

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ESTATE OF SHA'ARABANY, *et al.*,

Plaintiffs,

v.

UNITED NATIONS RELIEF AND WORKS  
AGENCY FOR PALESTINE REFUGEES IN  
THE NEAR EAST (UNRWA), *et al.*,

Defendants.

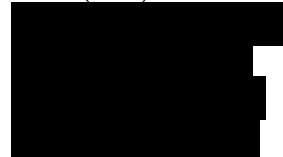
Case No. 1:25-cv-02490-RCL

**Oral Argument Requested**

**DEFENDANT UNRWA'S RESPONSE TO THE  
STATEMENT OF INTEREST OF THE UNITED STATES**

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Defendant UNRWA submits this Response to the Government's Statement of Interest dated April 3, 2026.<sup>1</sup>

### **PRELIMINARY STATEMENT**

The Government has filed in opposition to UNRWA's Motion to Dismiss a Statement of Interest that largely repeats arguments already rejected in *Estate of Tov by Kedem v. United Nations Relief & Works Agency*, 807 F. Supp. 3d 208 (S.D.N.Y. 2025) ("*Siman Tov*"). This Statement of Interest is striking in its incompatibility with Plaintiffs' arguments. Contrary to Plaintiffs, the Government acknowledges both that CPIUN immunity encompasses the UN's principal and subsidiary organs, and that subsidiary organs need not separately make any "*prima facie*" showing under various purported IOIA requirements before qualifying for CPIUN immunity. These acknowledgments undermine the foundation of Plaintiffs' arguments.

The Government proposes a novel functional immunity test that would condition a subsidiary organ's immunity on whether it performs purely "deliberative" functions. But this test finds no support in the relevant treaties and is contradicted by uniform caselaw upholding the immunity of subsidiary organs that perform a broad range of operational functions. In the face of these authorities, the Government misreads the UN Charter and contradicts the Government's own prior consistent policy positions to conflate UNRWA with "specialized agencies," and, alternatively, asks this Court to recognize some supposed other type of organization found nowhere in the UN Charter or anywhere else. These arguments are wrong because the UN Charter grants the General Assembly the power under Article 22 to establish only subsidiary

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<sup>1</sup> Unless otherwise defined herein, capitalized terms have the meanings ascribed to them in UNRWA's opening brief. ECF No. 27-1.

organs as integral parts of the UN. The UN Charter does not grant the General Assembly the power to create entirely new organizations separate from the UN. Nor has this happened.

Finally, the Government's position warrants no deference because it contradicts the plain text of the CPIUN and is starkly inconsistent with the Government's prior long-standing recognition that the General Assembly may establish subsidiary organs with operational functions, including UNRWA, which the Government reaffirmed as recently as 2024 in *Siman Tov* by initially supporting that UNRWA is a subsidiary organ entitled to absolute immunity under the CPIUN.

### **ARGUMENT**

#### **I. The Government's Positions Undermine Plaintiffs' Arguments**

The Government acknowledges key legal points that undermine Plaintiffs' meritless arguments opposing UNRWA's Motion to Dismiss.

First, the Government acknowledges that the UN is a single organization comprised of its principal and subsidiary organs, and that the CPIUN provides an "absolute shield" of immunity for the organization as a whole, including the "principal and subsidiary organs." ECF No. 46 at 3-5. Thus, the Government rejects Plaintiffs' argument that the CPIUN somehow immunizes only the "United Nations" while excluding its constituent organs. ECF No. 29 at 24; ECF No. 41-1 at 4. Second, the Government acknowledges that a subsidiary organ's absolute immunity under the CPIUN is independent of the IOIA or any other legislation. ECF No. 46 at 4-5. Thus, the Government rejects Plaintiffs' argument that a subsidiary organ must first make a "*prima facie*" showing that it separately meets various purported IOIA requirements before it qualifies for CPIUN immunity. ECF No. 29 at 26; ECF No. 41-1 at 5.

## II. UNRWA Is Entitled to Absolute Immunity Under the CPIUN

### A. The General Assembly Established UNRWA as a Subsidiary Organ

The Government asks this Court to devise a novel functional immunity test, without any legal precedent or foundation, to determine whether UNRWA is a subsidiary organ based on whether UNRWA performs functions that are “derivative” of its principal organ, the General Assembly. ECF No. 46 at 7. According to the Government, the General Assembly is limited to “deliberative” functions with no ability to perform operational functions, and UNRWA supposedly exceeds these limits by operating a direct relief and works program. *Id.* The Government’s proposed functional immunity test is a mere reformulation of its prior argument that UNRWA’s functions make it a specialized agency, which, as explained below, is meritless and was correctly rejected by the court in *Siman Tov*. 807 F. Supp. 3d at 220-23. Subsidiary organs are not subject to *any* functional immunity test as such a test would be contrary to the CPIUN’s grant of absolute immunity and is inconsistent with the uniform caselaw dismissing cases against the UN’s subsidiary organs. *See* ECF No. 38 at 11-13.

