privileges and immunities “provided to other experts of United Nations and other specialized agencies”, in accordance with Article 6(6) of the draft Host Country Agreement; except those who hold Brazilian nationality or permanent residence of Brazil, who will “only enjoy the privileges and immunities relating to official acts carried out in the performance of their functions”.

3. According to the Framework,⁶ individuals with the status of “Expert” — there being no discrimination by reason of nationality or permanent residence — shall enjoy such privileges and immunities as are necessary for the independent and effective exercise of their functions and, in particular, those provided for under paragraph 3 of the Annex XVIII of the Specialized Agencies Convention.

4. Based on the language of Article 6(7) of the draft Host Country Agreement, Experts on Mission who are Brazilian nationals or permanent residents of Brazil will be accorded the following privileges and immunities relating to official acts carried out in the performance of their functions:

- Immunity from legal process of every kind in respect of words spoken or written or acts done by them in the performance of their official functions, such immunity to continue notwithstanding that the person concerned is no longer serving on organs and bodies of, or employed on mission for the Organization (paragraph 3(b) of the Annex XVIII).

- Inviolability for all papers and documents relating to the work on which they are engaged for the Organization (paragraph 3© of the Annex XVIII).

- For the purpose of their communications with the Organization, the right to use codes and to receive papers or correspondence by courier or in sealed bags (paragraph 3(d) of the Annex XVIII).

* * *

⁵ According to Article 6(6) of the draft Host Country Agreement, Experts may be defined as individuals, other than officials and Office personnel, serving on organs or bodies of, or performing missions for, the Organization.

⁶ Paragraph 23.