

Diplomatic Ceremonial and Protocol

JOHN R. WOOD
JEAN SERRES



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PRINCIPLES, PROCEDURES & PRACTICES



JOHN R. WOOD
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To
J.E.J.J.C.
And to the memory of
JEAN SERRES
FRIEND AND CO-AUTHOR
1893-1968

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PREFACE

The termination of the Second World War set in motion the most spectacular evolution of nations which the world has ever witnessed. It brought with it radical changes in the political structure of states, in their relations with one another, in the sudden mass creation of independent entities, and a flood of personalities new to world diplomacy. We live in a streamlined world community with ever-increasing tempo, tensions and fast communications. Perhaps there never has been a time, certainly not since the Congress of Vienna, when a serious work providing practical guidance to diplomatic and consular officers, whatever their nationality, is more needed and appropriate.

Throughout most of the years of my own experience in the diplomatic and consular fields there was a comparative paucity of helpful reference works. Of course we were fortunate to have always the good old standby *Guide to Diplomatic Practice* by the Right Honourable Sir Ernest Satow, even though I fear we did not consult it as often as we should. More recently competent practitioners in the diplomatic art, such as Jules Cambon and Harold Nicolson, have made invaluable contributions.

The present work *Diplomatic Ceremonial and Protocol* is the fruit of the lengthy and varied experience of its two authors, one of whom, Jean Serres, enjoyed a distinguished career in the French diplomatic service. His associate, John R. Wood, has been able to contribute an equally comprehensive store of knowledge and experience gained over the years in the American Foreign Service with emphasis on consular activity. Thus the book is a happy compendium of useful information and guidance for both branches of the Foreign Service. The work, of course, reflects their essentially European experience and background.

The authors have not ignored some of the flavour of our times, and have noted, not without regret, the contempt manifested by certain revolutionary régimes for the amenities and tact so necessary in international relations. The authors inspire the reader's confidence in the way that only technicians can who have to their credit a wealth of practical experience.

Thus, whether in a busy Embassy in an important world centre, or

far-flung consular posts exposed to the crises and shifting trends of more remote, developing countries, *Diplomatic Ceremonial and Protocol* can provide a reassuring and authoritative word of advice on the many problems diplomatic and consular officers must face, often with little warning.

But apart from diplomats this book should prove of interest and value to many who are involved or even just interested in international affairs. The authors deserve great credit for their skill in presenting what to the layman must be a complicated and often obscure subject.

Their quotation of the maxim 'Courtesy is the most precious of jewels' could well be taken to heart by all of us living in this hurried twentieth century.

ROBERT D. MURPHY
former Under-Secretary of State, U.S.A.

INTRODUCTION

'Protocol' comes from a word the Greeks used to identify documents. But it now represents, in the complexity and change of the twentieth century, a body of social discipline without which the encounter of princes and presidents would have little relevance. For protocol brings to the meetings of world leaders a mixture of good manners and common sense which make effective communication possible.

The book which former French Ambassador Jean Serres and former American Consul-General John R. Wood have written comes at a fortunate moment. The emergence of many new nations to roles of responsibility in world affairs, and the growth of multilateral diplomacy through such institutions as the United Nations, have inevitably resulted in a proliferation of diplomatic contact. This not only highlights the importance of protocol but should also remind us that arrangements for visitors on state or official business are no less a science than an art — a science in that the refinements of protocol are at once subtle and exact; an art in that the test of protocol is that it should always be distinguished by the personal touch.

We are indeed fortunate that the distinguished authors of this book have made such constructive use of their time. It should serve as a point of ready reference for many diplomats and officials engaged in international affairs. My hope is that it will help to prevent misunderstandings from reaching crisis proportions and build confidence between men and nations.

ANGIER BIDDLE DUKE
former Chief of Protocol of the United States

FOREWORD

Ceremonial is the close observance of certain formalities. It immediately brings to mind the grandiose ceremonies publicised by the Press, radio and television; whether it be the crowning of a monarch or a pope, the inauguration of a president or the sumptuous ceremonies of oriental courts, one visualises ceremonial dress, feathered hats, braided uniforms or picturesque parades in majestic splendour. And yet there is much more to ceremonial than fanfare.

Protocol is a form of hierarchical order, the expression of good manners among nations, and just as politeness is one of the basic rules for everyday life, so protocol is the set of rules of conduct for governments and their representatives on official and on private occasions.

Hierarchy exists in all organised society. In advanced human groups, the complexities of social contacts impose respect for certain rules of behaviour; without them life could not be harmonious. In more primitive groups, as soon as the family stage is passed, a sort of hierarchical order is found which is often based on ceremonies traditionally performed by a closed caste. Hierarchy is found even among animals, as is illustrated by the social organisation of bees and termites, and the nuptial ceremonies of certain birds.

In everyday life, one of the basic principles is to maintain peaceful relations between individuals and to avoid offence. This rule is even more necessary in international relations, as the consideration and respect due to independent states and their representatives come into play. It is by acting correctly and especially by expressing oneself in a polite manner that one gains attention and respect. The late John F. Kennedy, at a time when bad manners formed a part of the diplomatic arsenal of some governments, emphasised in his inaugural address that 'politeness is not weakness'. Bismarck recalled that 'even in a declaration of war, the rules of courtesy are respected'. Jules Cambon wrote that 'in treaties of peace there is no distinction between victor and vanquished', while Khrushchev stated publicly in his own country that 'it is not with insults that we will conquer capitalism'.

The abandonment or relaxation of ceremonial or protocol is often an

expression of a desire to please. It is well known that the Vatican, which is probably the oldest court in Europe, is justly reputed for the refinement of its protocol observance. Notwithstanding, it is related that when Mrs John F. Kennedy was to visit the Vatican, the Pope informed himself as to how he might address her. He was given the choice of 'Madame la Présidente', 'Madam' or 'Mrs Kennedy'. When the door opened to his chambers the Pope, with outstretched arms, exclaimed 'Oh, Jacqueline'.

Extra-protocolar attention can also come from heads of state and other important dignitaries. It is related that the head of an African state visited the museum city of 'Colonial Williamsburg' at Williamsburg, Virginia. After being shown round one of the museums he returned to his automobile, suddenly to realise that he had not thanked his hostess. So he immediately descended from his automobile, returned to the museum, thanked his hostess and offered her the souvenir he had brought. These examples of consideration for others ought to be sufficient to show that protocol is not as inhuman as one is tempted to believe, and that persons subject to its demands know how and when to free themselves from these strict obligations when they desire to show warm, human feelings for persons whom they receive.

In writing *Diplomatic Ceremonial and Protocol*, the authors had no idea of writing a diplomatic treatise. For that, there are Sir Ernest Satow and other well-known practitioners in the field of diplomacy. It was written to serve as a reliable reference work, *in matters of ceremonial and protocol*, in the fields of foreign service as well as in home service, for individuals as well as for institutional use.

During their long and varied careers in the diplomatic and consular services of their countries the authors observed, often regretfully, the lack or inadequacy of such reliable and practical reference works of a nature suitable for diplomats, consuls and other officials in government service at home and abroad. They also observed that many high-ranking diplomats or other officials who wrote successful records of their official experiences or achievements, while endeavouring to leave in their works marks or trace of their actions, too seldom left behind any record of their experiences in methods of dealing with administrative affairs, especially in matters of ceremonial and protocol observance.

When the authors entered the foreign service, and throughout their careers, they keenly felt the existing gap and it was as a contribution to-

wards filling it that they attempted, in writing *Diplomatic Ceremonial and Protocol*, to place in the hands of their colleagues and readers the guide which they themselves would have liked to possess, a guide that they hope and believe will be useful both to the professional and non-professional, trained or untrained diplomat and consul as well as to international officials of whatever nationality, and to the student interested in foreign affairs. They also hope that it will assist those called on regularly or occasionally to maintain official or private relations with political, administrative and social affairs; as background information, so to speak, that will usefully serve newly independent nations whose individual or diplomatic language may be English but whose national traditions in diplomacy, administration and ceremonial are still in the stage of development or evolution; that it will draw the attention of public servants to what diplomats should know and what they are entitled to ask, and be a constant reminder of their obligations respecting reciprocal, professional practice, and so on.

The first part of the book is devoted to *Diplomats* and to their status; the second part to *Official Protocol* and to the rules of courtesy; the third part to *Diplomatic Action* in its various forms; and the fourth and last part to *International Organisations* and to their officials.

The authors present a short list of books, which far from exhausts the subject, which have been found of particular interest to consult or the reading of which they have greatly enjoyed.

While *Diplomatic Ceremonial and Protocol* has been written with the assistance of official services, the authors wish it to be understood that the views expressed therein are not necessarily those of their governments.

Inasmuch as the authors wished to preserve the practical character of the book, it has been written broadly on the basis of their more than four decades of professional experience and that of their colleagues. They hope that readers who do not find in the following pages a solution to problems which preoccupy them, will not hesitate to make known to the authors the difficulties which have not been covered.

The authors acknowledge with appreciation the assistance which they received from numerous colleagues and friends who co-operated and assisted in the preparation of the material for this book. They do not attempt to cite them all for fear that some might be omitted. They are especially indebted to the Honourable Robert D. Murphy, for writing the Preface and to the Honourable Angier Biddle Duke, for the

Introduction. They also acknowledge with appreciation the assistance rendered by the Department of State, through the heads of the appropriate services of the division of Protocol, the Legal Adviser's Office, the Magazine and Special Services division, Office of Media Services for Public Affairs which was especially co-operative and helpful, the Information Center Service of the United States Information Agency and others; by the Protocol Departments of the British Foreign Office, at London; by the French Ministry for Foreign Affairs, at Paris; by the Chiefs of Protocol of the United Nations Secretariat at New York and Geneva; the European Economic Community; the European Coal and Steel Community; the North Atlantic Treaty Organisation; and Supreme Headquarters Allied Powers Europe. The valuable assistance afforded by these distinguished sources contributed to a very considerable degree to the accuracy and reliability of the material in this book.

J. R. W.

J. S.

I

Diplomacy and Diplomats

The purpose of Part One of this book is to examine the protocolar status of diplomats and consuls; their privileges and immunities; the ceremonial which accompanies the assumption of functions by heads of diplomatic missions, and the relations between diplomatic missions and the ministries with which they are called upon to deal.

CHAPTER ONE

CEREMONIAL AND DIPLOMACY

General character of diplomatic actions – Diplomacy: ancient and modern – The diplomatic profession – The role of ceremonial and protocol in international relations

Ceremonial is the smoke of friendship.

Chinese proverb



GENERAL CHARACTER OF DIPLOMATIC ACTIONS

1. Diplomacy is the art of resolving international difficulties peacefully. It is also the technique or skill which reigns over the development, in a harmonious manner, of international relations. Art and technique obey conventions and rules. The ritualistic aspects of diplomatic activities have always been striking. Whereas states, governments and international organisations frequently find their interests clashing in the course of international events, their representatives, the diplomats, making use of traditional methods, apply their instructions without passion and together seek harmonious solutions to various interests – even, should the occasion arise, to pride as well.

2. The traditional rules of the diplomatic profession are, at times, considered a little old-fashioned. But is this not true of proper and well-established social customs to which all must submit, by choice or by force? 'In fact,' wrote Jules Cambon, 'all is not devoid of sense in these solemn frivolities. Foreign agents represent something higher than themselves. The honours given them are in reality addressed to the person they represent. Protocol knows neither victor nor vanquished and imposes on nations, even enemies, reciprocal respect without regard to their relative force.'* Thus the fact that protocol respects 'the dignity and independence' of weak nations, is something, after all'.† Guaranteeing to the representatives of states the immunities and precedence

* Jules Cambon, *Le diplomate*, Paris, Hachette, 1926.

† *Ibid.*

4 *Diplomacy and diplomats*

which are indispensable to them has a daily influence on their lives and their activities.

3. All too many people think that diplomats pursue the objectives of their governments by subtle device and with refined concealment, misleading their interlocutors, heads of government, ministers and colleagues. Moreover, too many people willingly repeat – with feigned belief in an old quip which cost its author dearly – that a diplomat is ‘an honest man sent to lie abroad for the good of his country’.* This was indeed the case in the period of the Renaissance. But in modern times, one of the most honourable characteristics of the diplomatic profession is that the word of an ambassador, who is expected to gain and to preserve the confidence of a foreign government, is worth more than his writings in which a quibbling and cavilling person can always find grounds for dispute. Numerous authors have disposed of such misconceptions, but the legend dies hard. They insist very firmly on the necessity for a diplomat never to tell an untruth. By profession, diplomats should know how and when to change a conversation if they see it moving towards a delicate phase of a subject. Moreover, when a diplomat is asked an insidious question, he can always decline or side-step an answer to it. What he should not do is to make false statements, whether on his own initiative or on orders from his government. As an ambassador who makes a false statement is unequivocally thrown into disrepute, is that not the best reason for his government to have the courage and the dignity to assume full responsibility for such statements? It is more likely to be in time of war, when the national interests or those of allies are at stake, that the withholding of the truth may be deemed necessary and practised.

DIPLOMACY: ANCIENT AND MODERN

4. We believe that it would be of interest to readers for us to compare ancient and modern diplomacy. We will therefore dwell briefly upon this subject.

5. The diplomatic profession is very old. Records of peace treaties and alliances are found among the most ancient historic monuments and inscriptions. Nevertheless, for a long time the relations between

* Sir Henry Wotton (1568–1639).

tribes and, later, feudal groups which took on a progressively national character, were only episodic. Missions concluded alliances, treaties of commerce, even marriages, and then returned home without leaving behind any sort of a permanent official representation. Moreover, in those days, governments did not wish to see foreign spies or agitators established permanently in their countries, whether they were friends or rivals.

6. A revolution in the relations between states took place when governments decided to maintain permanent missions in foreign capitals. This practice, which was initiated in the fifteenth century, gradually came into force as powerful and unified nations replaced feudal sovereignty. It was generalised in Europe during the seventeenth century when, following the treaties of Westphalia in 1648, the development of peaceful relations multiplied the problems to be resolved. Cardinal Richelieu was, in his *Testament politique*, the great theorist of 'permanent negotiations', and therein is found the birth of modern diplomacy.

7. The world has changed markedly since that period, particularly in the last century. It is well known that until 1914 Europe pursued, practically alone, the game of international politics. And this was largely the politics of royal courts. It should be remembered that in 1900 there were still only three republics in Europe, namely France, Switzerland and San Marino. Personal relations between sovereigns exercised a powerful influence on international relations. Some among them, more or less autocratic, were at times guided by dynastic considerations or by feelings of friendship or of antagonism towards other sovereigns or other régimes, and they deliberately pursued, side by side with the constitutional and official politics of their own governments, intrigues and manœuvres which were later revealed by the publication of official records. Government circles dealing with foreign relations were circumscribed, and secrecy was the rule. Negotiations were conducted through diplomatic missions. Ambassadors received general instructions which gave them full scope for obtaining the greatest possible success. Governments took as much time as they needed to judge events. It was rarely that a Prime Minister or a Minister for Foreign Affairs travelled to foreign countries to conduct negotiations. Such journeys, which always pursued an exceptional political objective, were prepared well in advance, and the results of the interviews which

were to be sought and then made public, had generally been decided before departure. Thus, governments could, by discreet negotiations, save face and reconcile conflicting interests, and prepare public opinion – already irritated by some particular incident – to accept an honourable compromise settlement. In fact, from 1878 to 1914, the ‘European Concert’ settled peacefully most of the great difficulties and, when necessary, unified European powers in the face of a common danger.

8. The First World War upset the established balance of power in Europe. The principal semi-autocratic European monarchies, whose rival ambitions had provoked defeat and ruin, were replaced by an upsurge of republics; while, by the use of war propaganda, the extension of the conflict introduced into stable continents new ideas which too often proved indigestible. The enlightened classes, like the mass of the people whose sufferings from the war had made them more alert, became aware of the tragic consequences to which ill-advised foreign policies would lead them. The general spread of parliamentary régimes, which resulted in the ‘Balkanisation’ of Central Europe, and the excessive nationalist passions which resulted, brought international problems to the public rostrum. The League of Nations gave the world a tribunal where such problems were raised. In succession to Carlsbad and Baden, Geneva permitted heads of new states to meet politicians with long service and to benefit from their experience. But the atmosphere in which world relations unfolded had changed. The public negotiation of treaties, unthinkable advocated by President Woodrow Wilson, promptly revealed its impracticability, and its author was the first to renounce it on his own account. Moreover, the solution to international problems was not facilitated by the public exposure of national claims. Opposing arguments, skilfully exaggerated, fed Press polemics, while territorial demands and the uneven distribution of national resources and manpower which secret understandings or family alliances had been able to adjust or conceal up to that time, were ruthlessly revealed. Governments found these conditions a convenient source of easy but short-lived internal success, or the grounds for higher demand for demagogy, which the Press accentuated. Dictators too often practised ‘diplomacy by insult’, to no one’s advantage.*

* Sir Harold Nicolson, *Diplomacy*, Oxford University Press, London, 1945. Also *The Evolution of Diplomatic Methods*, Constable, London, 1954.

The task of negotiators, instructed to find peaceful and equitable solutions to grave differences, was singularly difficult and complicated. There was little real relaxation between 1919 and 1939.

9. As if the seriousness of the disease had been its own cure governments, under the influence of the League of Nations, and later the United Nations, delegated much of their foreign affairs to international organisations of an administrative, cultural or humanitarian character, in the development of which professional diplomats took little or no interest. Thus arose, side by side with states that were becoming more and more nationalistic in outlook, a multitude of organisations in which governments, administrations or national groups of specialists of all kinds joined in seeking the solution to grave problems, sometimes of great importance to mankind. As a result, a growing number of people outside the diplomatic service became involved in international life. Nevertheless, contacts originated in this manner were frequently as fruitful for international understanding as the work of professional diplomats who were too often held in check by governments which appealed to popular agitation and the spirit of aggression.

10. The events which led to the war of 1939-45 opened the eyes of the major powers, particularly the United States, which had not wished to become associated with the old League of Nations. As soon as the conflict had ended, America set itself to the task of trying to consolidate the peace by international co-operation. It cannot be said with satisfaction that the organisations set up for this purpose have, as yet, had the desired results. Like the League of Nations, the United Nations provided a platform widely open to all governments. But the instantaneous broadcasting of debates, sometimes entire and unmonitored, facilitated by the practice of simultaneous translations, disseminated all sorts of opinions and arguments, even the most debatable. Representatives of too many states have taken advantage of that forum as a medium for political propaganda purposes rather than as an instrument of peace and goodwill. Certain delegations have rejected the diplomatic tradition of moderate language in pleading their cases. As long as governments do not appreciate the potency of moderation, as long as feelings of consideration by each state towards the community of nations do not prevail over the spirit of rivalry and dissension, the use of this public forum, so valuable on so many occasions, will all too

often serve only to reinforce tensions and accentuate discord. However, constructive work is being done in New York through the channels of conversation, of unpublicised meetings and of private interviews where negotiators can calmly seek solutions to problems which public debate often aggravated.