The plain and unambiguous text of Article II of the CPIUN grants *absolute* immunity (not functional immunity) to subsidiary organs of the UN, such as UNRWA. *See, e.g., Brzak v. UN*, 597 F.3d 107, 112 (2d Cir. 2010); *Siman Tov*, 807 F. Supp. 3d at 218-19. Nothing in the text of the CPIUN provides for any inquiry into the functions of the UN or its subsidiary organs, much less conditions the grant of immunity on such an inquiry. In short, the Government’s proposed functional immunity test must be rejected as it would contravene the plain language of the CPIUN.

Furthermore, Article 22 of the UN Charter grants the General Assembly unrestricted power to “establish such subsidiary organs as it deems necessary for the performance of its

functions.” UN Charter art. 22. The phrase “as it deems necessary” makes clear that the General Assembly alone has broad discretion to determine whether a subsidiary organ is “necessary.” See *In re Lind*, No. M-18-304, 1964 U.S. Dist. LEXIS 8854, at \*8 (S.D.N.Y. Jan. 2, 1964) (finding statutory language “as it deems necessary” was “very broad” and left the determination of what steps were “necessary” to agency’s discretion). Thus, by establishing a subsidiary organ via resolution, the General Assembly conclusively “deems” that the organ is necessary for its functions. Nothing in the UN Charter or the CPIUN grants domestic courts of one Member State any authority to override the multilateral General Assembly’s determination, let alone purport to unilaterally alter the legal status of a subsidiary organ or deny it immunity under the CPIUN.

Additionally, adopting a functional immunity test would impermissibly frustrate the object and purpose of the CPIUN. Treaties must be liberally construed to give effect to their purpose. *United States v. Stuart*, 489 U.S. 353, 368 (1989) (“Even where a provision of a treaty fairly admits of two constructions, one restricting, the other enlarging, rights which may be claimed under it, the more liberal interpretation is to be preferred.”) (quoting *Bacardi Corp. of America v. Domenech*, 311 U.S. 150, 163 (1940)); *In re Korean Air Lines Disaster*, 829 F.2d 1171, 1176 (D.C. Cir. 1987). See also *Bank of N.Y. v. Yugoimport*, 745 F.3d 599, 611-12 (2d Cir. 2014); Vienna Convention on the Law of Treaties art. 31(1), May 23, 1969, 1155 U.N.T.S. 331. The purpose of granting absolute immunity is to create a uniform global standard and to avoid subjecting the UN’s organs to potentially divergent legal standards and conflicting decisions across the UN’s 193 Member States. See Lori F. Damrosch, *The Trump Administration Reverses U.S. Position on UNRWA Immunities*, 119 Am. J. Int’l L. 790, 791 (2025); see also *Structure of the United Nations and the Relations of the United States to the United Nations: Hearings Before the H. of Rep. Comm. on Foreign Affs.*, 80th Cong. 509 (1948)

(letter from Ernest A. Gross, Legal Adviser to State Department) (explaining that UN is granted immunity “so that it may function effectively as a world organization untrammelled in its operation by national requirements of reciprocity or national measures of retaliation among states.”). In fact, the U.S. Government took this very position in *Georges v. UN*, 834 F.3d 88 (2d Cir. 2016) , stating that the purpose of the CPIUN is to:

confer[] absolute immunity on the UN to allow it to perform its vital missions without facing the threat of lawsuits in multiple countries, contradictory court orders issued by tribunals around the world, judicial intervention in sensitive policy and operational matters, and the diversion of resources (provided by the Member States) to the burdens and expenses of litigation.

U.S. Br. at 2, *Georges*, 834 F.3d 88 (No. 15-455-cv), Dkt. No. 199.

The Government’s proposed functional immunity test also cannot be squared with the caselaw. Courts have uniformly upheld the absolute immunity of subsidiary organs under the CPIUN that perform operational functions similar to UNRWA, such as UNHCR, which has over 14,000 personnel<sup>2</sup> who administer aid to refugees, *see Brzak v. UN*, 551 F. Supp. 2d 313 (S.D.N.Y. 2008), *aff’d*, 597 F.3d 107 (2d Cir. 2010); UNICEF, which has over 17,000 personnel<sup>3</sup> who administer humanitarian aid to children, *see In re Hunter*, 800 N.Y.S.2d 347, 347 (N.Y. Sup. Ct. 2004); and UNDP, which has 23,000 personnel<sup>4</sup> who work to eliminate poverty. *See Lempert v. Rice*, 956 F. Supp. 2d 17, 24 (D.D.C. 2013), *aff’d*, 618 F. App’x 3 (D.C. Cir. 2015); *Sadikoğlu v. UN Dev. Programme*, No. 11 Civ. 0294, 2011 U.S. Dist. LEXIS 120205, at \*1-2 (S.D.N.Y. Oct. 14, 2011). Notably, the Government intervened in nearly all of these cases to

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<sup>2</sup> *See History of UNHCR*, UNHCR, <https://www.unhcr.org/us/about-unhcr/overview/history-unhcr> (last visited April 21, 2026).