11. Juridical equality between states, which lays down rules of mutual regard and consideration, is not sufficient to give them parity of power and responsibilities. Moreover, despite this 'equality' situations have already arisen where the relative strength of states has had to be taken into account. In their internal proceedings, certain international organisations have already found a way of allowing for the relative importance of their members. This has undoubtedly brought about a balance of power.

12. On the other hand, thanks to rapid means of communication, heads of government and their foreign ministers do not hesitate to travel to distant parts of the world to conduct negotiations considered of major importance. This procedure is doubtless required because, at present, events sometimes move faster and farther than could be foreseen by the statesmen who initiated them. It has proved useful, but it deprives governments of that precious screen provided by diplomats who, working secretly, have more liberty of thought and discussion and who can, if needed, be reoriented, indeed disavowed. Finally, and this is by no means the least inconvenience of such practices, ministers lose contact with current affairs.

13. When considering how much international affairs are conducted in the public eye, some people may be tempted to conclude that the role of the professional diplomat has come to an end. That is going much too far. First of all, it must be remembered that international conferences are of interest only to some of the large capital cities. In the majority of diplomatic posts such meetings are never held. On the other hand, even in cities where conferences are held on the highest level, such meetings take first place for only a few days. During that time heads of mission naturally move to the background. However, they play beforehand an important role in the preparation of the meetings; assisting the ministers in debate and frequently being charged with final details and with controlling the execution of the agreements decided upon in principle. These conferences, far from reducing the role of the mission, actually increase its work and responsibilities.

THE DIPLOMATIC PROFESSION

14. It is opportune to examine a little more closely the diplomatic profession and its particular exigencies. The object of diplomacy is to make use of peaceful and practical methods of conciliation, to tighten the bonds of friendship with allied governments, to develop friendly relations with neutral countries, and to command the respect of hostile governments. In this immense task of consolidating peace the function of heads of diplomatic missions may be classified under four terms: representation, information, negotiation and protection.

15. The notion of *representation* constitutes the primary element. An ambassador represents the government of his country in relation to the authorities of the country in which he resides. He is vested with the necessary authority to speak in the name of his government. He is qualified to receive as well as to send communications exchanged between the two governments. He is the permanent intermediary for the relations between both states. He is recognised as the official source of information about his own country. This notion of representation was pushed very far during the existence of absolute monarchies. Ambassadors were considered the personal representatives of their sovereigns, and from this conception derived the outstanding degree of immunity everywhere conceded to heads of diplomatic missions. The general development of parliamentary régimes deprived sovereigns of all political prerogative and put an end to this situation. But in some countries where the head of the executive power has a strong personality it may still be found. Diplomats are usually, to the people of the country of their residence, the image of the country they represent. Public behaviour, like the private life of an ambassador and of the members of his mission, should therefore be beyond reproach. The moral worth of diplomatic agents should constitute an essential criterion in their selection and assignment. A state which knowingly appoints as its representative a man who does not merit respect, does not respect itself.

16. Each government should accord its official representatives abroad the means necessary to give the best possible impression of their country and to enable them to lead a life which conforms with this impression. Ambassadors must be able to entertain generously when the circumstances require it. To receive at the right time is as important as

to receive often. It is easy for diplomats to see the central authorities of the country of their residence, and their foreign colleagues, but they should also get in touch with and cultivate unofficial personalities who play an important role or exercise influence in the country of residence, in appropriate circles both in the capital and elsewhere, even though they may be reticent and difficult to meet. It is equally important for the ambassador and his staff to promote and maintain contact with the lower as well as with the top levels of government and society. This requires shrewdness and tact. The personal contacts made on such occasions will always be valuable in the extension of friendly and advantageous relations between the two governments for which the ambassador is responsible. Likewise, they should not fish in troubled waters among agitators in social life nor in politics.

17. Another necessary element of the ambassador's activity is *information*. This essential work is continuous, direct and bilateral. The exchange of diplomatic missions indicates that states wish to maintain peaceful relations under the rules of international law and within the framework of that particular international society which they form. The ambassador should make the general policy of his country known, understood and, if possible, accepted by the government to which he is accredited. Likewise he should, to enable his own government to form its judgement, advise it on what takes place in the country of his residence, especially as regards schemes put forward by the authorities, as well as developments in neighbouring countries when such developments have a direct bearing on his country of residence, and should submit his comments on what he sees and foresees. The seeking of information is pursued by all legitimate means, such as by reading the Press, by interviewing colleagues, foreign office officials and persons of distinction with whom the Embassy is in continual or occasional contact, and by observations made in the course of visits by the ambassador and by members of the mission. Except for reasons of national security, the government of the country of residence should do nothing to restrict diplomats from circulating and receiving freely. This rule is not always followed in certain countries with police régimes, and in such cases the diplomatic agent or consul should learn the value of 'silent observation'. He will gather more and better information in the course of his travels, during which he will not open his mouth, than from interviews with doubtful or frightened persons. All members of the

mission should be associated in this work, but in these countries, and for the best reasons even in the others, diplomats are forbidden, in view of the generous hospitality they receive and the privileges and immunities granted them, to speak against or criticise the local government in an injurious manner, or to prejudice the interests of the country which receives them.

Diplomatic agents and consuls are not, in the traditional nature of their duties, spies. All action tending to influence by indirect means the internal politics of the country, such as seeking secret information, may be considered a grave dereliction of duty. The government of the country of residence has the right to insist on the recall of diplomats who behave in this manner. The list of countries whose diplomats have been the subject of such measures is long enough to indicate that the proprieties are not always faithfully observed.

18. In the course of his interviews, the ambassador is constantly called upon to endeavour to adjust the views of his government to those of the country to which he is accredited. That is the work of *negotiation*, which is the search for solutions by way of peaceful and concerted agreements.

19. Negotiation is defined as 'the art of the possible'. In fact, negotiation usually takes place when a reciprocal desire to maintain peaceful and friendly relations exists on a general level. There must also be some matter to negotiate, that is, the points of view of the two governments on the question at issue should be sufficiently defined for an adjustment to be foreseen or anticipated. Finally, there should be a willingness to negotiate, to find an agreed solution, failing which success cannot be achieved. This implies that both sides in the negotiation are willing to make concessions. While a reciprocal approach may not be applicable to extended negotiations between certain powers, nevertheless, even in such cases it is well to show by moderation a willingness to continue negotiations at a later date. When a head of mission detects discords he should first single out the points on which adjustment is required and the conditions under which they may be resolved, and then try to put his views across in a courteous and temperate discussion. To do this he must apply the methods of conciliation, and endeavour to find an honourable agreement satisfactory to both parties.

20. Negotiating is always individual and subjective. This is one of

the most fascinating tasks, and also one of the most disappointing, of the diplomatic profession. It is in negotiating that the personality and the temperament of the negotiator, the sympathy that he has gained and the confidence that he has won, will pay off. It is there also that he can prove the flexibility of his intelligence, his sense of situation and opportunity, and his professional experience, for in his earlier career he should have acquired practice in methods of conciliation in the search for honourable and equitable transactions. The acquiring of information plays a part here. The mission should know the motives which impel its own government to act, the optimum result that it desires to obtain and the maximum that it can concede; the mission should also be apprised in advance of the views of the foreign government, its potentialities and the limit to which it wishes to and can go. This knowledge is complemented by a sense of opportunity; the moment when the negotiations can be embarked upon and at what point it would be best to suspend them or even break them off, always leaving an honourable exit which will permit the resumption of the task at a later date. It is in negotiation that the professional value of diplomats is measured, as well as the art with which they manifest it.

21. In all circumstances, a diplomat's duty is to be of good faith. He will be listened to, he will be followed, he will achieve sound results if his negotiators or those with whom he confers know that he is a man who does indeed speak for his government, who knows where he is going and how far he can go, who gives good reasons for the attitudes that he adopts, and who is sincerely desirous of finding a reasonable and satisfactory solution to the problem which he is charged to discuss and resolve. If his professional authority or his moral worth is doubted, the mental reservations of the opposing spokesmen will preclude a fair and workable solution of the negotiations; if he is caught in the act of telling a falsehood (*flagrant délit de mensonge*), he may be definitely discredited. The degree of success which can be obtained by a head of mission in his negotiations will depend largely on the view taken of public and private conduct, the friendly relations that he will have known how to promote and the authority that he will acquire in everyday dealings with men and affairs. He should never forget that discretion is necessary, and that modesty should be his virtue, as diplomatic triumphs, if conspicuous, usually lead to feelings of humiliation and a desire for revenge, which will impair their efficacy. In this part

of his functions the head of mission should show both perception and insight. To this he will do well to add, in his relations with the administration and the notables of the country of his residence, the essential graciousness which alone enables him to put at ease reserved, even reticent, conversationalists, the flexibility of mind necessary to adapt his arguments to theirs, and the power of persuasion that results from a sound knowledge of the problem and an ability to present facts clearly and rationally.

22. Finally, an essential duty of an ambassador is the *protection* of his nationals and of the commerce and shipping of his country. The vigilance, as well as the inspiration, of a head of mission should be exercised to ensure not only that his fellow countrymen, ships flying the flag of his country, and their commercial relations are dealt with in accordance with treaties or agreements in force, but also that persons under his jurisdiction are not victims of discriminatory practices. He should seek to improve the status of his colony, increase commercial traffic and tighten the bonds of common intellectual and cultural interests – all essential elements in the development of good relations and peaceful exchange between the two countries. Objective consideration of business affairs, like moderation in language, is absolutely indispensable in these matters.

23. The complexity of the role just described requires, on the part of the men to whom governments confide it, a temperament and qualities which develop a particular personality. An ambassador should be objective and have a cool and sure judgement. He should be able to sum up a situation and have the necessary general knowledge to guide his reactions. He also should have an extensive knowledge of economic affairs without necessarily being a specialist. Furthermore, the important responsibilities with which he is charged impose upon him an alert mind and a prudent and reserved character. He should be disciplined always to use moderate language and should have learned to orient his intellect and understanding, not towards polemic debates (polemics are an undesirable habit and their prolongation never constructive) but towards the achievement of equitable and peaceful settlements.

24. The diplomat should be a linguist. 'Foreign languages can be learned by persons with average ability if they consider the effort worth the trouble. No one should choose a diplomatic career if he does

not feel capable of making that so simple and essential effort.’* The diplomat should possess a cosmopolitan outlook, that is, be capable of taking a sympathetic and objective interest in the men and affairs of foreign countries, even if they are totally different from his own. He should show neither impassioned sympathy nor violent antipathy, which might prejudice the full exercise of his judgement. He should also have a balanced character and a strong dose of patience and indulgence; his wife should possess similar qualities. He should, moreover, have an inquiring mind. He who does not interest himself in the characteristics of the country where he resides, and of neighbouring states, or who does not visit them, cannot perform well the duties of his office.

25. No less essential a quality in a diplomat is sociability. Diplomatic society is a limited circle, well chosen, even closed, subjected to strict though unwritten rules of courtesy and of professional correctitude, which express and confirm the mutual rights and duties of its members. Diplomats must always be affable and, most important, approachable, equable, courteous and friendly. Those who rub shoulders in diplomatic posts may, and often do, meet again in the course of their careers. The good or bad behaviour which marked their former meetings will have repercussions on their relations and may influence the outcome of national interests entrusted to them.

But sociability is not all. ‘What is of paramount necessity for a diplomat,’ wrote Martens, ‘is tact. Tact requires the respect of form that a mediocre mind alone despises. The more society is civilised, the more form is respected as a wholesome barrier to the inevitable antagonisms to which incompatibility of character and of principle give birth. Politeness is not an untruth. It merely reminds us of the justice and inner moderation which ought to guide us. It is only in bad company that we have to scream to make ourselves heard.’†

26. Some people will think that these various qualifications take so long to acquire that a good diplomat will not succeed until the end of his career. Obviously one needs to have a certain dedication for the diplomatic career, whose attractions are doubtless counterbalanced – and broadly counterbalanced – by the numerous constraints of a life spent abroad in a setting very different from that of a national administrative career. A considerable effort at adaptation is accordingly

* Henry M. Wriston, *Diplomacy in a Democracy*, Harper & Brothers, New York, 1956.

† Ch. de Martens, *Guide Diplomatique*, Brockhaus, Leipzig, 1866.

imposed on the novice. Generally, the innate and indispensable diplomatic temperament develops by experience and study in the subordinate positions which usually mark the beginning of his career. It is in the course of his daily tasks that the young diplomat will acquire the essentials of his profession; an understanding of foreigners, which is increased by using their language; clear thinking, inculcated by practice in drafting in a lucid and comprehensive manner, in learning how to take in his stride tours of duty which give time for reflection, in turning over problems in his mind, consulting with colleagues and avoiding hasty commitments. Routine assignments should also teach him what he should do, and what he should avoid being constrained to do. An ambassador plays an important role as teacher.

27. Faced with the complex problems which arise nowadays, it is more than ever necessary that the ambassador be at all times accurately informed. We know the numerical importance of diplomatic missions, most of which now include many technical attachés and other specialists. But this collaboration is effective only if the entire team is imbued with the confidence which stems from a real community of interests. An ambassador should have a staff which will assist him with diligence and devotion. On this staff should be officers of superior rank with broad experience and objective minds who will not hesitate to express their views frankly to their chief, even though they may differ from those of the head of mission. He should avoid surrounding himself with 'yes men'. The ambassador who takes the trouble to set up a team which is attached to him and which will co-operate in the general tasks of his mission will soon reap the benefits, because the loyalty of all staff members to their duties and to their chief plays a fundamental, and frequently unrecognised, role in the performance and efficiency of a mission.

28. As now practised, the traditional role of the diplomatic profession has not been appreciably modified since permanent diplomatic missions appeared in the course of the sixteenth and seventeenth centuries.

The progress of communications, the multiplicity of contacts between nations and the broadcasting of news by radio, television and the Press, keep diplomatic missions more fully informed than in the past and allow them to adapt their actions more promptly and more accurately to the changing circumstances of international politics.

But diplomatic action remains the same. The development of science and the increase of international contacts have not appreciably modified either man's essential characteristics or the distinctive traits of national temperament. Contacts between ordinary people often prove to be more difficult than those formerly established between members of the élite. Whatever may be the circumstances he is called upon to face, the volume or the complexity of the problems to which he is exposed, the ambassador should preserve the same clarity of mind, exercise the same ingenuity, and possess the same gift to convince as in times gone by. He must always know how to gain and keep the confidence of those with whom he is in contact or conversation. The diplomatic profession, whose effectiveness is founded on personal contacts always requiring qualities of intelligence, tact, character and mind, was never better described than by François de Callières, for all that he wrote at the end of the seventeenth century. Such are the reasons which lead us to feel that, even though the setting of the diplomatic profession continues to evolve, the basic requirements for the professional diplomat remain unchanged.

29. What we have described in the preceding pages is the traditional work accomplished by diplomatic missions and consulates, which are responsible for official political, economic and cultural relations between governments as well as the protection of their nationals. This work constitutes the normal occupation and routine of representatives of 126 independent states spread over the universe.

But, as pointed out in para. 9, there exist other forms of international co-operation. First, numerous organisations have been commissioned, often under the aegis of the United Nations, to act by international conventions on behalf of all or a large number of governments, on political, military, administrative, economic or social questions of general interest. On the other hand, certain great powers, having a special sense of responsibility in view of their political and economic capacity and positions of leadership, have assumed a directing or managerial role in the work of peaceful world co-operation sponsored by the United Nations. They participate in accordance with the forms of their national governments and traditions, with more or less extended participation to diplomatic personnel. The United States, which plays a major role in these matters, has been led to create alongside its diplomatic and consular services, traditionally directed by the

Department of State, such important organisations as the United States Information Agency (U.S.I.A.), and the Agency for International Development (A.I.D.), which concentrate on and share, in co-operation with the Department of State, in the activities pursued by the American government, as much in matters of information as of economic assistance to underdeveloped countries. The activities of these organisations have an administrative and financial character and also, often, political consequences.

30. The work of such organisations is parallel to that of diplomatic missions. Their local agents are not subordinate to the heads of diplomatic missions, although they work within the general framework of international politics pursued by their country. They are not members of the diplomatic and consular staff. They work in the interest of international co-operation, and may be posted as well in their own country as abroad. Those who are required to live in foreign countries or to work with foreign officials should perform their duties in ways similar to those of diplomatic and consular personnel. Although they remain officials of their national administrations they resemble, in many respects, international officials and are under the moral obligations described in Chapter Fifteen, para. 1100. In limiting ourselves to pointing out the above situation we refer to Chapter Fifteen, especially paras 1100, 1103, 1104, 1107 and 1109, which gives the particular obligations of international officials and foreign counsellors.

THE ROLE OF CEREMONIAL AND PROTOCOL IN INTERNATIONAL RELATIONS

Ceremonial

31. There is no society without hierarchy and no civilisation without ceremonial. It is everywhere observable that some sort of order and discipline are required when a community comes into being. Social life imposes respect for certain rules without which communal life would not be possible, and for lack of which anarchy and chaos would certainly result. The leaders of each community evolved a hierarchy to maintain order and stabilise the structure of society. In this way each state built up a comprehensive set of practices which secure for those in official, political and administrative positions the prerogatives, privileges

and immunities which they require for the full and productive exercise of their functions.

Hierarchical rules vary, at times appreciably, from one state to another. Chapter Seven gives examples of the political and administrative hierarchy of certain states with different régimes.

The situation is different in international relations. The basic principles of independence and equality of states are now universally admitted and, in practice, respected. Relations between states are no longer dominated, at least outwardly, by the sole criterion of their respective strengths. As a result, states endeavour more and more to reach or enforce peaceful settlement of international conflicts without resorting to force.

The ceremonial which governs international events is of the greatest importance. Based on tradition and national temperament, it creates in each state the right setting and material conditions, so that the relations between the governments of each sovereign state and all ranks of officials, foreign and national, may develop fully in a peaceful and harmonious environment and atmosphere.

We know the care with which governments prepare for important international meetings or gatherings, and to what extent the pomp which accompanies them affects their success or, if mismanaged, sometimes even leads to failure. The attention that any two governments give to the visit of a head of state, minister or ambassador, a warship or a delegation, the signing of a treaty or the celebration of an event of common interest, shows the degree to which they desire to manifest the state of their relations, the direction in which they wish to see them progress and the improvements they also wish to bring to them. The solemn ceremonies, the unstinted hospitality, the speech-making, the liberal exchange of gifts and the decorations awarded by some states on such occasions, indicate the degree to which both governments desire to make known their sympathy, their friendship and their collaboration.

Protocol

32. Protocol codifies and puts into practice the rules of ceremonial and supervises their application. Etymologically, 'protocol' designated, in Byzantine diplomacy, the first part of the solemn written documents wherein the participants were enumerated. It now means the

rules according to which the principles of ceremonial in each country are applied by the official authorities. Protocol is employed in working out the multiple details of extraordinary ceremonies as well as those of the daily life of diplomatic missions. It governs both negotiation and settlement, and activates international contracts, enhancing, by a display of pomp and splendour, the value attached to them and the respect due their special provisions.

Protocol allots to each his proper place in the political and administrative structure; guarantees to those in official positions the exercise of their rights; regulates conflicts of precedence which concern them, as well as disputes relating to the exercise of their privileges and the enjoyment of their immunities. It required centuries of effort to put an end to the conflicts of pride in which Courts and Chancelleries too often indulged in the past.