<sup>3</sup> *See Who We Are*, UNICEF, <https://www.unicef.org/who-we-are> (last visited April 21, 2026).

<sup>4</sup> *See Annual Report 2024*, UNDP, <https://annualreport.undp.org/> (last visited April 21, 2026).

seek dismissal on immunity grounds under the CPIUN. For example, in *Sadikoğlu*, the plaintiff argued that UNDP was not entitled to immunity because the claims were based on alleged conduct that was not necessary for the fulfillment of the UN's purposes. *See* U.S. Br. at 10-11, *Sadikoğlu*, 2011 U.S. Dist. LEXIS 120205 (No. 11-cv-294), Dkt. No. 40. In response, the Government explained that the plaintiff was incorrect and that adopting such a functional immunity standard would conflict with the plain language of the CPIUN, which grants absolute immunity to UNDP as a subsidiary organ of the General Assembly. *Id.* The Government makes no attempt to reconcile its proposed functional immunity test here with its past representations that such a functional immunity test is barred by the plain language of the CPIUN.

The Government nevertheless argues that the uniform caselaw cited above is somehow distinguishable on the grounds that the subsidiary organs at issue in those cases are supposedly different from UNRWA in terms of their specific functions, funding, and relationship to the General Assembly. ECF No. 46 at 10, 14-15. The Government's distinctions are illusory. They are also irrelevant under the UN Charter and the CPIUN. The UN Charter makes clear that UNRWA's status as a subsidiary organ follows solely from its establishment by resolution of the General Assembly. *See Siman Tov*, 807 F. Supp. 3d at 222 ("UNRWA was established by the General Assembly under G.A. Res. [1302 (IV) (Dec. 8, 1949) pursuant to the General Assembly's powers under Article 22 of the U.N. Charter"). It does not depend on any of the factors raised by the Government. *See* William Dale, *UNRWA: Subsidiary Organ of the United Nations*, 23 Int'l & Comp. L.Q. 576, 578 (1974) (subsidiary organs are "founded by mere resolution of a principal organ"). Regardless, the Government provides no meaningful explanation on any of these factors to distinguish UNRWA from the subsidiary organs discussed above. In particular, the Government does not explain why those subsidiary organs' operational

functions would be derivative of the General Assembly’s functions yet UNRWA’s somehow would not be. Nor does the Government explain why UNRWA receiving funding from sources outside the UN budget would disqualify it as a subsidiary organ, despite UNRWA receiving a higher percentage of its funding from the UN’s regular and assessed budget than similar subsidiary organs such as UNICEF, UNDP and UNHCR that are funded entirely (or almost entirely) by voluntary contributions from donors.<sup>5</sup> Nor does the Government explain why UNRWA in particular has an insufficiently close “relationship to the General Assembly,” given that the General Assembly exercises control by, for example, defining UNRWA’s mandate through resolutions, *see* G.A. Res. 78/74 (Dec. 7, 2023), approving UNRWA’s budget, and requiring regular reports from UNRWA’s Commissioner General, *see* G.A. Res. 78/254 A-C, § 26 (Dec. 22, 2023). *See, e.g.*, Rep. of the Commissioner-General of UNRWA to the General Assembly on its Eightieth Session – 1 January to 31 December 2024, UN Doc. A/80/13 (2025). Also, at the request of the General Assembly, the UN Secretary-General appoints UNRWA’s Commissioner-General and approves UNRWA’s staff regulations and rules. G.A. Res. 302 (IV), ¶ 9 (Dec. 8, 1949). Changes to those rules may only be made with the agreement of the Secretary-General. *Id.* And the General Assembly ultimately retains full power to modify UNRWA’s mandate, composition, and structure or to discontinue it entirely.<sup>6</sup>

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<sup>5</sup> *See Funding to UNICEF*, UNICEF, <https://www.unicef.org/partnerships/funding> (last visited April 21, 2026); *UNDP Funding*, UNDP, <https://www.undp.org/funding> (last visited April 21, 2026); *Global Funding Overview as at 31 December 2025*, UNHCR, <https://www.unhcr.org/sites/default/files/2025-05/Global%20Funding%20Overview%2030%20April%202025.pdf> (last visited April 21, 2026).