Protocol allows freedom of action to everyone in his day-to-day affairs and regulates the activities of the national authorities (government, parliaments and administrations), as well as of foreign authorities in official positions attached to governments (diplomats, consuls, international officials and foreign missions, temporary or permanent), and private persons not belonging to these various categories. Protocol also inculcates method, restraint, poise and decorum for, in addition to ordering the conduct of public ceremonies, it lays down rules for the exchange of official and private correspondence, manner of dress; everything, in fact, to ensure that each person receives the position and respect to which his office entitles him and which are recognised by other political and administrative authorities and by society itself. Those with no official position on any specific occasion can be allotted a place in the order of precedence according to age, rank and position.

33. The rules of diplomatic protocol are intended to uphold the civilities between states and their officials. By the rules a participant at an official meeting is entitled to a position according to his rank, and of which other delegates may be unaware. These rules are strictly interpreted and they should be closely observed. One should not depart from them without good reason. Even then it is at times difficult to avoid incidents because the authority that does not respect them marks a deliberate refusal and denial of obligations agreed upon in the general interest.

Such a deliberate breach of etiquette is always interpreted as a calculated manifestation of distrust in the diplomat who is the victim of

it, and never fails to affect the relations between the two governments concerned. Any violation of these rules will provoke difficulties for its author, who should apologise and find ways of correcting the mistake. It would be well to bear in mind that women are more sensitive to such affronts than men, who will more readily accept apologies and explanations. Still, not many men are capable of replying as Comte Boni de Castellane did to a hostess who apologised for not being able to give him the seat corresponding to his social position: 'Madame, my place is always the best.'

The rules of protocol are not sacrosanct and ceremonial should not be compared with religious rites whose violation can provoke the vengeance of an angry god. They are closely allied to the desire both to accord to the persons concerned the treatment due them and to the necessity of avoiding friction with others. They evolve with due regard to tradition and local custom and are meant not to upset established situations but to consolidate that which has received the general consent. They can be adapted if necessary to other situations, after study and in agreement with interested persons.

Specifically, protocol helps create a pleasant atmosphere at meetings or gatherings, thus promoting an absence of strain and the reciprocal goodwill which is most likely to contribute to the results which are expected from such meetings.

Recorded violations or laxities of observance of protocol practices remind us that there is scope for personal feelings in these solemn obligations to which important men subscribe. The following is an example:

The Sultan of Turkey did not wish to recognise the division of Poland between Russia, Austria and Prussia. Consequently at receptions of the diplomatic corps, when the heads of mission were called, one by one, to come to the Sultan and present their compliments, after the Polish ambassador was called and no one came forward (although he was present), the Chamberlain turned to the Sultan and said: 'The Ambassador is travelling and has been delayed by the snow.' And this statement was repeated irrespective of the season.

Rules applicable to diplomatic and consular officers

34. Diplomatic and consular officers should give careful attention to the general rules of protocol which apply to them, as well as to the dis-

criminations by which they may be either favoured or victimised. Nevertheless, they should not treat these questions with excessive concern or undue sensitivity.

35. While incidents of protocol order and the manner in which they are commented upon may, at times, be outward signs of a change in international feeling, the diplomatic or consular agent should not foresee in the events which arise in the course of daily relations between a diplomatic mission or a consulate and the authorities of the country of residence, more than actually exists. An anomaly can often be the result of negligence or inexperience, and it will be the more promptly and easily corrected if pointed out with tact and moderation. It is only in the presence of a systematic desire to displease, emanating from a qualified authority, that heads of diplomatic missions or consular posts should consider it necessary to protest and, eventually, invoke retaliatory measures. Finally, it is in the settlement of questions that the real proof of the good- or ill-will of one government towards another is to be found. This situation will also reveal the influence that an ambassador or a consul has managed to acquire.

36. Such, in short, are the essential reasons for which ceremonial and protocol appear to us closely bound to the free and harmonious development of international life.

Attacks against foreign states and their representatives

37. A government should not allow inconsiderate attacks against foreign states or permit their representatives to be molested. In these days of political agitation it too often happens that countries allow political parties to organise 'spontaneous' street manifestations against the embassy or consulate of a country with whose policies they may not agree. In doing so, the authorities assume greater responsibilities than the Press, which is allowed to excite crowds that may, and often do, break out of control. As a result, they promptly reap the bitter reward of this policy because, when incidents do occur, the authorities find themselves in the humiliating position, often keenly felt – as governments generally are very touchy in matters of pride – of having to apologise and make amends for the insults. Moreover, such action is now a direct violation of the provisions of the Vienna Convention of 1961 on diplomatic relations (see para. 38).

Vienna Convention of 1961 on diplomatic relations

38. As long ago as 1949, the International Law Commission, an organ of the United Nations, had selected the subject of diplomatic intercourse and immunities as one of the topics whose codification was both desired and feasible. After thorough preparation by the Commission, the Secretary-General of the United Nations convened the Vienna Conference which, in the spring of 1961, drafted a convention which became the Vienna Convention of 18 April 1961 on diplomatic relations, which a number of powers signed immediately and which others are preparing to adopt. As of January 1969, 63 countries had signed this convention, while 45 had ratified it, among which are the Federal Republic of Germany, Japan, the Union of Soviet Socialist Republics and the United Kingdom. This convention entered into force on 24 April 1964 in accordance with Article 51.

Article 22 of the Vienna Convention declares that 'the receiving State is under a special duty to take all appropriate steps to protect the premises of the mission (diplomatic) against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity'.

39. American legislation offers a good model of the kind needed to protect embassies and consulates from insulting mobs (see para. 396). The government of the United States of America seems to be more and more concerned by the necessity of providing protection not only to American diplomatic, consular and other missions but also to American citizens and American property interests abroad, against acts deliberately designed to injure them. It is singularly significant that President Lyndon B. Johnson deemed it desirable recently to remind a foreign ambassador when presenting his credentials, that 'I shall look to your government to accord the same co-operation and amenities to the American Embassy as your embassy is given by my government.' This could be a warning on good manners in diplomatic relations and may be considered as a firm indication in favour of a necessary return to diplomatic propriety.

CHAPTER TWO

DIPLOMATS

Diplomatic agents – Categories of heads of diplomatic missions – High Commissioners – Vatican diplomacy – The diplomatic corps – Diplomatic missions – Staff of diplomatic missions – Presentation and visits – Duties of diplomatic agents – Members of a diplomat's family – Relations of missions with the Ministries for Foreign Affairs and foreign administrations – Extraordinary missions



INTRODUCTORY REMARKS

40. The purpose of this chapter is to set forth the characteristics of the condition of members of diplomatic missions.

41. The rules followed by states as regards diplomatic relations, as well as the recognised privileges and immunities of diplomats, were built up empirically in the course of centuries and have been strengthened by reciprocal practice. In 1961 (see para. 38), following a resolution adopted in 1952 by the General Assembly of the United Nations, the Vienna Conference studied the problem of diplomatic intercourse and privileges and approved the text of a convention which represents the contractual basis of diplomatic relations between states which are parties to the convention. The Vienna Convention on diplomatic relations, together with various other conventions and resolutions, was opened for signature on 18 April 1961. It is likely that this document will in future govern relations between all states even though they may not all be signatories to it.

DIPLOMATIC AGENTS

42. Heads of governments cannot deal directly with one another on all questions of interest in international relations. They therefore need

to maintain representatives charged to negotiate in their names. These representatives were traditionally called 'diplomatic agents'. The Vienna Convention (art. 1) designates them as 'Heads of Mission', the expression 'diplomatic agents' now covering both the head of mission and the diplomatic staff attached thereto. The head of mission is charged, first of all, to make understood his government's policy and, if possible, obtain its acceptance by the state where he resides, thus ensuring the maintenance of friendly relations between the two countries. In the mutual exchange of political views and good offices, he wards off differences which could cause conflict between the two states, watches over and safeguards the person and the interests of his nationals, and encourages commerce and shipping.

43. The Vienna Convention (art. 2) declares that the establishment of diplomatic relations between states and the exchange of permanent diplomatic missions will be effected by mutual consent of the countries concerned. According to article 5 any government may accredit a single head of mission to represent it before several states on condition that the states in question are agreeable. Similarly, according to article 6, several states can agree between themselves to be represented by only one head of mission, again on condition that the consent (*agrément*) of the receiving state is given.

44. No country is obliged to receive diplomatic representatives of foreign states. However, as a refusal would serve to place it outside the international community, practically all really independent states do receive the diplomatic missions of all other states, while at the same time sending their own representatives in exchange.

45. A state is not obliged, however, to accept just any diplomatic agent; the agent appointed, to be able to fulfil his mission effectively, should inspire confidence. It is therefore customary for a foreign ministry, before naming a representative, to find out if the proposed agent will be *persona grata* in the country to which he is to be appointed. It is only after approval has been obtained that the nomination is officially announced (see para. 121). The reasons for refusal of consent do not have to be given (Vienna Convention, art. 4, para. 2). Indiscretions by a government requesting consent, whether committed deliberately or unintentionally, have hampered, sometimes even prevented, the acceptance of a head of mission. Such indiscretions are considered very improper.

46. These rules apply only in the relations between states which are recognised *de jure*.

47. States which are recognised *de facto* may exchange only unofficial agents, who are consequently not on the same footing as official diplomatic representatives.

48. Finally, certain countries continue to recognise the legal existence of states which have disappeared, or whose governments have moved to another country. The status of such representatives is established by courtesy only.

CATEGORIES OF HEADS OF DIPLOMATIC MISSIONS

49. Heads of mission are divided into various categories.

50. It is fitting first to distinguish between agents charged with a permanent mission and those who, charged with an extraordinary, temporary mission, go abroad only to participate in a predetermined international activity or to attend an exceptional protocolar ceremony.

51. Article 14 of the Vienna Convention established a hierarchy among diplomatic representatives which is divided into three categories as follows:

- (i) ambassadors, papal nuncios and other heads of mission with equivalent rank accredited to heads of state;
- (ii) envoys, ministers and internuncios accredited to heads of state; and
- (iii) *chargés d'affaires* received by Ministers for Foreign Affairs.

52. Article 16 specifies that heads of mission take precedence in each category according to the date and hour at which they assumed their functions. This means, in the case of ambassadors, papal nuncios, envoys, ministers, etc., as of the date and hour of presenting their credentials to the head of the receiving state or, in some countries, the *copie d'usage* to the Minister for Foreign Affairs (Great Britain); in the case of *chargés d'affaires* with letters, as of the date on which they presented to the Minister for Foreign Affairs the dated copy of their credentials, or in some capitals, the date on which they effectively took charge. These operations are normally effected in the order of arrival of heads of mission.

53. The third paragraph of article 16 states that the custom

accepted by the receiving state as regards the precedence of the representative of the Holy See is maintained. In practice, the preferential treatment which recognises, in certain capitals, the deanship of the papal nuncio, is never extended to other representatives of the Holy See, who take rank as of the date of presentation of their credentials.

54. Article 19 of the Vienna Convention states the conditions under which interim missions can be ensured by a *chargé d'affaires ad interim*. The name of the *chargé d'affaires* is notified to the Ministry for Foreign Affairs either by the head of mission who is about to absent himself or, if he is unable to do so, by the Ministry for Foreign Affairs of the sending state. The same article prescribes the status of *chargés d'affaires ad interim* who do not belong to diplomatic staff.

HIGH COMMISSIONERS

55. Diplomatic relations between members of the British Commonwealth are exercised through a special body of diplomats – the High Commissioners. Originally, this title was given to representatives exchanged between the governments of London and of the British Dominions, who were accredited by 'Letters of Commission' addressed from Prime Minister to Prime Minister. This appellation and situation was maintained after the Statute of Westminster recognised (in 1931) to Dominions the right of legation, both active and passive, as the British sovereign could not address to himself letters accrediting ambassadors.

56. After the 1939–45 war a number of territories of the British Empire became independent. Some continued to recognise the sovereign of Great Britain as head of state, e.g. Canada, Australia, New Zealand, Ceylon, the Federation of Nigeria, Sierra Leone, Jamaica, Trinidad, Tobago and Uganda; others became completely independent, but remain in the Commonwealth and recognise the sovereign of Great Britain as 'Head of the Commonwealth', e.g. India, Pakistan, Ghana, the Federation of Malaysia, Cyprus and Tanzania.

57. High Commissioners exchanged between Commonwealth countries of whom the Queen is head of state are the representatives of their respective governments and not of the Queen. They are not accredited to or by the Queen, and their appointment does not require the Queen's approval. They are supplied with a letter of introduction from Prime Minister to Prime Minister.

58. High Commissioners exchanged between Commonwealth countries of whom the Queen is head of state and those of whom she is not, are accredited by the Queen and the appropriate head of state to one another. The name of a new High Commissioner of a monarchical Commonwealth country appointed to a republican Commonwealth country is first submitted for Her Majesty's approval, and afterwards he is furnished with letters of commission signed by the Queen. These are similar to an ambassador's letters of credence.

59. Since 1948, the Court of St James's has carried the names of the High Commissioners on the diplomatic list as of the date of the presentation of their letters of commission. However, except as stated in para. 60, High Commissioners cannot be the Deans (Doyen) of the diplomatic corps.

60. In the following Commonwealth countries High Commissioners can be Deans (Doyen) of the diplomatic corps: Australia, Canada, Ceylon, India and Pakistan.

61. High Commissioners, their career staff, their families and their servants enjoy the same immunities as ambassadors. These immunities do not derive from the law of nations but from special legislation enacted by the respective parliaments of the members of the Commonwealth.

62. Special Representatives — *Hauts Représentants* — exchanged between the French Republic and member states of the *Communauté*, enjoy a status similar to that of Commonwealth High Commissioners.

VATICAN DIPLOMACY

63. Vatican diplomacy presents particular characteristics. In fact, whereas the Vatican is an independent state enjoying the right of active and passive legation, the Holy See exercises spiritual direction over Roman Catholics scattered throughout the entire world, and this requires that it remain, on the ecclesiastical plane, in touch with the local clergy. There exist three categories of mission: (i) extraordinary diplomatic missions; (ii) permanent diplomatic missions dependent on or responsible to the Council for Public Affairs, presided over by the Secretary of State; and (iii) missions dependent on or responsible to propaganda, consistorial or oriental congregations.

Extraordinary diplomatic missions

64. Extraordinary missions of a diplomatic character can be entrusted to legates *a latere* or to ablegates. The legate *a latere* is a cardinal charged with a special mission of a religious or political character in the course of which he represents the person of the Holy Father. The legate is entitled to sovereign honours in the country where he goes and in those countries through which he travels to reach his destination, if his visit is announced in advance.

The other categories of legate—*nati* or *missi*—have no diplomatic status.

65. Ablegates are prelates charged with a temporary and extraordinary diplomatic mission not of a spiritual character.

*Permanent diplomatic missions dependent on or responsible to the
Congregation of Extraordinary Ecclesiastical Affairs*

66. The diplomatic relations of the Holy See with foreign states, concerning the status of the Roman Church or treaties which concern it, and which are traditionally called 'Concordats', are the responsibility of the Secretary of State, who presides over the Council for Public Affairs, and are exercised through the intermediary of permanent missions, the chiefs of which perform both diplomatic functions and those of the Apostolic delegate. The papal 'brief' by which they are named can delegate to them certain powers of a spiritual order.

67. Diplomatic representatives of the Holy See hold the title of nuncio or internuncio.

68. Canon rules of the Church prescribe that nuncios and internuncios should encourage good relations between the Holy See and the government to which they are accredited and watch over the position of the Church.

69. They have precedence over all the Ordinaries (diocesan bishops) except cardinals. If they have episcopal capacity, they can perform all religious ceremonies without authorisation of the Ordinary and are entitled to religious honours in churches.

70. A nuncio has the rank of ambassador. He is generally a titular archbishop and does not belong to the Catholic hierarchy of the country of his residence. He can, however, as far as the Church hierarchy is concerned, be delegated certain powers of a spiritual character. In

certain countries the nuncio has, by tradition, precedence over ambassadors and is the Dean (Doyen) of the diplomatic corps. This custom was recognised by article 16, para. 3 of the Vienna Convention (see paras 53 and 78).

71. From the moment the cardinal's hat* is sent to him from Rome by the Holy Father to the time when he himself leaves his diplomatic post for Rome, where he will be made a cardinal, the nuncio takes the title of pronuncio and is given cardinal honours.

72. The internuncio holds the rank of minister plenipotentiary. He is a permanent representative of the Holy See and is not included in the Catholic hierarchy of the state of his residence. He has no special precedence over other agents of the same diplomatic rank but takes regular precedence as of the date of the delivery of his credentials.

73. The staff of diplomatic missions of the Vatican is composed of counsellors, auditors, secretaries and attachés.

74. In certain large states where the Catholic element is important, such as the United States (although President Franklin D. Roosevelt appointed Mr Myron T. Taylor his personal representative to Pope Pius XII, and the United States was represented at the Vatican between 1848 and 1869 by a chargé d'affaires or Minister Resident), the United Kingdom and Canada, no diplomatic missions are exchanged with the Vatican, even though non-Christian states may be represented there.

Missions dependent on or responsible to propaganda, consistorial or oriental congregations

75. To the states with which it maintains no diplomatic contact, the Holy See sends prelates charged with securing its relations with the local Catholic hierarchy. These prelates are called apostolic delegates. They have no diplomatic status and only represent the Holy See in its contacts with the ecclesiastical authorities of the country of their residence.

THE DIPLOMATIC CORPS

76. Together, the heads of mission accredited to the same government form the diplomatic corps. This corps assures, collectively, the protection of its members and the defence of its privileges.

* Abolished by article 9, Papal pronouncement on Vatican dress and protocol, 6 April 1969.

77. The diplomatic corps constitutes a unity, and governments are not supposed to divide it into several groups according to their qualifications as diplomatic representatives.

78. At the head of the diplomatic corps is a Dean (Doyen) who, in principle, is the highest-ranking head of mission who delivered his credentials on the earliest date. In certain Catholic countries, however, the nuncio is traditionally charged with the deanship (see paras 53 and 70).

79. The Dean (Doyen) is the recognised intermediary between the diplomatic corps and the government to which he is accredited. He can, spontaneously or at the request of his colleagues, take any steps to ensure the protection, collectively or individually, of the members of the corps and the respect of their prerogatives, privileges and immunities.

80. Communications of a collective character which the Ministry for Foreign Affairs wishes to send to heads of mission are addressed either through the intermediary of the Dean of the diplomatic corps, who undertakes to inform his colleagues, or by the protocol service direct to each head of mission.

81. The Dean should also ensure the cohesion of the diplomatic corps and the maintenance of proper and cordial relations between its members, especially in the case of new arrivals. There are some Deans who make it a point of honour to receive new arrivals at their homes within eight days of the delivery of their credentials.

82. The wife of the Dean of the diplomatic corps has her particular obligations as regards the wives of heads of mission, namely their presentation to the wife of the head of state. When the Dean is a bachelor, the wife of the head of mission next on the diplomatic list after the Dean assumes these obligations.