<sup>6</sup> The Government also attempts to distinguish these prior cases on the grounds that “none involved the opposition” of the Government to the immunity of the subsidiary organ at issue. ECF No. 46 at 14-15. But this lack of opposition only demonstrates that the Government lacks any principled reason for objecting specifically to UNRWA’s immunity. Rather, given the

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Furthermore, the premise of the Government’s argument – that the General Assembly is limited to deliberative functions – finds no support in the UN Charter and has been definitively rejected by the UN’s principal judicial organ, the International Court of Justice (“ICJ”). As UNRWA demonstrated in its Reply, the ICJ has recognized that the powers of the principal organs are to be construed broadly, even when not expressly provided for in the Charter, to accomplish the purposes of the UN. *See* ECF No. 38 at 11-12; Application for Review of Judgement No. 158 of the UN Administrative Tribunal, Advisory Opinion, 1973 I.C.J. 166, ¶ 16 (July 12) (“[t]o place a restrictive interpretation on the power of the General Assembly to establish subsidiary organs would run contrary to the clear intention of the Charter. Article 22, indeed, specifically leaves it to the General Assembly to appreciate the need for any particular organ”); *see also* Reparation for Injuries Suffered in Service of the United Nations, Advisory Opinion, 1949 I.C.J. 174, 182-83 (April 11). These broad powers, which have been expressly given to the General Assembly by its Member States, including the United States as a founding Member, allow the General Assembly to establish subsidiary organs that perform operational functions consistent with its purposes. *See id.*; *see also* Effect of Awards of Compensation Made by the UN Administrative Tribunal, Advisory Opinion, 1954 I.C.J. 47, 58, 60-61 (July 13).

Applying this reasoning, the ICJ has repeatedly confirmed the General Assembly’s power to establish subsidiary organs with operational functions. For example, in 1962 the ICJ issued an opinion confirming that the General Assembly had the power to establish the “United Nations Emergency Force,” which was a military and peacekeeping force organized to secure and

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Government’s repeated recognition in prior cases that CPIUN immunity covers subsidiary organs of the General Assembly regardless of whether they perform operational functions – including in its first two Statements of Interest in *Siman Tov* supporting UNRWA’s immunity – the Government’s abrupt reversal of course as to UNRWA lacks credibility.

supervise the cessation of hostilities during the Suez Crisis. *See* Certain Expenses of the United Nations (Article 17, paragraph 2, of Charter), Advisory Opinion, 1962 I.C.J. 151, 165, 179-80 (July 20). The ICJ expressly refused to limit the General Assembly to “discussion, consideration, the initiation of studies and the making of recommendations,” and, instead, recognized that the General Assembly could take actions with “dispositive force and effect” concerning “international peace and security.” *Id.* at 163. Regarding UNRWA specifically, the ICJ recently confirmed that UNRWA is a “subsidiary organ of the United Nations” that “has been entrusted by the General Assembly to provide direct relief and work programmes for Palestine refugees,” and furthermore that UNRWA is entitled to immunity under the CPIUN. *See* Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory, Advisory Opinion, 2025 I.C.J. 6, ¶¶ 177, 186 (Oct. 22).

Although the Government summarily dismisses the opinions of the ICJ, ECF No. 46 at 13, the Government ignores (as UNRWA has previously noted) that the ICJ is responsible for settling disputed interpretations of the CPIUN, *see* CPIUN art. VIII, § 30, and that the ICJ’s opinions are “accorded great weight” in understanding international law. *See* ECF No. 38 at 8; *Exxon Mobil Corp. v. Corp. Cimex, S.A.*, 111 F.4th 12, 27 (D.C. Cir. 2024), *cert. granted*, 222 L. Ed. 2d 1240 (U.S. 2025).

Nor does the Government provide any authorities that would contradict the authoritative views of the ICJ. Rather, the Government selectively quotes scholarly works addressing the legal structure of the UN, but does not accurately represent the conclusions of those works. *See* ECF No. 46 at 2, 6, 14-15. This very scholarship only further confirms that the General Assembly has the power to create subsidiary organs with operational functions, and that

UNRWA is such a subsidiary organ. For example, *Article 22* by Daniel-Erasmus Khan concludes that the General Assembly has “the competence to transfer specific operational activities to subsidiary organs” to serve its objectives, and specifically that UNRWA is a subsidiary organ that serves the General Assembly’s objective of the “protection of refugees.” Daniel-Erasmus Khan, *Article 22, in The Charter of the United Nations: A Commentary* 995-96 (Bruno Simma et al., 2024). Likewise, William Dale’s article *UNRWA – A Subsidiary Organ of the United Nations* concludes that UNRWA is a subsidiary organ entitled to immunity under the CPIUN and was properly established under the General Assembly’s power to establish subsidiary organs with a broad range of operational functions such as “administering relief, rehabilitation and assistance programmes . . . truce supervision and peace-keeping, of reconstruction after fighting, of promoting international trade and industrial development, and of a world food programme.” Dale, *UNRWA: Subsidiary Organ of the United Nations, supra* at 576-78, 590.<sup>7</sup> The Government ignores these conclusions of its own authorities.