83. Article 14 of the Vienna Convention of 1961 provides that the precedence to be followed in the reception of heads of mission is to be uniform as regards each class. Furthermore, article 14, in emphasising that no difference should be shown – except as it affects precedence and etiquette – between heads of mission by virtue of their class, confirms the traditional rule of unity of the diplomatic corps.

84. This unity can be affected by international events to which the countries of residence of diplomats are not party, for example: if an ambassador represents a government which is not recognised by other states whose ambassadors are present in the same capital; if a government officially receives the head of a state which is not recognised by all

the powers represented in the capital; if the rupture of diplomatic relations or a state of war causes the representatives of two camps and their respective missions to cease official and private relations. In such circumstances, the Dean of the diplomatic corps must act in concert with the protocol service of the country of residence to avoid the creation of embarrassing situations. It is generally the policy of professional diplomats to avoid such situations, as they are well aware that the circumstances which impose them are of a temporary character and must not be allowed to compromise unnecessarily the return to normal relations.

DIPLOMATIC MISSIONS

85. Heads of diplomatic missions are accompanied by the official staff which composes their mission. This staff includes counsellors, secretaries of embassy, embassy attachés, secretaries, interpreters and couriers. Numerous diplomatic missions include military, naval and air attachés as well. Frequently, commercial, financial, cultural, press, agricultural and labour attachés are also attached to diplomatic missions.

86. Article 1 of the Vienna Convention makes the following distinctions between personnel:

- (i) members of the mission – includes the head of mission and the members of the mission staff;
- (ii) members of the staff of the mission – includes diplomatic, administrative, technical and service staff;
- (iii) members of the diplomatic staff – includes members of the mission having diplomatic rank;
- (iv) diplomatic agent – designates either the head of mission or members of the diplomatic staff.

STAFF OF DIPLOMATIC MISSIONS

87. Article 11 of the Vienna Convention specifies that the receiving state may require the size of a mission to be kept within the limits considered by it to be reasonable and normal, having regard to the circumstances and conditions in the host country and the needs of the particular mission concerned.

88. Paragraph 2 of the same article specifies that the receiving state may also, within similar bounds and on a non-discriminatory basis, refuse to accept officials of a particular category.

89. Finally, article 7, while granting that the sending state may freely appoint the members of the staff of a mission, provides that, in the case of military, naval or air attachés, the receiving state may require that their names be submitted in advance for approval.

PRESENTATION AND VISITS

90. Article 10 of the Vienna Convention requires that the Minister for Foreign Affairs be notified of:

- (i) the appointment of members of the mission, their arrival and their final departure on the termination of their functions with the mission; and
- (ii) the arrival and final departure of persons belonging to the family of a member of the mission.

This measure is required to ensure that the appropriate names will appear on the diplomatic list, to guarantee to the persons concerned the privileges and immunities to which they are entitled and, in particular, to enable them to receive the special type identification card issued by the Ministry for Foreign Affairs and the diplomatic registration plates for use on their motor cars:

- (i) the British government does not issue diplomatic passports to its own diplomats (para. 108);
- (ii) it issues diplomatic cards of identification to foreign agents;
- (iii) it does not issue diplomatic plates for motor cars.

These arrangements ensure them correct treatment by the police authorities.

91. The head of mission submits a list of his staff to the Ministry for Foreign Affairs. It is he who fixes the order of precedence among them (Vienna Convention, art. 17).

92. When advance notification has been given of the arrival of career officials attached to diplomatic missions, special attention is paid to them by all authorities of the country in which they are to exercise their functions.

93. There is no fixed rule, in principle, for the presentation of newly-arrived agents to the Ministry for Foreign Affairs. However, it is customary for newly-arrived members of the diplomatic staff to be presented to the chief or the assistant chief of protocol, to the director of political affairs and to the interested technical services or heads of departments with whom they are likely to deal.

94. The presentation of military, naval or air attachés to the Ministry to which they are accredited usually takes place at a private ceremony, at which the newly-arrived officers should wear full-dress uniform.

95. The presentation of other technical attachés is effected by the head of mission or by his counsellor in accordance with the rules established in each capital.

96. Members of the diplomatic mission should, as soon as they arrive, send their visiting cards, together with those of the head of mission, on which are written the initials 'pp' (*pour présentation*) to the officials of the Ministry for Foreign Affairs with whom they may have official contact and to all members of the diplomatic corps. Agents who are married should add a card bearing their and their wife's name (Mr and Mrs X).

97. It is permissible for visiting cards intended for various members of a diplomatic mission to be dispatched in a single envelope. In this case, the name of the recipient is written in pencil on each card.

98. The sending, in response, of visiting cards should be done immediately. At posts where the diplomatic personnel is numerous, missions send out a note announcing the arrival of the new agent; this dispenses with the necessity of sending calling cards.

99. When the newly-arrived agent is a woman she follows the same course as a man, that is to say, she sends two cards to a married couple (see para. 603).

100. Diplomats who are transferred to another post should send their cards, with the initials 'ppc' (*pour prendre congé*) to all members of the diplomatic corps whom they know personally and to a certain number of officials of the Ministry for Foreign Affairs. This action does not require the sending of cards in return by the recipient.

101. It is customary for the wife of the head of mission to present personally the wives of newly-arrived members of the mission to the wives of her husband's colleagues.

102. The Vienna Convention extended the expression 'members of the mission' to all administrative and technical staff of the mission, whether or not of the nationality of the sending state. The consent of the receiving state is required for the appointment of one of its nationals as a member of the diplomatic staff. Such a state can reserve the same right as regards the nationals of a third state. The status of domestic staff is provided for and defined in the Vienna Convention. It is stipulated that notice of the arrival and final departure of private domestic servants employed by members of a mission be sent to the Ministry for Foreign Affairs, as well as notice of the employment and discharge of persons resident in the receiving state, who are members of the mission or employed as private domestic servants and entitled to privileges and immunities. Local custom determines their status, which will be examined in detail in paras 189-92. In order to guarantee the benefits of this status to the members of their staff, missions should provide each person with an identification document bearing his photograph and the date and place of his birth. They should be careful to withdraw these cards from the holders when they leave the service of the mission. To avoid annoyance it is well for the card to show the date (generally the end of the year) beyond which it will no longer be valid.

DUTIES OF DIPLOMATIC AGENTS

103. Heads of diplomatic missions are responsible to the government which appoints them. They are entrusted with the observation of events in the territory of the state to which they are accredited so as to permit their government to make a reasoned judgement of the situation and to act accordingly, if required. They should make their government's foreign policy known and understood, and should strive to win its acceptance by means of negotiation and by reconciling the rights of the country they represent with the exigencies of the local situation. It is their duty to protect their nationals and their national trade and shipping, to support consuls who are charged with this mission, and to intervene when necessary for that purpose with the local Ministry for Foreign Affairs.

104. Heads of mission should behave honourably, acknowledge the proper authorities, laws and regulations; abstain from unwarranted

interference or involvement in the political or internal administration of the country of their residence; respect its usages, local customs and, if need be, popular prejudices. In a word, they should avoid everything of a nature to injure, or that would be detrimental to, the country which grants them its hospitality (Vienna Convention, art. 41).

105. Article 9 of the Vienna Convention specifies that the receiving state may at any time demand the recall of a head of mission or other diplomat by notifying the government of the sending state that the person in question has become *persona non grata*. The sending state must then recall the agent involved or, in the case of a person locally employed, remove him from office. The same article states that a diplomat may be declared *persona non grata* before arriving on the territory of the receiving state. Paragraph 2 of that article points out that if the sending state refuses or fails to carry out its obligations or does not execute the order of recall of the agent within a reasonable delay, the receiving state may refuse to recognise the person any longer as a member of the mission, thus depriving him of his diplomatic immunities. On the other hand, the Vienna Convention specifies that the receiving state should grant full facilities for the performance of mission functions (art. 25) and should assure freedom of movement and travel on its territory to all members of a mission (art. 26).

MEMBERS OF A DIPLOMAT'S FAMILY

106. The Vienna Convention was drafted to cover in broad terms the social and family customs of all states. It is generally admitted that all persons over whom the diplomat, as head of family, exercises legal authority, should participate in the immunities granted to diplomats.

107. The diplomatic list mentions the names of all members of the family of a foreign diplomat required to conform to the obligations of etiquette. This list always includes the wife and the daughters who have already been presented in society. In special circumstances, at the discretion of the receiving state, and this is, for instance, the case in the United Kingdom, it may include the names of widowed mothers living with their children, and even of other close relatives deemed essential to the proper discharge of a diplomatic mission, e.g. sister of a bachelor.

Other members of the diplomat's family, although not mentioned in the diplomatic list, also enjoy diplomatic immunities. Such is the

case in the United States and in the United Kingdom, where minor sons are never listed, although they can enjoy immunity.

108. In most countries members of a diplomat's family are provided by their government with diplomatic passports. The British government does not issue such passports.

RELATIONS OF MISSIONS WITH THE MINISTRIES FOR FOREIGN AFFAIRS AND FOREIGN ADMINISTRATIONS

109. As a rule the members of diplomatic missions maintain official relations with government departments of the country of residence only through the intermediary of the Ministry for Foreign Affairs. If they desire to deal directly with another department, they should previously receive authorisation from the Ministry for Foreign Affairs; in Britain it is very freely given. This authorisation, however, is considered as granted for dealings between technical attachés and the ministry corresponding to their speciality (Vienna Convention, art. 41, para. 2).

110. Diplomatic missions are competent to perform consular functions. Article 3, para. 3 of the Vienna Convention of 1961 on diplomatic relations expressly guarantees this competence. Moreover, the Vienna Convention of 1963, on *consular relations* (art. 70) provides for this contingency (see paras 241 and 242). However, only missions which have communicated to the Ministry for Foreign Affairs the extent of their consular district and the names of their agents in charge of consular affairs may communicate with the local authorities.

111. Ministers for Foreign Affairs hold themselves, in principle, constantly at the disposal of heads of mission who need to discuss any questions with them, and appointments for this purpose can be made by telephone.

112. In the case of the absence or inability of a head of a mission his Counsellors or Secretaries are competent to deal with the Ministries for Foreign Affairs.

113. When a head of mission is obliged to absent himself he formally so advises the Ministry for Foreign Affairs and other heads of diplomatic missions, indicating the name of the chargé d'affaires who will replace him. If this official is not personally known at the Ministry he should be introduced. He takes the title of chargé d'affaires *ad interim* (A.I.).

114. The head of mission should invariably take leave of the Minister for Foreign Affairs.

115. If the head of mission dies at his post the capacity of *chargé d'affaires ad interim* is automatically recognised to the highest ranking agent at the mission. It is customary for the agent who assumes temporarily the direction of a mission as *chargé d'affaires ad interim* to pay a personal call on all ambassadors and to send cards to the other heads of mission.

EXTRAORDINARY MISSIONS

116. Countries frequently entrust either a member of their government, a high-ranking official (who may or may not belong to the diplomatic service) or an important person with an extraordinary mission to a foreign government.

117. As these missions always correspond to exceptional circumstances, the ceremonial is subject to special study by the local protocol service and the diplomatic mission. The problems of precedence are resolved in each particular case.

118. Extraordinary missions, which are not covered in the Vienna Convention, cannot enjoy regular precedence with respect to permanent, accredited missions to a receiving state. In the event of an extraordinary mission appearing at the same reception as permanent diplomatic missions the local protocol service must confer with the Dean of the diplomatic corps in case he considers it desirable, on the basis of exceptional circumstances, to give precedence to the visiting mission over the regular, accredited heads of mission. In this event, the diplomatic corps yields precedence to the extraordinary mission, but this gesture of courtesy in no way detracts from the privileges it holds under the law of nations.

119. Protocol relations between the accredited heads of diplomatic missions and the heads of extraordinary missions are, at times, more delicate to regulate. If a member of the government (Minister or Secretary of State) has unquestioned precedence over an ambassador, the question can become controversial when the head of an extraordinary mission has a hierarchical rank inferior to that of the head of mission at the post. In this case, the regular head of mission should inform the national authorities of the position he wishes the extraordinary envoy to be given.

120. Among the most important of the extraordinary missions are the delegations sent by the sovereign pontiff to foreign countries on the occasion of religious events of an exceptional character. The highest rank belongs to the papal legates, who are always cardinals and considered as the personal representatives of the Pope. By tradition they are given sovereign honours. When the visit is announced in advance, similar honours are granted by countries through which the legate travels. In all circumstances, extraordinary missions whose passage through the country of a third state has been announced in advance have a right to special consideration by all authorities.

CHAPTER THREE

BEGINNING AND TERMINATION OF A DIPLOMATIC MISSION

Acceptance (*agrément*) of heads of mission – Arrival of a new head of mission – Presentation of credentials – Arrival visits – End of a diplomatic mission



ACCEPTANCE (AGRÉMENT) OF HEADS OF MISSION

121. In view of the importance of the position, official as well as personal, of the head of a diplomatic mission, custom requires that the government which sends the envoy ascertains before his appointment that he will be *persona grata*. The request for *agrément* or acceptance is presented either through the head of mission of the receiving state or the chargé d'affaires who is temporarily in charge of the mission, or through the diplomatic mission of the sending state in the receiving state. As soon as consent is obtained the appointment is made public.

122. The new head of mission is provided by his government with official letters called 'letters of credence' or, colloquially, credentials. These letters are placed in an envelope sealed with wax, and must, in principle, be opened by the head of state at the time of presentation. A 'true copy' (*copie d'usage*) is added which is destined to be delivered by the head of mission to the Ministry for Foreign Affairs at the time of his arrival. These letters confer upon the foreign envoy the authority for his mission and determine the general bearing of his appointment.

123. The protocol forms of his official document include one which accredits, personally, the new head of mission to the head of state and requests faith and credence in the former's statements.

124. In most states, the presentation of credentials by a diplomatic representative implies recognition *de jure* of a provisional government. Political agents sent to *de facto* recognised foreign governments are simply provided with credentials addressed from Minister for Foreign

Affairs to Minister for Foreign Affairs. In certain states, however — the United States and Japan, for instance — the presentation of credentials addressed by head of state to head of state does not carry with it recognition *de jure* of the local government. The delivery of credentials can, at that time, be accompanied by formal reserves which specify the character of the relations between both states.

125. *Chargés d'affaires* with letters (Vienna Convention, art. 14c) receive *lettres de cabinet* or cabinet letters addressed by Minister for Foreign Affairs to Minister for Foreign Affairs. These letters are delivered directly to the Ministry for Foreign Affairs on arrival of the *chargé d'affaires* who, from that moment, is considered as having officially assumed his functions.

ARRIVAL OF A NEW HEAD OF MISSION

126. Before the arrival of a head of mission the *chargé d'affaires* makes known to the Minister for Foreign Affairs the date and hour of arrival of the incumbent and ascertains when the Minister will receive the new head of mission on his first visit. The *chargé d'affaires* should also call on the Dean of the diplomatic corps and announce the arrival of the new head of mission.

127. The arrival of a head of mission in the capital where he is to exercise his functions does not call for any official ceremony. The new agent must be considered *incognito* until he presents his credentials to the head of state. It is customary, however, for the local authorities to show him and those accompanying him certain attentions, such as Customs and frontier police facilities and reception at his place of arrival by an official of the protocol service, etc. Local customs determine these various attentions.

128. Delivery of the credentials of the new head of mission should be preceded by the sending of the letters of recall of the agent whose mission has been brought to an end. These letters are presented by the head of mission on the occasion of his audience to take leave. They can also be brought by the new diplomatic representative. This is always the case in the United Kingdom.

129. As soon as the new head of mission has arrived he is informed by the Ministry for Foreign Affairs of the day and hour when the

Foreign Minister will receive him for the delivery of the *copie d'usage* of his credentials, which will be in his possession, and perhaps of the letters of recall of his predecessor. The custom of each Ministry for Foreign Affairs is to indicate the form in which the new head of mission should make his visit and, should the occasion arise, other visits. He has recourse to the protocol service for all information which he may need for this purpose.

130. It is the general custom for the new arrival, immediately after his private reception by the Foreign Minister, to call, unofficially, on the Dean of the diplomatic corps in order to ascertain local protocol requirements.

131. The Minister for Foreign Affairs is not required to return the visit of the new head of mission; this also applies to the Dean of the diplomatic corps.

PRESENTATION OF CREDENTIALS

132. When a copy of the credentials of a new head of mission has been examined and found correct in substance as well as in form, the protocol service at the Ministry for Foreign Affairs will, in accordance with local custom, arrange an audience for the new head of mission with the head of state, for delivery of the credentials.

133. The reception by the head of state of an ambassador or a minister plenipotentiary constitutes official recognition of this representative. The protocol service handles the ceremonial, i.e., composition and order of the procession which may include an escort, military honours, exchange of addresses, etc. An account of the ceremony is generally published in an official publication.

134. All heads of mission are received by the head of state, in the order of their arrival in the capital (Vienna Convention, art. 13). The ceremonial dress should be the same for all heads of mission of equal rank (art. 18). From this moment, the head of mission enjoys diplomatic status with all its accompanying immunities and prerogatives. He takes rank on the diplomatic list as from the day and hour he presented his credentials (art. 16). In some countries, however, diplomatic status and seniority both date from the delivery of the *copie d'usage* (e.g. Great Britain; see para. 122).

ARRIVAL VISITS

135. As soon as he has presented his credentials, the new head of mission informs the Dean (Doyen) of the diplomatic corps and all foreign representatives, by letter, of the date of the presentation of his credentials and the assumption of his functions. He then proceeds to make the official visits, beginning with the Minister for Foreign Affairs. He will see on that occasion the highest officials of the Ministry. He will then visit his foreign colleagues whose governments are recognised by his own state and those with whose governments his state maintains friendly relations. Appointments should be requested in the order of the diplomatic list. The protocol service will supply the new head of mission with a list of the official personalities of the country who should be visited or at whose residences visiting cards should be left. It will also indicate the visits at which the wife of the new head of mission should be presented by the wife of the Dean of the diplomatic corps.

136. If the new head of mission, on his first visit to a foreign colleague, meets him at his private residence he will take the opportunity to request to be presented to his wife. If he does not see her he will leave his visiting card and that of his own wife. Similarly, if his colleague is not at home the new head of mission will leave his visiting card and that of his wife. If his colleague is absent for any length of time the head of mission will visit the *chargé d'affaires*. However, when his colleague returns he will then make his personal visit, the visit to the *chargé d'affaires* not being sufficient from the point of view of protocol.

137. Heads of diplomatic missions inferior in rank to the newly-arrived colleague pay the first visit. However, if the new head of mission has announced an official reception on the occasion of his assuming his functions, such visits are not compulsory.

138. It is customary, at certain posts, for the new head of mission to make his contacts with his foreign colleagues easy by taking the initiative of inviting them to a reception on a fixed date. In such cases, however, he should, without delay, return the visit to all of his colleagues of superior rank. He sends his visiting card and that of his wife to the other visitors in accordance with the list made during the reception. This does not apply to high-ranking officials on whom he has already called and who merely returned his earlier call.

139. The wives of heads of mission are entitled to the honours, precedence and privileges of their husbands in accordance with the protocol rank of the latter at the seat of his residence.

140. The wife of the new head of mission should, as soon as she arrives, call on the wife of the Minister for Foreign Affairs and be presented to the wife of the head of state. Local protocol controls this visit.

141. Once this audience has taken place the ambassador's wife visits the wives of those of her husband's foreign colleagues whose ranks are similar to or higher than his, beginning with the wife of the Dean of the diplomatic corps, and leaves visiting cards on those whom she does not meet. She leaves her card at the homes of the wives of diplomatic representatives of rank inferior to her husband's. The wife of a minister plenipotentiary leaves her card promptly at the homes of the wives of all heads of mission.

142. We observe that, whereas in society in general the first visit is made by husband and wife together, the same does not apply to heads of diplomatic missions and their wives, each of whom has a personal and distinct protocol obligation to respect.

143. As soon as his house is open the newly-arrived head of mission should receive the Minister for Foreign Affairs. He awaits dining invitations from those of his foreign colleagues who precede him on the diplomatic list and cannot, barring exceptional circumstances, take the initiative of receiving them without running the risk of appearing to teach them a lesson in etiquette. He can invite members of the government and, if he is an ambassador, the ministers plenipotentiary and *chargés d'affaires*. He should also take the initiative, as soon as possible after completion of protocol formalities, to invite the heads of mission of equal rank who arrive in the capital after him.

END OF A DIPLOMATIC MISSION

144. A diplomatic mission can come to an end in very many ways. If temporary, it terminates with the completion of negotiations or the conclusion of a mission; if permanent, it can terminate either by a change brought about in the status of the head of mission (transfer to another post, retirement or death), by an event closely concerning the sovereign who accredited him or to whom he is accredited (death,

abdication), by a major political change in one of the states (change of internal government, end of independence), or, finally, by an important change in the political relations between the two states (rupture of relations, war).

145. New credentials are necessary when the rank of a post is modified. The same conditions prevail in the case of death or resignation of the sovereign. On the other hand, the death of a president or head of state or the end of his presidential powers do not make it obligatory for diplomatic missions to request or present new credentials.

146. On the occasions when new credentials are not necessary it is sufficient to send an official letter confirming his position. At all events, the head of mission always preserves and continues to enjoy full authority to negotiate with the foreign state to which he is accredited.

147. High Commissioners of Commonwealth countries appointed to prime ministers, and *chargés d'affaires* received by Ministers for Foreign Affairs, are not required to submit new credentials upon the death of a sovereign, or when the Minister who signed their commissions or letters of credence changes.

148. When a head of mission definitely leaves the capital where he resides he should deliver his letters of recall in accordance with local protocol. Usually the audience with the head of state in the course of which this ceremony takes place is private. (In Britain this is done by his successor.)

149. The sovereign or president to whom a head of mission was accredited may confer upon him a decoration or, if the country has no order of chivalry, give him a souvenir. The Minister for Foreign Affairs honours him at dinner before his departure.

150. The only occasion when a departing head of mission does not have to call on the head of state is when his recall is requested. For reasons of prestige, generally, and in order not to give the impression of disgrace to the departing head of mission, his government frequently calls him home for consultation before replacing him.

151. It is the rule for the new head of mission not to arrive at his post until his predecessor has left the territory where he exercised his functions. The only exception to this rule is when a former head of mission retires in the country where he was accredited. The departing head of mission announces in writing the date of termination of his mission to the Minister for Foreign Affairs and to members of the

diplomatic corps, giving the name and capacity of the chargé d'affaires *ad interim* who will replace him. The head of mission sends his visiting card, with the initials 'ppc' (*pour prendre congé*), to his personal friends.

152. The departure of a head of a diplomatic mission is made in the same manner as his arrival, i.e. incognito. It is, however, customary, if he is an ambassador, for a representative of the protocol service and of the head of state to bid him farewell. If he is a minister, this will be done by a representative of the Minister for Foreign Affairs.

CHAPTER FOUR

DIPLOMATIC PRIVILEGES AND IMMUNITIES

Fundamentals of diplomatic immunities – Inviolability –
Jurisdictional immunities – Courtesy prerogatives – Time of
war – Diplomatic passports



FUNDAMENTALS OF DIPLOMATIC IMMUNITIES

153. The immunities granted to diplomats are to permit them to fulfil their important mission without hindrance by the local authorities. The head of a diplomatic mission ought to be in a position to act freely in the interests of the state of which he is the representative. Inasmuch as he possesses no coercive force, custom has accorded him, since time immemorial, certain privileges and immunities intended to guarantee his personal independence, the independence of his property, and the necessary recognition of his dignity and that of the country he represents. These privileges and immunities, recognised by the law of nations and by reciprocal practice, were codified and completed by the Vienna Convention of 18 April 1961, which gives legal force and a contractual character to the respective obligations of states and of diplomats who exercise their functions.

154. The term 'extraterritoriality' is frequently used to describe the immunities which diplomats enjoy. This notion, by which jurists of the seventeenth and eighteenth centuries meant that the foreign ambassador, his residence and his staff should be treated by the authorities of the receiving state as if they were living outside its territory, if pushed to the extreme results in absurd consequences. Without wishing to engage in legal controversy which does not enter into the scope of this book, it seems to us that the basic fact that diplomats should be enabled to exercise their mission freely and without constraint is sufficient to determine the immunities

which they need and to justify the claims they may present to the authorities.

155. Articles 29–39 of the Vienna Convention of 1961 enumerate the privileges and immunities granted to members of diplomatic missions. Such immunities are granted to empower diplomats to carry out their duties efficiently without local authorities being able to prejudice their actions. On their side, diplomats have certain obligations towards the state that receives them. Article 41 enumerates these obligations.

Extensive immunities are granted to the career staff of the mission and to their families included on the diplomatic list (art. 47). Most members of this staff hold diplomatic passports. However, it should be noted that British diplomats do not hold diplomatic passports, none being issued in the United Kingdom (see para. 108). Immunities are also being conceded in the Vienna Convention to administrative and service staff. These immunities are granted to members of the staff and to servants but not to their families, and only in respect of official acts. Moreover, the staff of international organisations generally enjoy diplomatic immunities. Such is notably the case of the representatives of the United Nations Organisations, the North Atlantic Treaty Organisations, the Council of Europe, the European Economic Community, the United States Agency for International Development, the Western European Union. Entitlement to these immunities is pursuant either to treaty or other international agreement or to the domestic law of the receiving state.

156. The receiving state should grant to the mission all facilities for carrying out its functions. In particular, it should ensure to its members complete freedom of movement and travel, reservation being made with respect to zones to which access is forbidden or regulated for reasons of national security. Article 47 of the Vienna Convention forbids discriminatory measures between states. However, it admits as non-discriminatory the right of the receiving state to apply 'any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its own mission in the sending state'; also the cases 'where, by custom or agreement, states extend to each other more favourable treatment than is required by the provisions of the Convention'.

157. The Vienna Convention lays down in detail the rules covering

diplomatic privileges and immunities, and distinguishes between the various categories of members of diplomatic missions. These provisions are contained in articles 29–41 of the Convention and will be examined in their traditional order.

INVIOLABILITY

158. The head of a diplomatic mission cannot discharge the obligations of his mission if he is subject to orders from the authorities of the country where he resides. The inviolability is granted to him in order that he may enjoy on the territory where he exercises his functions, and throughout his term of office there, freedom from restriction and complete personal liberty.

Inviolability of the person

159. Personal inviolability, i.e. freedom from arrest or detention, is the essential guarantee of diplomatic agents. Any acts of oppression directed against an agent who is a representative of a state is considered as directed against the state itself.

160. The rules of inviolability are as follows:

(i) *Purpose* – to permit any diplomat to exercise without hindrance his mission as representative of a foreign state. Inviolability covers all the acts he accomplishes in the representation of the state which sent him and in the service of its interests, as well as in personal matters. It begins the day when the head of mission enters the territory of the country to which he is sent, on condition that his mission has been previously announced. It lasts during the time of his mission or until he has left the territory of the state to which he is accredited, even if he has been replaced. Inviolability continues even when diplomatic relations have been ruptured and even if a state of war exists. However, if the head of mission who has been replaced establishes himself in the country where he exercises his office he cannot continue to benefit from inviolability after he has left the service.

(ii) *Extent* – personal inviolability is granted under the provisions of the Vienna Convention of 1961, to heads of mission, members of diplomatic and of administrative and technical staffs, and to the

members of their families forming part of their households. However, the Vienna Convention makes certain distinctions between persons belonging to the diplomatic staff and having the nationality of the accrediting state, and persons belonging to the administrative, technical or service staff. These distinctions will be examined in detail under paras 190–2. Inviolability also extends to the personal effects of heads of mission and to their equipment, papers and records, whether on the mission premises, in their private residences or in their automobiles. Their correspondence must be free and their mail respected. Most states assign special registration plates to the automobiles of diplomats to enable the police to recognise them. However, according to practice special plates are not delivered to foreign diplomats by Great Britain (see para. 90).

161. Article 29 of the Vienna Convention guarantees to diplomatic agents the respect due them by the receiving state, which is required to take all appropriate steps to prevent any attack on their person, their freedom or their dignity.

162. A diplomat enjoys inviolability when he travels through a third country *en route* to his post or upon his return. This courtesy on the part of the state whose territory is crossed is now supported by article 40 of the Vienna Convention of 1961.

163. The inviolability of a diplomatic agent protects him in all circumstances. Such protection is a matter of public order and he cannot renounce it himself. Even if he engages in dealings contrary to the dignity of the head of state to whom he is accredited, he cannot be subjected by that state to measures which reflect upon him personally. However, the state is not deprived of means of defence as it can demand his recall or even compel his departure by handing to him his passport.

164. Inviolability protects the diplomatic representative against all attacks, no matter by whom or from what source. If the attack comes from a member of the government of the receiving state, acting in an official capacity, the sending state holds that government responsible for damages.

If the premises of the head of mission or the flag hoisted thereon is made the object of an outrage the government should present its apologies and, should the occasion arise, grant adequate damages. The local authority is responsible for the inviolability of all foreign

representatives and should prosecute and judge any private person who perpetrates a misdeed towards them.

Inviolability of communications

165. Article 27 of the Vienna Convention guarantees the free communication of missions by all proper means. It reserves, however, as regards the installation of radio transmitting sets, the consent of the accrediting state.

166. Diplomatic correspondence, defined in the widest manner, is declared inviolable. The right to the free circulation of diplomatic bags which must be neither opened nor held up, is formally recognised. It is emphasised that bags should contain only diplomatic documents and objects for official use. The immunity of couriers is recognised and the documents which they carry are specified, as well as the right of states and missions to have recourse to diplomatic couriers *ad hoc*. Finally, the right of states to entrust diplomatic correspondence to the commanders of seagoing vessels as well as commercial aircraft, and the right of the mission to take possession of the bags directly and freely from the commander's hands, is confirmed.

Inviolability of the premises

167. The residence of a diplomatic agent should be secure from police investigation, from the judiciary and from all administrative services, these having no right to enter the premises without the express consent of the agent. However, with this consent the police can intervene or enter diplomatic premises. Conversely, the premises of a diplomatic mission should not be used for purposes incompatible with the rules and general obligations of the diplomatic service.

168. Article 22 of the Vienna Convention guarantees the inviolability of diplomatic premises. It imposes upon the receiving state the 'special duty' to take all appropriate steps to protect them and to prevent any disturbance of the peace of the mission or impairment of its dignity. It guarantees not only the premises but also the contents (furniture and furnishings) and the mission's means of transport against all measures by the authorities.

169. Article 12 does not permit a mission to set up offices outside

the main seat of the premises without the express authority of the receiving state.

170. Article 20 authorises the flying of the flag and the emblem of the sending state on the premises of the mission, the residence of the head of mission, and his transport vehicle.

171. Article 21 obliges the receiving state to facilitate the sending state's acquisition of the premises necessary for its mission, or to assist it in obtaining accommodation in some other manner.

Diplomatic archives (files or records)

172. Diplomatic files or records are covered by the same inviolability as diplomatic premises. If diplomatic relations are broken off, the files (records) up to the date of rupture are inviolable.

Right of asylum

173. The inviolability of diplomatic premises has, in some cases, led to the practice of extending the right of asylum, thus giving rise to disputes. The inviolability of the premises has no other object than to permit the head of a mission to exercise his functions in complete independence. This does not include helping criminals to escape the punishment for which they are pursued. The diplomatic premises should not serve as a place of refuge for offenders against common law because no diplomat has a legitimate reason for shielding from the action of justice a person over whom he has not himself the least jurisdiction.

174. If such a situation arises the normal procedure is for the Foreign Ministry to request the head of mission concerned to deliver to the state authority the person who is accused of a crime and who has taken refuge in his premises. If he refuses, the premises can be surrounded by the police to prevent the criminal's escape and the local government should then take steps with the Foreign Ministry of the sending state concerned to obtain delivery of the presumed criminal. Certain experts hold that if the foreign representative refuses to deliver the criminal the local authorities can enter the premises by force and seize the accused. A receiving state would not, in their eyes, be obliged to respect an immunity which had been misused to insure the immunity of a criminal.

175. The Vienna Convention is silent on the question of right of asylum, para. 3 of article 41 stating that 'the premises of the mission must not be used in any manner incompatible with the functions of the mission as laid down in the present Convention or by other rules of general international law or by any special agreements in force between the sending and the receiving state'. It is, however, admitted in general practice that the diplomatic premises can serve as a place of asylum for political refugees. This protection should be considered as exceptional and should not be allowed to extend to the shielding of a presumed offender from local justice, which constitutes an intervention in a domain which belongs exclusively to the competence of the receiving state. However, it can be granted, for humanitarian reasons, to political offenders – or presumed political offenders – against reckless action by irresponsible mobs during a period when the authorities are no longer in control of the streets and cannot guarantee public freedom and security or defend their nationals against repressive measures whose extra-legal character is manifest. Such also could be the case if, on occasions of public disorder, the administration of justice is violated by measures taken under popular pressure or clearly inspired by political beliefs. It was in such circumstances, which are clearly very exceptional, that asylum was granted by numerous diplomatic missions to Spanish nationals in Madrid during the Spanish Civil War.

176. The situation is different in Latin America. Diplomatic missions in Latin-American states commonly give asylum on the occasions of revolutions and rebellions, which break out frequently in those countries. It is recognised there that the chiefs of overthrown governments or defeated leaders of revolutions and rebellions may be given asylum on diplomatic premises and later on receive permits allowing them to leave the country.

177. Desirous of putting an end to the abuses which compromised the principles and usefulness of this humanitarian practice, the governments of these countries have concluded various agreements to establish rules to be observed in their mutual relations for the granting of asylum. The texts of this international law, peculiar to Latin-American countries, are numerous. After the Montevideo Convention of 1889, the Bolivarian Accord of 1911 recognised the institution of asylum 'in conformity with the principles of international law'. The Havana

Convention of 1928, and later the conventions signed at Montevideo in 1933 and 1939, established and extended precise rules for this purpose. Not all Latin-American states adhered to all these conventions. An event of resounding importance was the asylum granted by the Colombian Embassy at Lima to the political chief, Haya de la Torre, when he fled following an attempted insurrection. This case was brought before the International Court of Justice. The decrees of 20 November 1950 and of 13 June 1951 provided the occasion for ample debate on the question.

178. In any case – and even though it may be normal in Latin-American countries – this practice cannot be encouraged. The mission of ambassadors is to defend the interests of their countries and not to mix, even for humanitarian reasons, in the internal politics of the state to which they are accredited. The granting of asylum by a diplomatic agent represents a form of protection against the application of the laws and the jurisdiction of the legally constituted tribunals of the country of his residence. His first duty, on the contrary, should be to respect these laws. Such action can, therefore, only be detrimental to his good relations with the national authorities concerned.

179. If a head of mission is induced to grant asylum to a person he ought without delay – unless circumstances of the moment advise against such action – to request the Minister for Foreign Affairs for a permit which will allow the sheltered person to leave the diplomatic premises safely and reach a foreign country without hindrance.

JURISDICTIONAL IMMUNITIES

180. International practice and jurists alike grant exemption from civil and criminal jurisdiction to heads of diplomatic missions of all ranks in the state to which they are accredited. This is an indispensable guarantee that enables these agents to manage, in complete liberty and independence, the affairs of the state which sends them. Although they are required to respect the laws of the country where they reside, they are subject only to the government and the courts of their own country.

181. This immunity is not designed to remove diplomats from judicial action but to withdraw all competence from local magistrates in favour of the country that the diplomat represents. Furthermore, it is

not extended to the representatives of countries which have been recognised as *de facto* only.

182. The Vienna Convention (art. 38) limits the jurisdictional immunities of members of the staff of diplomatic missions with the nationality of the sending state only to official acts performed in the exercise of their functions.

Criminal jurisdiction

183. Exemption from criminal jurisdiction is undisputed. In most countries an agent cannot waive this exemption on his own initiative, as he has no right to reflect upon the independence of the state he represents. In such case, as the immunity is granted to him in the interests of his government, his government is free to renounce it for him. In Great Britain a head of mission can do so, either for himself or for his staff.

184. This exemption is total for as long as the foreign diplomatic agent resides on the territory of the state to which he is accredited.

185. Jurisdictional immunity from the courts of the receiving state does not mean that the foreign diplomat is not responsible for crimes or misdemeanours which he may commit. A diplomatic agent should, in fact, respect the laws of the country where he resides and see that his entourage does likewise. However, he is only responsible to the authorities of his own country. The government of the receiving state should claim, through diplomatic channels, the administration of proper punishment; refusal to apply this punishment makes the sending state, in a degree, an accomplice of its representative. Jurisdictional immunity applies even when the foreign agent is guilty of a crime directed against the state to which he is accredited. That state cannot arrest him or have him tried by its own courts, but it has the right to make it impossible for him to continue his official functions, either by taking steps to deprive him of all external communication or by having him escorted to the border of the state.

186. If punishable deeds committed by foreign diplomats are only of minor importance the government may file a complaint through diplomatic channels.

187. A diplomatic agent cannot be obliged to appear in court as a witness. He can be requested to send his testimony in writing, but if he

refuses there is no way to compel him to do so. The examining judge must then go in person to the diplomatic premises to take his deposition.

188. Jurisdictional immunity granted to heads of mission extends to all the diplomatic staff of the mission and to the members of their families.

189. The Vienna Convention (art. 32) specifies that the sending state may waive jurisdictional immunity of the families of diplomatic agents, of members of the administrative and technical staff of the mission and their families, and finally of members of service personnel and domestic servants. However, it emphasises that this waiver should always be formally expressed.

190. Jurisdictional immunity for minor employees and domestic and hired servants is controversial. It is difficult to admit that their arrest would interfere with the freedom of diplomatic agents. But there is no doubt that, in certain circumstances or in certain countries, a menace to the security of minor employees and domestic servants of diplomatic missions would constitute an indirect hindrance to the freedom of action of their chief. The general custom is consequently that the inviolability of the head of mission covers them as well, especially if they are not nationals of the country of residence. The head of mission may waive this immunity if the circumstances demand it, and it is in fact his duty to do so if one among this personnel is found guilty of a crime or misdemeanour under common law and of which the reality and the qualification leave no doubt.