**B. UNRWA is Not a Specialized Agency Nor Any Other Type of International Organization Separate from the UN**

The Government does not contend that UNRWA actually is a specialized agency under the UN Charter. ECF No. 46 at 13-14. Nor could the Government plausibly do so because UNRWA was not established by separate “intergovernmental agreement” nor “brought into relationship” with the UN under Articles 57 and 63 of the UN Charter, but rather established as a subsidiary organ by resolution of the General Assembly under Article 22. Nevertheless, the Government argues that UNRWA can somehow be equated with a specialized agency for

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<sup>7</sup> The Government relies heavily on dicta in *Flores v. S. Peru Copper Corp.*, 414 F.3d 233, 259 (2d Cir. 2003), which held that a plaintiff could not predicate an Alien Tort Claims Act action on non-binding General Assembly resolutions. ECF No. 46 at 7. It does not mention Article 22 of the UN Charter or the functions of subsidiary organs. It is irrelevant.

immunity purposes because, in the Government's view, UNRWA looks "more like" a specialized agency than a subsidiary organ. ECF No. 46 at 10. This argument is meritless and was correctly rejected by the court in *Siman Tov*. 807 F. Supp. 3d at 220-23.

There is no basis to assert that UNRWA "looks like" a specialized agency as opposed to a subsidiary organ because the UN Charter does not limit in any way the functional or structural characteristics of subsidiary organs. UNRWA has a clear status, and it is that of a subsidiary organ. And, as discussed above, UNRWA closely resembles other operational subsidiary organs that courts have previously held to be immune under the CPIUN, and whose immunity the Government does not contest. *See supra* at 5-6. Regardless, even if UNRWA somehow superficially resembled a specialized agency, this would not allow the Government to legally conflate UNRWA with a specialized agency.

The Government nevertheless attempts to overcome the legal distinctions between establishing a subsidiary organ as opposed to a specialized agency on the ground that these distinctions are mere "procedural formalities," and that the UN in practice has not adhered to any "formal division" between these categories, but has rather established a "wide range" of entities, many of which are not specifically enumerated in the UN Charter. ECF No. 46 at 14. Thus, according to the Government, even if UNRWA is not considered a specialized agency it may be still considered "some other sort of international organization" within this range that would likewise not be immune under the CPIUN. *Id.* The Government's interpretation has no foundation and is wrong.

First, the Government's speculation concerning categories of entities not enumerated in the UN Charter is predicated on a mischaracterization of commentaries on the UN's legal structure, which in fact describe only diversity among the organizational forms of the General

Assembly's subsidiary organs – not entirely new categories of entities. *See, e.g., Khan, Article 22, supra* at 982-83 (“Article 22 provides an important legal basis for the complex organizational structure of the UN . . . ‘there is considerable difficulty in classifying these organs into a systematic pattern, since there are almost as many variations in the duration, structure, functions and other characteristics as there have been subsidiary organs themselves.’”).

Second, the Government conflates the fundamental distinction between establishing a subsidiary organ of the UN and a separate international organization (*e.g.*, a specialized agency), which is not merely a “procedural formality.” Simply put, the General Assembly has authority under Article 22 to establish by resolution only its subsidiary organs, which are integral parts of the UN. ECF No. 38 at 4-7. By contrast, the General Assembly has no authority whatsoever to establish entirely separate international organizations. Rather, any such international organization could only be established by agreement of its members pursuant to a separate treaty.<sup>8</sup> Thus, the Government’s conjecture that UNRWA might be “some other sort of international organization” not enumerated in the UN Charter is wrong.

The Government also mischaracterizes General Assembly Resolution 302 (IV), which established UNRWA, as being inconsistent with UNRWA’s status as a subsidiary organ. ECF No. 46 at 12. The Government first cites as supposedly significant that Resolution 302 (IV) does not explicitly use the phrase “subsidiary organ” or invoke Article 22. *Id.* But the UN Charter does not require the General Assembly to make those specific references when establishing a subsidiary organ. Nor is it the norm for the General Assembly to do so, as demonstrated by numerous other General Assembly resolutions that establish subsidiary organs without making

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<sup>8</sup> Such an organization could then be brought into relationship with the UN under Articles 57 and 63 as a specialized agency, but it would not be covered by CPIUN immunity nor the UN’s IOIA designation, but would rather require a separate IOIA designation.