191. It is stated in article 37, para. 4, of the Vienna Convention that private servants of members of diplomatic missions who are not nationals of the receiving state or permanent residents therein may enjoy privileges and immunities only to the extent admitted by the receiving state. However, it is provided that the receiving state should exercise its jurisdiction over such persons in a manner which will 'not interfere unduly' with the performance of the functions of the mission.

192. Article 38 of the Vienna Convention states that if a mission includes a diplomatic agent who has the nationality of the receiving state or who has his permanent residence therein, such agent shall enjoy jurisdictional immunity and inviolability only in respect of official acts performed in the exercise of his official duties. Other members of the staff of missions and the private domestic servants

who find themselves in a similar situation with respect to the receiving state benefit only from the privileges and immunities that the said state recognises for them. But it is laid down that the receiving state must exercise its jurisdiction over them in such manner as not to interfere unduly with the performance of their functions at the mission.

Automobile accident jurisdiction

193. The residence in foreign countries of diplomatic and consular agents enjoying personal and jurisdictional immunities places them under the very strict obligation of scrupulously respecting the police regulations relating to motor traffic in the country where they reside.

194. In the case of an accident in connection with which the civil liability of an agent is questioned, either as the driver or as the owner of the automobile, the following principles apply:

(i) He should, as soon as possible, claim his diplomatic immunities, especially when he cannot waive them himself (see paras 183 and 190). He should not, if his chauffeur caused the accident, agree to his arrest or even to his being held temporarily by the police.

(ii) He should not, however, take advantage of his status to evade or escape responsibility. This is important as much for the reputation of his country as for that of the diplomatic corps to which he belongs.

(iii) During the investigation he should not hinder the course of justice by refusing to give information which may be requested of him as to the circumstances of the accident, but should, on the contrary, assist by putting his chauffeur, if he was involved in the accident, at the disposal of the qualified authorities. In the latter case, however, he should emphasise in advance that the chauffeur is covered by the immunities of his employer and cannot in any event be arrested or held in custody at the disposal of the judicial authorities.

(iv) He should not plead jurisdictional immunity to avoid the payment of indemnities to the victims of an accident.

(v) If he is not insured his jurisdictional immunity does not relieve him of the obligation of a friendly settlement in payment of damages; his immunity simply means that he cannot be sued before

a local tribunal. If he is insured, as is compulsory in most states, he must not allow the insurance company to take advantage of his jurisdictional immunity not to indemnify the victims. It will be his duty to see that the insurance company proceeds to a just settlement of the claim.

(vi) Alternatively, the victims can always turn to the diplomat's national courts which remain competent, as regards diplomats in foreign service, the jurisdictional immunity not having for its object the avoidance of civil responsibility by those causing accidents but only the disqualification of the courts of the country of residence (Vienna Convention 1961, arts 31-4). An insurance company has no authority to decide whether diplomatic immunity should or should not be asserted in a particular case. While a diplomatic agent cannot compel an insurance company to make a fair settlement he nevertheless should do all in his power to persuade it to do so. In some countries, notably the United States, the claimant must sue the insured rather than the insurer.

(vii) He should, if uninsured, or if his insurance policy is issued in such manner that the company can free itself of responsibility, have recourse, first of all, to his own Ministry for Foreign Affairs to obtain that it withdraw his jurisdictional immunity, thus enabling the local judicial authorities to take action; alternatively, he can turn to the courts of his own country which remains competent as regards diplomats in foreign service, the jurisdictional immunity not having for its object the avoidance of civil responsibility for those causing accidents but only the disqualification of the courts of the country of residence (Vienna Convention: art. 31, para. 4).

Civil jurisdiction

195. In civil matters, jurisdictional immunity is recognised for foreign diplomatic agents. In most countries this privilege can be waived by the diplomat only if he is authorised by his government to do so. In Great Britain heads of mission only can take this step (see para. 183).

196. When a government receives a complaint against a foreign diplomat this claim is brought to the attention of the Ministry for Foreign Affairs of the agent's country or to the courts of the country where he is considered as domiciled.

197. As a general rule diplomatic immunity in civil matters extends to all persons who enjoy it in criminal proceedings. However, under the Vienna Convention, administrative and technical staff enjoy immunity for civil jurisdiction only with respect to official acts.

Exceptions to juridical immunities

198. Article 31 of the Vienna Convention provides that diplomatic agents benefit from jurisdictional, civil and administrative immunity except with regard to an action concerning:

- (i) a private dwelling owned by the agent and situated on the territory of the receiving state;
- (ii) an estate where the diplomatic agent appears in a private capacity and not in the name of the sending state;
- (iii) a professional or commercial activity exercised in the receiving state by the agent outside his official functions. In these cases, enforcement steps can be taken against the agent on condition that such steps do not affect the inviolability of the person or the home.

199. The diplomat who becomes a plaintiff before a local jurisdiction must previously have expressly waived his jurisdictional immunity (Vienna Convention, art. 32, para. 2). Thereafter, he cannot plead immunity from jurisdiction as regards any counter-claim directly linked to the principal action. However, the waiving of jurisdictional immunity for a civil or administrative action is not considered to imply a waiver of the immunity when executing judgement, which cannot be practised either on the person or on his property. A special waiver is necessary for this purpose.

'The plaintiff diplomatic agent is presumed, when coming into court, to have waived his immunity.'

COURTESY PREROGATIVES

200. It is customary in most states to recognise certain favours for agents belonging to diplomatic missions. The form of application to members of diplomatic missions of the privileges set out below can vary from one country to another because they depend on the internal

regulations of the receiving state and the manner in which the interested states conceive the rules of reciprocity.

Immigration

201. Most countries dispense with the regulations on immigration and exit for members of diplomatic missions, their families and the servants who accompany them.

Religious worship

202. Right to private worship is recognised and general custom authorises diplomatic envoys to maintain a private chapel in the interior of their premises. This disposition has lost much interest by reason of wide tolerance which now exists almost everywhere.

Tax exemptions

203. Among the various rules laid down by the Vienna Convention are a number covering the practice to be followed in matters of tax exemption.

204. Article 23 exempts the premises of which the sending state or the chief of mission is owner or tenant, except when the taxes collected are for specific services rendered. This exemption does not apply when the legislation of the sending state requires payment of such taxes by the person contracting with the sending state or the head of mission.

205. Article 34 exempts the diplomatic agent from all personal taxes with the exception of the following:

- (i) taxes on private dwellings owned by a head of mission situated on the territory of the receiving state;
- (ii) taxes on private dwellings situated on the territory of the receiving state, unless the diplomatic agent owns them on behalf of the sending state for mission use;
- (iii) estate taxes (with the reservation made in article 39, para. 4 of the Vienna Convention);
- (iv) taxes on private income from the receiving state and income taxes on capital investments;
- (v) taxes for services rendered;

(vi) registration fees of courts and mortgage and stamp taxes as regards real estate (with the reservation made in article 23 concerning mission premises).

206. Families of diplomats, administrative, technical and service staff, and private domestic servants, if not nationals of the receiving state, also enjoy fiscal immunities on their salaries.

Estate matters

207. Article 39, para. 4, specifies that if a member of the mission or one of his family who is not a national of the receiving state or who has no permanent domicile therein dies, the receiving state permits the withdrawal of the furniture and furnishings of the deceased, but not the property acquired in the country, the exportation of which is prohibited. There will be no estate taxes on furniture and furnishings which were used exclusively by the deceased.

Customs matters

208. Article 36 grants exemption from Customs duties and other taxes connected therewith, excluding storage charges or taxes relating to analogous services, to the following:

- (i) goods destined for the official use of the mission;
- (ii) goods destined for the personal use of the diplomatic agent and members of his family who make up his household, including domestic fittings.

209. The diplomatic agent is, in principle, exempt from the inspection of his personal baggage, which should contain no goods or valuables the importation of which is prohibited or which are not entitled to free passage by the laws of the receiving state which the diplomat is required to respect. If there should be any doubt on the part of the Customs authorities the baggage may be inspected, but only in the presence of the diplomatic agent or an authorised representative.

210. Under the terms of article 37 of the Vienna Convention the families of diplomatic agents are entitled to full free entry, while administrative and technical staff are entitled to free entry only of goods imported on their first entry into the country.

Requisitions

211. Article 35 of the Convention prohibits the subjection of diplomatic agents to personal contributions from public services of whatever nature and all military obligations (requisitions, contributions, housing, etc.).

Social security

212. The extension of social security régimes required the inclusion in the Vienna Convention of article 33, which exempts diplomatic agents from local social security requirements when the services rendered are for the sending state. This exemption extends to servants exclusively in the service of diplomatic agents on condition that they be not nationals of the receiving state and that they be subject to a social security system in the sending state or in some other state.

213. In other cases, the diplomatic agent who has in his employment persons not exempt should respect the obligations that the laws of the receiving state impose on employers.

214. There exist, moreover, social security conventions concluded between various states concerning staff personnel of diplomatic and consular posts.

215. Diplomats pay income taxes on profits received from the exercise of professions which bear no relation to their official functions or on private property which they may possess. They are subject to stamp duties on securities and stock market operations and taxes imposed on stocks and bonds.

TIME OF WAR

216. Events of the last century have shown that the rupture of diplomatic relations in the event of war should remain the pre-occupation of diplomatic missions. The circumstances of such ruptures are generally of an exceptional nature as their practical solution depends, for the most part, on the conditions of time and place. They will therefore be examined only summarily here.

217. Article 44 of the Vienna Convention guarantees the facilities of departure of diplomats other than nationals of the receiving state

who enjoy privileges and immunities. The receiving state should put at their disposal the means of transport necessary for themselves and their property.

218. Article 45 obliges the receiving state to respect and protect the premises, the property and the archives of the missions. It authorises the sending state to entrust custody of the mission's premises, as well as the protection of its interests and those of its nationals, to a third state acceptable to the receiving state.

219. The rupture of diplomatic relations not followed by a declaration of war should not necessarily bring about the rupture of consular relations. However, the recent evolution of international events shows that the departure of the mission has in fact led to the closing of consulates.

220. As consuls are charged with the protection of their nationals in the country, the protecting power must assume the same responsibility. It therefore keeps the consulates open and ascertains from the receiving state if it will admit a consular agent to remain under orders with a view to insuring the proper execution of the obligations of the service and the proper application of the laws and regulations of the country whose diplomatic representation and consuls are obliged to depart.

221. In neutral countries, particularly those where the Deanship of the diplomatic corps is not entrusted to the papal nuncio, the local protocol service is called upon to avoid contacts between the missions of the belligerent states and in arranging official ceremonies to take into special account the existing situation.

222. Very delicate situations can arise between agents who, prior to a conflict, had a certain sympathy for each other and who find themselves in opposite camps. If diplomatic relations have been completely broken off, the situation requires tact and discretion. In any event, humanitarian intervention must never be refused *a priori*. During hostilities the relative position of belligerents may change and public behaviour should not be such as to compromise it. Professional training teaches diplomats how to behave without losing sight of the fact that peace will one day return: the end of the war normally leads to a return to normal relations which should not be irremediably hindered by an uncompromising, blundering attitude. Experience in diplomacy leads to an appreciation and understanding of shades of opinion.

DIPLOMATIC PASSPORTS

223. It is customary to grant career diplomatic and consular officials passports of a distinct type. International custom requires that holders of such passports be treated with special consideration by all authorities. In view of the immunities attached to the possession of these documents, their issue is subject to special, strictly controlled conditions. Each state has its own regulations. It should be noted that diplomatic passports are not issued by Great Britain.

CHAPTER FIVE

CONSULS

Categories of consuls – General character of consular functions – Appointment of consuls – Exercise of consular functions by a diplomatic mission – Privileges and immunities (career consuls, honorary consuls and consular agents) – Arrival visits – Absence of consul – Termination of consular mission



224. The consul is an official agent sent by a state to a predetermined foreign territory to exercise there such authority as the state retains over its nationals established abroad. He is charged to assist them, to ensure their general protection and to see that commercial, economic, shipping, cultural, etc., treaties are respected. He is an administrator and an observer.

225. The functions of chiefs of consular posts are thus distinct from those of diplomatic agents.

It is, first of all, universally admitted that consuls have no representative character, a prerogative which belongs solely to heads of diplomatic missions.

Heads of mission represent the state that sends them to a foreign state, and their functions and their powers are everywhere the same. They alone are qualified to engage in the political relations between the two states. Consuls, on the contrary, are charged by the sending state to exercise specific functions in relation to their nationals resident in or in transit through their consular district. In fact, if each state determines freely the status, the functions and the powers of its consular corps, the authority of consuls can be exercised only within the limits admitted by the state of residence. So that consuls find their authority limited by the application of the laws of the two states or by conventional régime. Furthermore, if consuls, in the exercise of their purely consular functions, depend directly on the Ministry for Foreign Affairs, from the general point of view they also form part of the

diplomatic missions in the task in which they are called on to collaborate.

226. Because of the many varied tasks with which, from time to time, consuls have been charged, the importance of their role has considerably extended. Until recently, the exercise of consular functions was made the object of bilateral consular conventions concluded between interested states. The multiplication of new states acceding to independence has shown the interest, for the purpose of simplification and of unification, of defining in a multilateral agreement the consuls' obligations, the conditions in which they can exercise their mission as well as the privileges and immunities which must be recognised for them to enable them to carry out their functions efficiently.

227. Such was the object of the Vienna Convention of 24 April 1963 on consular relations, prepared under the auspices of the Commission on International Law of the United Nations. That convention has been signed by fifty-one states, and ratified by twenty-one. Thus it entered into force on 19 March 1967, in accordance with Article 77. As it is probable that most states will eventually adhere progressively to its provisions we use it here as a reference to the study which follows. Article 73 provides that the convention will not affect existing bilateral conventions and leaves states free to conclude further agreements. This convention consolidated the actual régime and improved it on certain points.

The Vienna Convention carries two signature protocols; one concerning the compulsory settlement of disputes, and the second concerning the acquisition of the nationality of the country of residence by members of consular posts and their families.

CATEGORIES OF CONSULS

228. The Vienna Convention (art. 9) divides heads of consular posts into four classes: Consul-General, Consul, Vice-Consul and Consular Agent. Consulates-general, traditionally, are posts established in more important centres than Consulates. Vice-consulates are consular posts in the district of a consulate-general or a consulate, whose head, a career officer, remains under the authority of the consul. Consular agencies are offices, generally in ports, put in the hands of nationals or

foreigners; they are usually competent for commerce and shipping affairs. Their incumbents are nominated by the consul in charge of the consular district.

The terms mentioned in the Vienna Convention being declared obligatory, this article will have a certain repercussion on the title of consular officials exchanged between Commonwealth countries, actually called *deputy high commissioners*. These latter are presented by a letter addressed by the Minister charged with Commonwealth Relations to the corresponding minister of the state of residence. They are not the object of an *exequatur*. They enjoy, as do their staff, privileges and immunities granted to foreign consuls. These privileges and immunities are granted by law of the member state of the Commonwealth concerned.

GENERAL CHARACTER OF CONSULAR FUNCTIONS

229. Following article 1 of the Vienna Convention which defines the technical terms employed to designate the various categories of officials and other staff, a first chapter deals with consular relations. Article 2 specifies that the establishment of diplomatic relations between two states implies, unless otherwise stated, consent for the opening of consular relations. The establishment of such relations is by mutual agreement. It is further stipulated that the rupture of diplomatic relations does not lead *ipso facto* to the rupture of consular relations.

230. The opening of a consular post, its classification, its location and its district are fixed by the sending state and submitted to the state of residence for approval. Any modification must take place with the consent of the state of residence. It is specially the case when the sending state desires to modify the classification or the district of a post (Vienna Convention 1963, art. 4, para. 2), establish vice-consulates or consular agencies in the consular district of the post or open offices outside the seat of the consulate. The provisions of article 20 are an innovation in the established practice by permitting the state of residence to require that the complement of a consular post be maintained within the limits that it considers reasonable and normal.

231. Article 5 of the Vienna Convention, taking into consideration the needs of the post, contains a general summary of consular functions. These may be summarised as follows:

(i) To protect the interests, physical or moral, of the sending state from which stems, in particular, the right to issue passports and visas, to act as notary or civil registrar and in capacities of a similar kind, to safeguard the interests of nationals in case of succession *mortis causa*, or the protection of minors and other persons lacking full capacity, to have their nationals represented in courts of law, to transmit judicial or extrajudicial documents, to control and to assist national vessels and aircraft and their crews. In performing these or any other functions entrusted to the consular officer by the sending state, which are not prohibited by the laws or regulations of the receiving state, the consul may be called upon to act in the interest of nationals of the state of residence and other foreigners as well.

(ii) To make all lawful investigations into the progress of the economic life of the country.

(iii) To encourage the development of economic, commercial, cultural and scientific relations.

(iv) To exercise all functions attributed to consuls by the sending state which are not forbidden by the state of residence.

These powers are exercised of right in the territory of the consular district which was recognised for the consular officer at the time of his appointment. Consular officers of the United States of America, in particular, are required to perform important functions under the immigration and nationality laws of the United States in the control of immigration and in the issuing of passports.

232. The agreement of the state of residence is necessary to enable the consul to exercise his functions outside his consular district, either on the territory of the state of residence or on that of a third state (arts 6 and 8).

APPOINTMENT OF CONSULS

233. The appointment of consuls is regulated by articles 10–15 of the Vienna Convention. As consuls are endowed with powers concerning their own nationals as well as certain dealings of inhabitants of the state of their residence with the sending state, their appointment and admission require the specific agreement between the state of residence

and the sending state. These problems were strengthened, in practice, by the Vienna Convention, with some exceptions that we will point out in passing.

234. Two administrative acts are indispensable to enable a consul to perform his duties. The sending state provides him with a document, in the form of a commission or similar instrument, confirming his appointment, sometimes called *consular commission* or *patent*, which specifies his status and briefly delimits the area in which he will exercise his functions. The state of residence confers upon him, by the *exequatur*, the free exercise of his powers provided by local legislation and consular convention in such matters, as well as the enjoyment of the privileges and immunities which apply to his position.

235. A state can refuse to receive a consul. Moreover, article 12 of the Vienna Convention specifies that such a state is not bound to communicate to the sending state the reasons for such refusal.

236. Pending the delivery of the *exequatur* the principal consular officer can be authorised, provisionally, to exercise his functions. This is usual in the case when he is presented by his predecessor.

237. The powers of consuls are, in this way, limited by the application of two laws. If they are invested by their appointment with the full powers which their national legislation confers upon them, the exercise of these powers is limited by the legislation of the state of residence. Article 18 of the Vienna Convention provides for a consul to perform consular functions on behalf of several states if the state of residence gives its consent. Article 15 provides detailed rules concerning the appointment of a temporary agent and the conditions in which he can enjoy the privileges and immunities accorded his post. Article 17 of the convention provides for the possibility of a principal consular officer performing diplomatic acts in a state where his government is not represented; this status of *chargé d'affaires* does not give him the right to diplomatic immunities. It also authorises consuls to represent the sending state before an intergovernmental organisation, and determines the immunities from which they can benefit.