such references. *See, e.g.*, G.A. Res. 57(I) (Dec. 11, 1946) (establishing UNICEF); G.A. Res. 319 (IV) (Dec. 3, 1949) (establishing UNHCR); G.A. Res. 2029 (XX) (Nov. 22, 1965) (establishing UNDP). The Government next asserts that the language in General Assembly Resolution 302 (IV) that “calls upon” governments to accord UNRWA immunities and privileges necessary for its functions would have been unnecessary if UNRWA had immunity under the CPIUN. ECF No. 46 at 12. But Resolution 302 (IV) plainly recognizes that UNRWA is entitled to immunity and admonishes Member States to recognize that immunity, which was important considering that Resolution 302 (IV) was passed in 1949 when many nations had not yet acceded to the CPIUN (including the U.S.). Moreover, the General Assembly issued subsequent resolutions confirming that UNRWA is a subsidiary organ and entitled to immunity under the CPIUN. ECF No. 38 at 7; *Siman Tov*, 807 F. Supp. 3d at 221-22. Thus, the Government’s interpretation cannot be reconciled with these subsequent resolutions, all of which the United States supported, and some of which the United States co-sponsored or drafted. ECF No. 38 at 22. These resolutions are properly considered as part of the post-ratification understanding of the States Parties to the CPIUN. *See El Al Isr. Airlines v. Tseng*, 525 U.S. 155, 167 (1999);

Additionally, the Government argues that certain bilateral agreements that UNRWA entered into with Lebanon, Egypt and Israel suggest that these countries viewed UNRWA as outside the scope of the CPIUN, despite these agreements expressly recognizing UNRWA’s immunity. ECF No. 46 at 12. To the contrary, and as discussed in UNRWA’s Reply, the UN routinely concludes such bilateral agreements with its Member States for the purposes of its presence in a particular territory, considering local circumstances. ECF No. 38 at 9-10.

“Sometimes host agreements with subsidiary organs expressly call for the application of the

[CPIUN's] immunity provision," but this only confirms that the subsidiary organ is entitled to immunity from the jurisdiction of domestic courts. *See* August Reinisch, *Immunity of Property, Fund, and Assets*, 80 (2016).

The Government also takes out of context, as supposed evidence against UNRWA's immunity, Reinisch's observation that "sometimes courts failed to recognize the proper status of UNRWA." *Id.* at 82. In fact, Reinisch makes clear that these cases from the 1950s were wrongly decided and confirms that in many other "cases directed against . . . UNRWA, national courts applied the immunity regime of the [CPIUN], recognizing that [] UN subsidiary organs enjoy the privileges and immunities of the UN." *Id.* at 81. Furthermore, in response to the wrongly decided cases, the U.S. drafted and sponsored General Assembly resolutions expressly stating that UNRWA is a subsidiary organ and thereby confirming "the character of the Agency as a subsidiary organ of the United Nations." UN GAOR, 13th Sess., 125th mtg. ¶ 1, UN Doc. A/SPC/SR.125 (Dec. 10, 1958).

### **III. The Government's Position is not Entitled to Deference**

As UNRWA demonstrated in its Reply, the Government's position is not entitled to deference because interpreting treaty obligations under the UN Charter and the CPIUN involves questions of law that must be decided by courts. *See Kolovrat v. Oregon*, 366 U.S. 187, 194 (1961); *Turkiye Halk Bankasi A.S. v. United States*, 598 U.S. 264, 286 (2023) (Gorsuch, J., concurring) ("deference to the Executive's immunity decision[] risks relegating courts to the status of potted plants, inconsistent with their duty to say what the law is in the cases that come before them"). Deference is particularly unwarranted here because the Government's proposed functional immunity test is contrary to the plain text of the CPIUN and is inconsistent with the Government's own long-standing recognitions that the General Assembly may create subsidiary

organs with operational functions, and that UNRWA is such a subsidiary organ entitled to immunity under the CPIUN. ECF No. 38 at 20-23.

The Government nevertheless incorrectly asserts that its current position that UNRWA lacks immunity is consistent with the Government's own historical understanding of the CPIUN, but this argument cannot be reconciled with the Government's prior repeated recognition of UNRWA's immunity under the CPIUN over the many decades since its founding. ECF No. 46 at 15. In fact, the Government initially took the position in *Siman Tov* that UNRWA was entitled to absolute immunity and therefore the claims against UNRWA (which are indistinguishable from the claim here) must be dismissed with prejudice. First U.S. Statement of Interest, *Siman Tov*, 807 F. Supp. 3d 208 (No. 24-cv-04765), Dkt. No. 17. The Government's contrary position is newly minted, has not resulted from any change in UNRWA's status, privileges, and immunities, and is inconsistent with the Government's historical recognition of UNRWA's absolute immunity.

As UNRWA set out in detail in its Reply, the U.S. was heavily involved in drafting, sponsoring and otherwise supporting General Assembly resolutions confirming UNRWA's status as a subsidiary organ of the UN entitled to immunity under the CPIUN. ECF No. 38 at 22; UN GAOR, 13th Sess., 125th mtg. ¶ 1, UN Doc. A/SPC/SR.125 (Dec. 10, 1958); UN GAOR, 6th Sess., 46th mtg. ¶ 1, UN Doc. A/AC.53/SR.46 (Jan. 21, 1952); Rep. of the Special Pol. Comm., ¶¶ 8-10, UN Doc. A/3562 (1957); Rep. of the Special Pol. Comm., at 5, UN Doc. A/4342 (1959); UN GAOR, 14th Sess., 851st plen. mtg. ¶ 90, UN Doc. A/PV.851 (Dec. 9, 1959).

Additionally, the State Department made clear in a report to the President that UNRWA was part of the "UN proper." See Memorandum Prepared in the Department of State for the

White House (May 29, 1953), in *III Foreign Relations of the United States 1952-1954: United Nations Affairs*, 70-71 (Ralph R. Goodwin & William Z. Slany eds., 1979). And State Department officials then testified before Congress in the years just prior to ratification of the CPIUN that UNRWA is a subsidiary organ of the UN. *See Foreign Assistance Act of 1967: Hearing on H.R. 7099 Before the House of Rep. Committee on Foreign Affairs*, 90th Cong. 461 (Apr. 21, 1967) (statement of Hon. Joseph J. Sisco, Assistant Sec’y of State for Int’l Orgs. Affs.) (“[UNRWA] is a subsidiary organ of the United Nations, established by the General Assembly in 1949”);<sup>9</sup> *Voluntary Contributions to International Organizations and Programs: Hearing Before the Subcommittee on Foreign Operations and Related Agencies*, 90th Congr. 1617 (May 26, 1967) (statement of David Popper, Acting Assistant Sec’y of State for Int’l Orgs. Affs.) (same).<sup>10</sup>

Therefore, UNRWA’s status as a subsidiary organ of the UN entitled to the immunities of the UN was well established by the time the Senate voted to ratify the CPIUN in 1970. Although the Government asserts that the CPIUN did not “expand the universe of entities shielded by the United Nations’ existing immunity” under the IOIA, ECF No. 46 at 8, the Government does not identify any record indicating that UNRWA lacked immunity under the IOIA,<sup>11</sup> or that any senator opposed recognizing UNRWA’s immunity under the CPIUN. Rather, the Government

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<sup>9</sup> <https://babel.hathitrust.org/cgi/pt?id=umn.31951d020918173&seq=481>.

<sup>10</sup> <https://www.govinfo.gov/app/details/CHRG-90hhr80177p2>.

<sup>11</sup> The designation of the UN covered subsidiary organs of the UN, including UNRWA. At the time the IOIA was enacted, it was understood that it would be “available to meet the needs of the United Nations Organization” and “all of the privileges and immunities provided for in [the IOIA] will have to be extended . . . to the United Nations Organization.” S. Rep. No. 79-861 at 2 (1945). The UN Charter (which had been ratified only a few months prior) in Article 7 defines the United Nations Organization as comprised of the principal and subsidiary organs of the United Nations. UN Charter art. 7. The Government does not identify a single subsidiary organ that has been separately designated under the IOIA. Furthermore, courts have held that various UN subsidiary organs are also entitled to immunity under the IOIA by virtue of the designation of the UN. *See, e.g., Lempert*, 956 F. Supp. 2d at 25; *In re Hunter*, 800 N.Y.S.2d at 347.

identifies only testimony from a State Department official to the effect that “specialized agencies” were not covered by the CPIUN because they were subject to a “separate convention” that was “not before the Senate,” *i.e.*, the Convention on the Privileges and Immunities of the Specialized Agencies (“CPISA”). S. Exec. Rep. No. 91-17, at 37 (1970). But UNRWA is not a specialized agency, and is not included in the CPISA. This testimony is therefore irrelevant.

The Government also implies that the Senate would not have voted to ratify the CPIUN if it understood that the CPIUN’s immunities would cover UNRWA, supposedly due to a widespread “concern” that UNRWA was supporting “terroristic activities.” ECF No. 46 at 9. But the Government ignores that the U.S. was the single largest donor to UNRWA during the period in which the CPIUN was ratified, meaning that Congress and the President clearly supported UNRWA’s mission.<sup>12</sup> Even Senators Dodd and Scott, whom the Government references as opponents of UNRWA, did not advocate stripping UNRWA of its funding, but rather proposed conditions on this funding to exert pressure on UNRWA to revise certain practices. *See* 91 Cong. Rec. 5265 (Feb. 27, 1970) (Senator Dodd’s proposed remedy was to “not make any further *unrestricted* pledges to UNRWA”) (emphasis added); 91 Cong. Rec.