Consular officials

238. The Vienna Convention groups under the term consular officer any person, including the head of a consular post, entrusted in that

capacity with the exercise of consular functions at the post. The group includes consuls-general, consuls, vice-consuls and consular agents. These officials must, in principle, have the nationality of the sending state. But whether they hold such nationality or the nationality of a third state, the consent of the state of residence is required in order that the latter can ascertain if they are *persona non grata*. The Convention provides for the granting of an *exequatur* to those officials who, while remaining under the authority of the principal officer of the post, exercise their activity in a locality different from that of the seat of the consulate, vice-consulate or 'detached chancellery'.

On its side, the sending state must notify the state of residence of the nomination of all members of the staff of a consular post, their arrival, their definite departure and, in general, any change concerning their status. This applies also to the members of their families and service personnel, as well as to the employment or the discharge of persons resident in the state having a right, under whatever title, to consular privileges and immunities.

239. As soon as the chief of the consular district is admitted, even temporarily, to the exercise of his functions, the state of residence must inform the competent authorities of the consular district in order that the new chief of the district may exercise his functions and enjoy his privileges and immunities.

240. The Vienna Convention lays down in detail the procedure to follow when a consul or a member of the consular post, whether or not he is a national of the sending state, is no longer acceptable to the state of residence. It obligates the sending state to recall him or to relieve him of his functions. Contrary to the practice followed in bilateral conventions, the state of residence is not obliged to make known the reasons for its decision.

EXERCISE OF CONSULAR FUNCTIONS BY A DIPLOMATIC MISSION

241. Diplomatic missions always have the right to raise questions of a consular nature with the Ministry for Foreign Affairs.

In countries where their colony is very small or their interests insufficiently developed to require the presence of a consulate, governments often charge their diplomatic mission with fulfilling consular

functions. Also, on occasion, the consular services of the capital are installed in the mission premises. In practice, if the diplomatic mission has not obtained a special *exequatur* for its consular district, it can deal with consular affairs only through the intermediary of the Ministry for Foreign Affairs. Failure to take this precaution makes it impossible for the local authorities to take the necessary action on requests made direct to them until after they have received the consent of the Ministry for Foreign Affairs, in which event the replies can be transmitted only by the intermediary of that ministerial department.

The Vienna Convention anticipates this situation. Inasmuch as the heads of diplomatic missions generally hold full powers from their government, when they are accepted by the state of residence, there is no need for an *exequatur*. Article 70 requests that the consular district devolving upon the diplomatic mission be defined and that the names of the members of the mission charged with the consular section be notified to the Ministry for Foreign Affairs. The diplomatic mission can then communicate directly with the local authorities of the consular district. The members of the mission in charge of consular affairs continue to benefit from diplomatic immunities.

242. Internal regulations and the practice of each state determine the categories of affairs concerning which the local authorities are authorised to deal directly with consuls, and those for which the correspondence must pass by the intermediary of the diplomatic mission and the Ministry for Foreign Affairs. In general, the local authorities can reply directly to accredited consuls on affairs concerning individual members of their colony, such as requests for information of a general order on administration, sojourn, employment and assistance, requests for family search, information concerning families, etc.

PRIVILEGES AND IMMUNITIES OF CONSULS

243. From the moment when the official status of consuls is recognised by the state of residence, the latter must grant them the necessary immunities to guarantee the full exercise of their functions. While diplomats enjoy practically the same immunities in all states, the prerogatives and immunities of consuls are determined in a bilateral manner by consular conventions.

In the course of the past few years many countries have shown a

definite tendency to merge the diplomatic and consular careers. As a result, the immunities of career consuls have been extended to resemble those recognised for diplomats and this tendency is being accentuated. The régime instituted by the Vienna Convention has consolidated, and on certain points extended, the favours conceded to career consuls by distinguishing them from those of honorary consuls.

At the same time the Vienna Convention established the principle of non-discrimination between states; all consular posts of the same category should be subject to the same régime. It admits the possibility of further bilateral agreements.

244. Freedom of movement. The Vienna Convention guarantees to the chiefs of consular posts the freedom of communicating with their nationals and of visits to them. On their side the latter should have all freedom of communication with their consulate and of visits to it. Article 36 specifies in particular that if a national of a foreign state is detained on the territory of the state of residence, the authorities of the latter must, if the detainee requests it, notify the competent consular post without delay. Moreover, communications that the detainee may address to his consulate should also be transmitted without delay. The authorities should inform prisoners of their rights in these matters. The convention also recognises the right of consuls to visit their nationals held in custody, to interview them, to correspond with them and to take steps for their defence in the law courts. Consuls, likewise, can visit convicted prisoners of their nationality. It is specified that, should the occasion arise, the laws and regulations of the state of residence should be so modified as to permit the full realisation of these provisions.

The free movement of consular personnel in the territory of the state of residence is guaranteed, with the one reservation of zones whose access is forbidden or limited for reasons of national security (art. 34). Freedom of communication is likewise guaranteed. The convention regulates in detail a system of consular bags which, indeed, constitutes an innovation (art. 35).

245. The Vienna Convention obligates the local authorities to inform the consuls of the death of their nationals, to report cases requiring the appointment of guardians or of trustees and to advise them of all shipwrecks or accidents occurring to commercial vessels of their nationality in territorial waters.

246. On the other hand, in return for the preferential treatment granted to them, the beneficiaries of immunities which will be detailed farther on should respect the laws and regulations of the state of residence; not meddle with or become involved in internal affairs and not use the consular premises for purposes incompatible with the exercise of their functions. They must, in particular, respect the laws and regulations in matters of insurance against accidents caused by their vehicles, motor boats and aircraft (art. 56).

Privileges and immunities of career posts and personnel

247. The Vienna Convention distinguished between immunities granted to consulates in the charge of career agents and those recognised for honorary consulates and to consular agencies.

The authorities of the state of residence shall, under the terms of articles 28 and 30, accord full facilities for the performance of consular functions at posts, and either facilitate the acquisition of the necessary premises or assist in obtaining accommodation in some other way. Furthermore, numerous immunities are recognised to personnel and to consular premises.

248. *Inviolability.* An essential immunity for the consul is that he be able to perform the duties of his office without hindrance or molestation by the local authorities. All consular conventions guaranteed personal inviolability of consuls, although some have permitted their arrest in case of crime or of *flagrant délit*.

Article 40 of the Vienna Convention of 1963 on consular relations declares that the state of residence must treat consular officers with the respect due them and prevent all attacks on their person, their freedom and their dignity. Article 41 provides that consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authorities. In all other cases they cannot be imprisoned until after a court judgement has been confirmed (art. 41). The consul must present himself to the authorities. But the procedure for this purpose must be conducted with due regard for his rank and with the least possible inconvenience to the exercise of consular functions. In case of arrest of a member of the consulate personnel, or the instituting of criminal proceedings against a consular official, the state of residence must notify

the head of the consular post. If the head of the consular post is indicted, the state of residence must immediately notify the sending state through diplomatic channels.

Jurisdictional immunity covers all members of the personnel for acts committed in the performance of their duties.

It is to be noted that, in the United States, career agents are subject only to Federal courts.

249. *Inviolability of consular premises.* The inviolability of consular premises, long recognised, was confirmed by the Vienna Convention. It covers both the residence of the head of the consular post and the offices of the consulate. Consuls are authorised to place above the door of their office and of their residence the coat of arms of the sending state and to fly the national flag (art. 29). Likewise, they can place a distinguishing flag on their automobile when they travel on official business. The authorities must ensure the respect of the flag and coat of arms by the local population. Any failure to comply in such matters leads to apologies and, sometimes, even to amends.

The inviolability of consular premises is the subject of article 31 of the Vienna Convention. It is therein specified that the state of residence must protect the consular premises against any intrusion or damage and prevent any disturbance of the peace of the consulate or impairment of its dignity. That is a sign of the times. It is, in fact, frequently the case that on occasions of political tension irresponsible agitators incite crowds to demonstrate before consulates of those powers whose politics are the subject of criticism, while the police display a lukewarm attitude in the protection of official foreign premises.

This inviolability is accompanied by fiscal exemption of consular premises and the consul's residential quarters. It extends to the archives (official files and records) and also covers postal communications.

Consular fees can be freely collected without being subject to taxation.

250. *Testimony in court.* The Vienna Convention concedes that consuls can be called on to testify in court (art. 44). It is specified that they are not required to testify concerning matters dealt with in the exercise of their functions, nor produce correspondence or official documents. They can also refuse to testify as experts on the laws of the sending state.

Testimony is taken in such a way as will least disturb the work of the

service; at the office or at the home of the official, or even, when possible, by a written statement by the official.

251. *Fiscal and Customs exemptions.* The Vienna Convention consolidated in article 32 the traditional fiscal exemptions covering consular premises (residence and office of the consul). Article 49 likewise exempts career agents and their service personnel from taxes on salaries and, with certain exceptions, from direct and indirect taxes.

The Vienna Convention establishes and extends the régime of *customs favours*. For instance, to material of all sorts necessary for the consular services, already traditionally exempted, together with personal baggage and household furniture and furnishings of agents on their first appointment, it adds the free entry in reasonable quantities of objects destined for the use of agents and their families living with them.

In the event of winding up the estate of a career agent, the state of residence should not prevent the export of the furniture and furnishings of the deceased on which no death duties are payable.

252. *Various privileges.* Consular personnel and the members of their families are exempt from the formalities of the state of sojourn concerning foreigners in matters of registration, residence or work permits. Their membership and that of their domestic servants in social security schemes is regulated in detail. Members of consular posts are exempt from all personal military obligations such as requisitions, contributions and billeting.

253. The immunities indicated above are granted as soon as members of the consular post have entered the territory of the state of residence. They cease with the agent's departure. The immunities of families conform to those of the officials. They are granted only to persons who exercise no occupation for personal gain (art. 57). Only the jurisdictional immunity for acts performed by the agent in the exercise of his official consular function continues without limitation of duration.* The necessary immunities can be granted by third states to officials in transit through their territory.

The sending state can waive, as regards a member of a consular post,

* This question is not mentioned in the Vienna Convention, which simply states that immunities cease with the end of the functions. This chapter was revised by the Chief of the Consular Services of the British Foreign Office (with whom the Franco-British Consular Agreement was negotiated) and is considered by the authors as particularly satisfactory.

the privileges and immunities provided in articles 41 (personal inviolability), 43 (jurisdictional immunity) and 44 (the obligation to testify as a witness). This waiver must be expressly written and addressed to the state of residence.

It is also recognised that if the recipient of jurisdictional immunity engages in litigation in which he would be covered by this immunity he cannot claim such immunity as regards any counter-claim directly attached to the principal claim. But this waiver does not lead *ipso facto* to the waiver of immunities concerning measures taken for the execution of the judgement, for which a separate waiver is necessary.

It can thus be seen that the status of career consuls and that of their posts is well guaranteed and that the dispositions adopted go, sometimes, beyond former conventional régimes.

254. *Consular personnel – nationals of the state of residence.* It appeared necessary to specify in particular the status, the privileges and the immunities of nationals of the state of residence employed at consulates. Jurisdictional and personal inviolability are recognised for those who belong to this category of consular officials only for official acts performed in the exercise of their functions. Their arrest or detention must be notified to the head of the post, and judicial prosecution engaged against them must be conducted in such fashion as to inconvenience or disturb the functioning of the consular services as little as possible (art. 71).

Other consular employees and members of their families enjoy no personal immunity.

Fiscal immunities are limited to salaries received for their activities in the consular service.

Privileges and immunities of honorary consuls and of their posts

255. It has been the custom in various countries to treat honorary consuls in the same manner as career consuls. The Vienna Convention states precisely in certain articles the ruling regarding honorary consuls whose multiplication by the side of career consuls needed regulating.

Article 58 enumerates the general provisions concerning career posts which are applicable to consulates in the charge of honorary consuls and to the heads of posts.

The state of residence is required to assure the protection of

consulates in the charge of honorary consuls as well as the consuls themselves. But the privileges and immunities which they enjoy are different. Honorary consuls who exercise no professional or commercial activity are exempt from the obligations of foreigners concerning the registration of their automobiles and residence permits; they are also exempt from personal levies, but the privileges and immunities from which the families of career agents benefit are not extended to their families. Fiscal exemptions are limited to sums received from emoluments (fees) by honorary consuls and to premises which are owned or leased by the sending state. The inviolability of archives is limited to those which are separate from other documents and from the honorary consul's private correspondence. Customs exemptions are limited to office furniture and to material and articles for office use sent to the consul by the sending state.

Consular agencies

256. The Vienna Convention states that the functions of consular agencies and the privileges and immunities of their incumbents must be regulated directly between the two states, thereby retaining part of existing consular conventions (art. 69).

ARRIVAL VISITS

257. Immediately upon arrival foreign consuls, who have been authorised to exercise their functions by the *exequatur* or by any other procedure and who take up their posts for the first time, give notice in writing of their entry into office to the authorities of the territory comprising their district and to consuls of all categories.

258. The consul immediately pays an official visit to the highest-ranking administrative authority of the city of residence, who returns it. The promptness of the return call being considered everywhere as a mark of consideration, the visits exchanged on that occasion should be made with the shortest possible delay, as a rule within twenty-four hours.

Thereafter the consul proceeds to other visits of arrival. The officer in charge of the consulate should prepare in advance, in conjunction with the highest-ranking local authority, the list of visits and the order

in which they should be made. The consul calls first on colleagues of superior or equal ranks and awaits calls by those of inferior rank. He also visits the local authorities of superior rank and receives the visits of those of inferior rank. These visits, which are for the purpose of establishing friendly contact with the authorities, should be made within three days after taking charge, and returned within twenty-four hours.

The consul's wife should visit, as soon as possible, the wife of the highest-ranking administrative authority and then the wives of her husband's colleagues.

259. Other agents of the consulates who arrive for the first time in a new residence are also expected to make a certain number of calls. They should call on other consuls and their colleagues of superior or comparable rank and visit local authorities with whom they will be in touch. The head of the post does not need to accompany his new colleague unless he is himself leaving immediately, in which case he introduces his temporary replacement.

260. As a general rule agents who wish to carry out their mission well will find it advantageous to move in the best society in the city where they live. Respect for the value of their position will open all doors. They should previously inquire carefully about matters of local custom. In many countries, and in the relations between career agents, it is the newly-arrived agent who makes the first visit. In Great Britain and in other states with the same traditions it is, on the contrary, the new arrival who awaits the first visit and gets in touch with persons who have indicated a desire to meet him. There are some countries where, due to oriental customs, the visits of bachelors to family homes are subjected to certain restrictions.

ABSENCE OF CONSUL

261. When a consul is to be absent for some time he should notify the local authorities of the duration of his absence and present the person who will replace him.

TERMINATION OF A CONSULAR MISSION

262. Consular functions are terminated for various reasons, generally by the transfer of the agent or the intervention of external events, and

by the rare occasion when a consul is declared *persona non grata*. The Vienna Convention regulates in some detail the procedure for the withdrawal of the *exequatur* (art. 23).

Except in the case of the withdrawal of the *exequatur* or of the breaking off of consular relations the consul leaves his post promptly and by the same routine as when he arrived. In particular, he designates to the local authorities, and presents to them if the occasion arises, the person who will be entrusted with the administration of affairs pending the arrival of a new chief.

263. *Rupture of consular relations.* Article 27 of the Vienna Convention imposes upon the state of residence the obligation to respect and protect the consular premises, the property of the post and the archives. Their protection can be confided to a third state, which can also receive from the sending state the responsibility for the protection of its interests and those of its nationals.

Provision is also made in the Vienna Convention for the protection of the premises, the property and the consular archives, in case of the temporary or the definite closing of the consulate.

264. In case of *armed conflict* the Vienna Convention stipulates that the state of residence must grant to members of the consulate personnel sufficient time to prepare for their departure from the country. It also must put at their disposal the means of transport necessary for themselves and their property (art. 26).

2

Diplomatic Protocol and the Rules of Courtesy

The five chapters of Part Two of this book relate to the general rules of official protocol of diplomatic missions and to the rules of courtesy generally practised in diplomatic circles. These differ, at times, with respect to details of local customs. Therefore, it is desirable for diplomats to be accurately informed on these local customs in order to deal properly with the nationals of the countries of residence.

CHAPTER SIX

HONOURS AND OFFICIAL PRECEDENCE

Participation of the diplomatic corps in ceremonies, processions and official visits – Civil honours – Military honours – Naval honours – Religious ceremonies – Funeral ceremonies – Precedence in the diplomatic corps – Precedence in the consular corps



PARTICIPATION OF THE DIPLOMATIC CORPS IN CEREMONIES, PROCESSIONS AND OFFICIAL VISITS

265. Inasmuch as heads of diplomatic missions are accredited to the head of state, their participation *en corps* in official ceremonies is limited to holidays or ceremonies at which the head of state personally takes part. The protocol service of each state is the sole judge of the circumstances of such participation. The invitation sent by the protocol service should specify the dress to be worn by those attending (see paras 605–15).

266. When official personalities are required, in the course of a ceremony, to walk a certain distance, a carpet is laid to mark the space which should remain free. The official procession is usually organised according to the space available. There should not, as a rule, be more than five persons in the front row of the procession or on the platform. If the number of persons occupying the first line of a procession is uneven, the place of honour is in the centre, i.e. 5–3–1–2–4.

267. If the number of persons in the front row of the procession is even, the place of honour is on the right side, i.e. 4–3–2–1.

268. If the procession moves from a meeting place to a platform, it should be arranged in such a manner that at the end of the journey the personalities who comprise the procession will be in their proper places.

269. In holiday and official ceremonies the place of the diplomatic corps is immediately after the personality presiding. In that connection the following rules should be observed:

(i) The diplomatic corps never participates in a parade. It is assembled and presented separately in a private room.

(ii) If a parade of officials of a military or civic character is planned the diplomatic corps, after being presented, accompanies the head of state to the place of the parade. The diplomatic corps is seated on the right of the personality in whose honour the ceremony is organised.

(iii) If the parade takes place in the open air in front of a grandstand the diplomatic corps occupies the right side of the platform. In addition to the personality in whose honour the ceremony is organised the place of honour is reserved for the head of state, the presidents of the elected assembly, the chief of government and

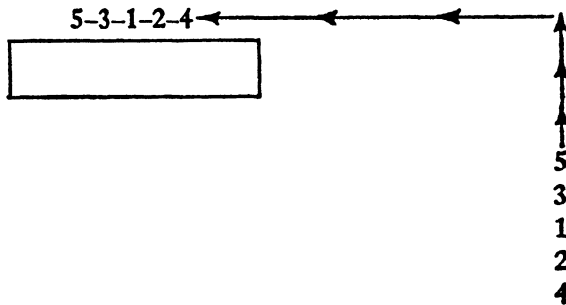


FIG. 1

qualified ministers. Cabinet ministers and members of the household of the head of state are seated behind. Heads of mission are seated in the order of the diplomatic list, first place being the front row at right.