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<sup>12</sup> The U.S. was the single largest donor to UNRWA from UNRWA’s establishment in 1949 until 2018, and then again from 2021 – 2023. *See United States Announces Restoration of U.S. \$150 Million to Support Palestine Refugees*, UNRWA (April 7, 2021), <https://www.unrwa.org/newsroom/press-releases/united-states-announces-restoration-us-150-million-support-palestine>; *2021 Confirmed Pledges to UNRWA’s Programmes (Cash and In-kind) – Top 20 Donors as 31 December 2021 in USD*, UNRWA, [https://www.unrwa.org/sites/default/files/overall\\_donor\\_ranking\\_2021.pdf](https://www.unrwa.org/sites/default/files/overall_donor_ranking_2021.pdf) (last visited April 24, 2026); *2022 Confirmed Pledges to UNRWA’s Programmes (Cash and In-kind) – Top 20 Donors as 31 December 2022 in USD*, UNRWA, [https://www.unrwa.org/sites/default/files/top\\_20\\_donors\\_2022\\_overall\\_ranking.pdfm](https://www.unrwa.org/sites/default/files/top_20_donors_2022_overall_ranking.pdfm) (last visited April 24, 2026); *2023 Confirmed Pledges to UNRWA’s Programmes (Cash and In-kind) – Top 20 Donors as 31 December 2023 in USD*, UNRWA, [https://www.unrwa.org/sites/default/files/top\\_20\\_donors\\_overall\\_ranking\\_2023.pdf](https://www.unrwa.org/sites/default/files/top_20_donors_overall_ranking_2023.pdf) (last visited April 22, 2026).

17131 (May 26, 1970) (Senator Scott’s proposed remedy was to “exert pressure” on UNRWA); *see also* Rhoda Margesson & Jim Zanotti, Cong. Rsch. Serv., IF12863, UN Relief and Works Agency for Palestine Refugees in the Near East (2025) (noting that certain members of Congress “voiced concerns about some aspects of UNRWA” but still “argued that the organization’s activities are critical and advocated for continued or greater financial support.”). Regardless, none of these concerns are relevant to UNRWA’s status as a subsidiary organ entitled to immunity under the CPIUN.

The Government asserts that pre-FSIA principles of sovereign immunity dictate that UNRWA would not be seen a part of the “state itself” based on supposed “core public functions” and other factors. ECF No. 46 at 9-10. But the UN is not a foreign sovereign and its immunity cannot be determined by the Government’s speculation as to how an inapposite test would apply to its distinct structure. *See Siman Tov*, 807 F. Supp. 3d at 220 (“Immunity under the CPIUN is treaty-based, binding international law on the courts; it is not based on common law. Common law immunity . . . does not bear on the CPIUN’s grant of absolute immunity to the U.N. and its subsidiaries”). Rather, the UN’s structure must be understood by reference to the UN Charter, which recognizes that the UN encompasses both “principal organs” and “subsidiary organs.” UN Charter art. 7; ECF No. 38 at 4-5. Although the Government relies on the Senate Report to argue that the relationship between the UN and its subsidiary organs should be analogized to the relationship between a foreign state and its agencies, the Senate Report nowhere adopts such an analogy. S. Exec. Rep. No. 91-17, at 2.<sup>13</sup>

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<sup>13</sup> The Government relies on the pre-FSIA case *Kunglig Jarnvagsstyrelsen v. Dexter & Carpenter, Inc.*, 32 F.2d 195, 199 (2d Cir. 1929), which held that the plaintiff, an alleged agent of Sweden, was not entitled to sovereign immunity from counterclaims where Sweden did not assert immunity on plaintiff’s behalf. This case is irrelevant.

In sum, the historical record is clear that the U.S. consistently recognized UNRWA as a subsidiary organ of the UN entitled to absolute immunity under the CPIUN starting from UNRWA's inception in 1949 until the recent abrupt change of position in the *Siman Tov* case. The Government is entitled to advocate its new position, but it is not entitled to rewrite the prior 75-year history contradicting that position. This Court should therefore decline to accord deference to the Government's current position in consideration of the Government's clear break from its own long-standing interpretation of the CPIUN. *See* Damrosch, *The Trump Administration Reverses U.S. Position on UNRWA Immunities, supra* at 797 (“there is little credibility to the new executive position, which is at variance with the reasoned views of all prior interpreters of the treaty.”).

**CONCLUSION**

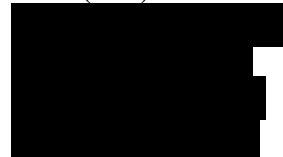
For the foregoing reasons, the Court should dismiss this case with prejudice.

Dated: Washington, D.C.  
April 24, 2026

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 24, 2026, I caused a true and correct copy of the foregoing to be filed with the Clerk of the Court using the ECF system and thereby served upon all counsel of record, including counsel for Plaintiffs.

/s/ Kevin A. Meehan

Kevin A. Meehan

Dated: April 24, 2026