270. The national authorities other than members of the government are seated on the left of the head of state in the order of precedence fixed by local protocol. The diagram given below illustrates these points:

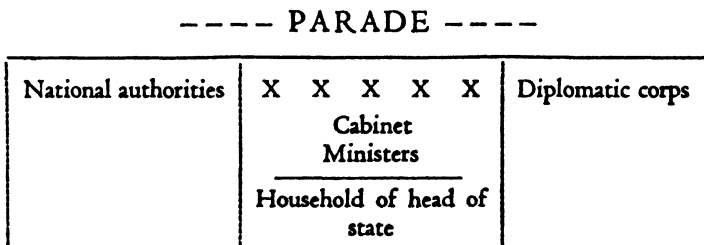


FIG. 2

271. Heads of mission are invited in advance and receive a card and a special cockade (sticker) for parking their automobiles. They should reply to the invitations.

It is highly discourteous on the part of the heads of mission who have announced their acceptance not to attend, because their absence disturbs the balance of the diplomatic platform. Those who attend the ceremony should find a reserved seat on which their name is written on cardboard. Precedence should be respected; the embassy counsellor who replaces his chief cannot occupy the seat reserved in the name of his chief.

272. Those attending ceremonies presided over by the head of state should be in their seats before his arrival.

Special arrangements should be made for the arrival, parking and subsequent departure of the automobiles of heads of diplomatic missions. A protocol official greets the guests.

If the wives of ambassadors are also invited, they are seated either next to their husbands or on the platform near by.

Places in carriages

273. In a ceremonial carriage, where the seats face each other, the seat of honour is the rear seat facing forward. The other seats are allotted in the order given below:

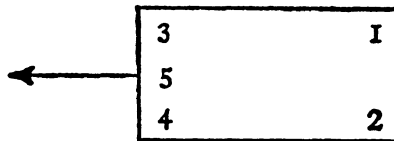


FIG. 3a

274. When departing the front of the carriage should be turned to the left with the left side alongside the curb. The person occupying the seat of honour enters first, followed by the person who occupies the second seat (Fig. 3a).

If space does not allow the carriage to be turned to the left the person occupying the seat of honour should enter by the right door, the persons occupying the other seats entering by the left door in order to avoid passing in front (Fig. 3b).

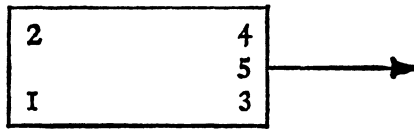


FIG. 3b

275. Upon arrival the coachman should arrange for the exit by the right side of the car, the person occupying the seat of honour thus descending first (Fig. 3b).

276. In automobiles only the rear seat is normally occupied when used for travel to ceremonies. If an additional person takes a place in the rear seat of the car, he sits between the two occupants of the rear seat; he may also occupy the folding seat (4 in the diagram) in order to keep the seat of honour free during the trip and on arrival (Fig. 3c).

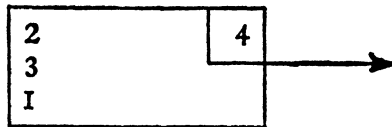


FIG. 3c

Other ceremonies

277. If the diplomatic corps has no representative role to perform in the ceremony its members can be divided and seated, for example, in theatre loges or some other place, on condition that it is always a place of honour.

278. When foreign delegations visit the capitals of other states to attend holiday or special ceremonies the protocol service should undertake to organise the appropriate ceremonial.

279. Diplomatic missions also participate in these special ceremonies. If the ambassador has been designated head of the extraordinary mission sent by his country he takes his seat among the delegates coming from abroad.

280. If the representation of his country is entrusted to a member of the government the ambassador takes second place in the delegation, without regard to the particular rank which he holds as head of mission.

281. If the representation of his country is entrusted to some other person who is not a special representative of the head of state, a member of the government or a delegate of the foreign ministry, the ambassador takes precedence over such person. However, if a career representative of the foreign minister holds a grade of seniority over the ambassador, the latter should, as a courtesy, yield first place and explain to the protocol service the reason therefor.

282. When the head of state makes an official visit to a foreign country it is customary for the head of the diplomatic mission of the country to be visited to accompany the head of state on the trip. Members of the mission should be present at his departure and again on his return.

283. Heads of mission of countries where the head of state may stop-over *en route* do not accompany him but are present at his departure and upon his return.

284. It is a Western custom not to convoke other members of the diplomatic corps on such occasions.

285. When the chief or a member of a government makes an official visit to a foreign country the head of the diplomatic mission of that country is present on his departure and on his return.

286. When a foreign head of state arrives on an official visit in a capital it is not the custom, in Western countries, to summon the diplomatic corps to his arrival point. Heads of mission are presented to the head of state during an official reception given by the receiving head of state or by the Minister for Foreign Affairs in honour of their guest. The latter should, similarly, be invited to the reception that the head of the diplomatic mission concerned gives in honour of the visit of his head of state.

CIVIL HONOURS

287. Heads of diplomatic missions arrive at and depart from their posts incognito. It is therefore only in extraordinary circumstances that a head of mission charged with a mission of very great importance is entitled to special honours.

288. Protocol, in such cases, is assured in a special manner without any principle necessarily being raised.

MILITARY HONOURS

289. The only instance when heads of diplomatic missions are the object of military honours during their lifetime is at the ceremony when they present their credentials. The protocol service of each state handles the arrangements for such occasions.

NAVAL HONOURS

290. In connection with the navy, diplomats and consuls have dealings which entail honours and protocol formalities. It is important to respect these formalities because the visit of a warship or naval force to foreign waters always has a political reason, and any protocol incidents, however small, would be liable to affect the success or failure of such a mission. Agents therefore have a duty to observe international rules and local customs very carefully in these matters.

291. The visit of a vessel or a group of vessels may take the form of:

(i) An *official* visit covered by protocol formality, in which case it will take place following an invitation by the government of the country to which the port being visited belongs. The programme of the visit is arranged through the Ministry for Foreign Affairs which fixes the duration of the call, specifies the official visits, ceremonies, etc.

(ii) An *unofficial* visit which takes place on the initiative of the government to which the naval unit belongs. The ceremonies are limited to the usual gun salutes and courtesy visits to local political, naval and military authorities.

292. Each government lays down the rules concerning the honours to be rendered by its warships to the authorities of the country visited. Nevertheless, it is well to be familiar with the customs commonly practised.

Flag

293. The rules of each state determine the colours or flags flown on men-of-war transporting a head of a diplomatic mission on official travel. The steamer on which a foreign ambassador has embarked

generally, as a courtesy, flies the ambassador's national flag from the highest point of the mast at the bows of the ship while in territorial waters.

Salute

294. The maritime regulations of each state and international conventions determine precisely the form of salute to be given and the men-of-war to be present. These salutes are only exchanged when the vessel visits a port which has a battery which can reply. These ports are known to warships.

295. The rule generally followed in maritime states is that warships rating below 1000 tons need not be equipped for firing salutes. In these conditions, their calls are not marked by any exchange of salutes as described below.

296. The artillery salutes exchanged when a foreign man-of-war arrives in the waters of a state represent the salute of one nation to the other. The initiative is taken by the arriving warship unless it has on board a head of state, a prince entitled to royal honours, or an ambassador, in which case the fort salutes first.

297. The salute is of twenty-one guns (national salute). During the salute, the man-of-war flies the flag of the state whose waters it has entered. The battery returns a twenty-one gun salute.

298. In appropriate cases the anchored warship or the battery renders the special honours due to the personalities on board the arriving vessel. These salutes are not returned.

Exchange of official visits

299. When a naval force or a warship arrives in a foreign port an exchange of visits takes place between the commanding officer of the naval force or of the ship and his national diplomatic or consular authority at the place. If the commanding officer is of superior grade to the diplomatic or consular agent, the latter pays the first visit. If not, the commanding officer pays the first visit.

300. In the former case the commanding officer should, upon arrival, send an officer to inform the local diplomatic or consular authority of his presence and of the day and hour on which it will be convenient to receive him.

301. These official visits are only exchanged on the first meeting of the persons exercising the same functions.

302. They are made in the dress prescribed by regulations and are returned in the dress corresponding to that which was worn by the visitor.

303. The first visit should be paid within twenty-four hours following arrival; it may be later if weather conditions make this inevitable. It should be returned within twenty-four hours.

304. The man-of-war places the necessary means of conveyance from shore to ship at the disposal of the official visitor. In his turn, the diplomatic agent or consul supplies the necessary means of transportation for movements on land and sends a member of his staff to the landing point to escort the visitor to his residence.

305. When the man-of-war is anchored in port, access aboard is by the gangway ladder on the starboard side; when it is moored alongside the quay, access is by the stern gangway ladder. In the embarkation boats the place of honour is the starboard stern.

306. The official visitor receives the honours prescribed by the warship's national maritime regulations.

307. When the visitor has ascended the gangway ladder he should salute the national flag. He then goes on deck where he is welcomed according to his rank. On his departure, after taking leave of the ship's officers, he should, at the top of the gangway ladder, salute the flag and then descend immediately to the embarkation boat where he is awaited.

308. When the visitor is entitled to a gun salute, which is usually rendered at the time he leaves the ship's side, he stands erect in the embarkation boat which remains immobile during the firing. If the warship is alongside the quay the visitor stands still during the salute. If he is in civilian clothes he uncovers. If he is in uniform he makes the usual salute.

309. After the first visits have been exchanged between the diplomatic or consular authority and the arriving commander the latter will visit the civil, naval, military and other authorities according to the information previously given him by the local authorities, who will, should the need arise, have made the necessary arrangements.

310. The commanding officer is accompanied on his visits by the head of the diplomatic mission or by the consul.

311. These visits should be returned within twenty-four hours. It is desirable for the commanding officer to set in advance the hour at which he can receive the local authorities. Certain authorities are sensitive to their rights to special honours. The commanding officer should be informed of these in advance in order to be able to make the necessary arrangements.

312. When a warship salutes a high-ranking foreign official it is customary for it to fly the official's national flag from its foremast.

313. Generally, when commanding officers of merchant vessels arrive in port they should call on commanders of men-of-war of their nationality which are already in port. They should also make the first visit if the warship arrives after them.

In the case of United States vessels the rule is different. In general, American merchant ships and men-of-war do not exchange calls or visits. The American merchant marine being a private enterprise merchant ships only dip their colours in passing a man-of-war. An exception to this rule could occur in the case of an unusual merchant ship, in which case an American commanding officer might call on the commander of the man-of-war as a matter of professional interest.

Visits on board by foreign authorities

314. Foreign notables who are not local authorities may visit men-of-war. In general practice the following rules of international protocol are applied:

(i) *Ambassadors* receive the honours due them, including salutes of guns, even though they may not be in uniform.

(ii) *Other diplomatic officials and consuls* who are not in uniform are not, in principle, entitled to gun salutes from a foreign ship. This is *international practice*. *National rules* concerning *national* diplomats or consuls may, of course, be different. They are not within the scope of this book.

(iii) *Persons of rank* receive no particular honours, but when a number of them embark at the same time the one holding superior rank embarks last and disembarks first.

Visits of men-of-war

315. As a warship is considered a matter of interest to the national defence a visit is made only in conditions determined in advance by the commanding officer.

316. Officials or foreign dignitaries, when invited aboard, may go about only with an escort.

317. It is customary for military attachés accredited to diplomatic missions to receive the greatest possible facilities when they wish to effect a visit of this kind.

Public holidays and ceremonial occasions

318. Men-of-war in the waters of foreign ports take part in the celebration of ceremonial occasions national as well as foreign.

(i) *National celebrations and solemn ceremonies*

(a) When it is necessary to celebrate a holiday or a national ceremonial occasion the senior commanding officer of visiting men-of-war makes arrangements with his diplomatic representative or consul to advise the local authority of his intentions. On the eve of such ceremony he informs the senior naval commander of the country where he finds himself and, if deemed desirable, the senior commanders of foreign naval forces which may be anchored in port.

(b) When foreign commanders take part in the salutes and decorations of their ships at these celebrations and ceremonial occasions the senior commander of the local national forces sends an officer to convey his thanks to each foreign senior commander individually.

(ii) *Foreign celebrations and solemn ceremonies*

(a) Men-of-war making calls in foreign ports take part in the celebration of holidays and local ceremonies as well as days of national mourning in countries which they visit and in accordance with local customs.

(b) Likewise, when they have been officially advised, warships participate by salutes and the decoration of their ships on the holidays and ceremonial occasions of powers with which their countries enjoy diplomatic relations. The senior commander conforms as far

as possible, during these ceremonies, to the customs followed in the country being visited or in the country celebrating the occasion.

(c) In ports commercial vessels fly their national flags at the main masthead and the flag of the host country on the foremast. They should take part in local holidays by decorating their ships overall when they fly their flags in honour of a foreign nation, the flag of the foreign country taking the place of the national flag at the masthead.

RELIGIOUS CEREMONIES

319. In general, the church handles the seating of the congregation. The arrangement of the seats varies according to the type of service — national thanksgiving, ceremonial service or funeral.

320. Apart from certain personalities who are seated in the choir the rules given below can be followed.

National ceremony

321. The place of honour is generally in the centre aisle to the left of the high altar.

322. Officials are seated according to protocol in the left span of the centre aisle.

Solemn Mass attended by foreign authorities

323. The arrangements are made according to Fig. 4.

CHOIR HIGH ALTAR ECCLESIASTICAL AUTHORITIES

Head of state or his representative Presidents of assemblies Members of government Diplomatic corps Other authorities or administrative corps who are guests (in local protocol order)	AISLE	National authorities Staff members of national posts and establishments
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FIG. 4

324. Foreign guests occupy the left span of the centre aisle. The head of the diplomatic mission or of the consular post and his closest collaborators are seated at the beginning of the right span of the same aisle. Other members of the staff of the post as well as other national establishments are seated behind them.

325. The place of honour is, in principle, in the first row of seats of the aisle to the left of the high altar. However, this rule is not absolute.

326. The nuncio can, as he wishes, either head the diplomatic corps or occupy the seat which belongs to him among ecclesiastical authorities.

327. When women are invited to a ceremony they take their seat by the side of their husbands. If the arrangements in the church do not permit of this, adjoining space should be reserved for them.

FUNERAL CEREMONIES

328. Such ceremonies can take place on the occasion of the death of a head of state, a head of mission, a leading personality in the country or a member of a diplomatic mission or a member of a consulate. The congregation is seated on both sides of the aisles in accordance with Fig. 5.

CHOIR HIGH ALTAR ECCLESIASTICAL AUTHORITIES

Head of state or his representative Presidents of assemblies Members of government Diplomatic corps Other authorities or administrative corps who are guests (in local protocol order)	AISLE	Diplomatic or consular authorities Families and intimate friends of the deceased Staff members of posts and national establishments
--	-------	---

FIG. 5

329. Secretaries and attachés of the diplomatic mission or the consulate usher foreign dignitaries and members of the diplomatic corps to their seats.

330. When an ambassador dies at his post the funeral ceremony, in view of its solemn character, traditionally includes military honours. Details are arranged by the local protocol service.

331. The religious ceremony is arranged as follows:

(i) The chief of protocol, assisted by a representative of the embassy, receives the high officials and heads of diplomatic missions at the church door; the latter are then escorted to their seats by protocol attachés and Secretaries of the deceased's diplomatic mission.

(ii) Traditionally, when the ceremony takes place at the church only, the wearing of uniform is the rule; this custom, however, is now less and less enforced.

(iii) If a procession is to be formed, official dress is morning coat with the mourning dress indicated in para. 615.

(iv) A representative of the head of state takes part in the ceremony as well as the Minister for Foreign Affairs, accompanied by high officials of his department.

(v) The head of state, the government, the Minister for Foreign Affairs, the diplomatic corps and the highest administrative authorities send floral wreaths.

(vi) If the remains are to be accompanied in a procession, pall-bearers are led by the Minister for Foreign Affairs, a colleague of the ambassador, the chargé d'affaires *ad interim* of the mission, and local civil and military dignitaries.

332. The tradition of each capital in these various matters should be respected.

333. As a general rule, when an officer or rating of a naval force dies in a foreign port, regulation funeral honours are rendered in accordance with prior arrangements made with the local authorities. However, in the event of the death of a United States marine or United States naval officer afloat, the remains are normally shipped back to the United States and usually no ceremony of any kind takes place in a foreign port. Modern transportation facilities having made obsolete the old custom of immediate burial no funeral honours are rendered by ships except as directed by Washington in half-masting the colours.

PRECEDENCE IN THE DIPLOMATIC CORPS

Collective precedence by corps

334. In ceremonies where the diplomatic corps is invited collectively it should have first place. There is no exception to this general rule.

335. The unity of the diplomatic corps should at all times be respected; the separation of ambassadors, ministers and *chargés d'affaires* at official meetings is not permitted.

336. When diplomatic missions attend a gathering in full force the members of each mission are seated with their chief.

337. Inasmuch as wives of members of the diplomatic corps enjoy the immunities of their husbands they are entitled to the same precedence.

338. Until 1815 the problem of precedence among representatives of states was unsolved. The ambassadors of each of the great powers all presented excellent reasons to support the right of the sovereign they represented to the place of honour. *Le règlement de Vienne* (Regulation of Vienna) of 19 March 1815 brought about a definite solution to the problem by fixing the status of heads of diplomatic missions, based on their rank on the date they took office.

339. The subsequent Protocol of Vienna determined the order of precedence among diplomatic missions as follows:

- (i) a Nunciature ranks first only in those countries which recognise the precedence of the Pope;
- (ii) embassies;
- (iii) legations.

The Vienna Convention of 1961 confirmed this order and fixed the rules of precedence among diplomatic missions.

340. The order of precedence among ambassadors on the one hand and the heads of legation on the other is determined by the seniority of the head of mission, that is, by the date of the delivery of his credentials. If two heads of mission with equal rank present their credentials the same day, the custom is to receive them and to classify them either according to the date the agreement was given (acceptance) or in alphabetical order (in French) of the countries they represent.

341. *Chargés d'affaires* with credentials take rank after chiefs of

legation according to the date or delivery of their credentials to the Foreign Minister.

342. In the event of the temporary absence of the incumbent the mission keeps the rank which the title of its head gives it (embassy or legation), but the acting chief takes his place after the heads of mission present. Chargés d'affaires temporarily in charge take rank among one another according to the date of their assuming temporary charge.

343. If an event occurs requiring the renewal of credentials (change of sovereign, change of political régime of a state) it is the custom for heads of mission to keep the rank which they previously held, but the government may determine if there is need for a revision of the seniority list of the diplomats accredited.

Individual precedence by rank

344. Individual precedence does not follow the same order as collective precedence. In each category the grades of the agents, their relative seniority and, when these are equal, their ages are taken successively into consideration.

These indications are mentioned in the diplomatic list established by the protocol service in each capital based on information supplied by the heads of mission. The list includes all career diplomats of each mission, arranged in order of precedence, with mention of their respective titles and functions. The list also mentions the names of the members of the diplomat's family who are required to observe the obligations of etiquette (see para. 107).

345. The order of individual precedence is as follows:

- (i) papal nuncio;
- (ii) Ambassadors and High Commissioners;
- (iii) envoys extraordinary and plenipotentiary, ministers accredited to the head of state;
- (iv) chargés d'affaires with credentials;
- (v) chargés d'affaires *ad interim* of embassies according to the date they took up their duties as such;
- (vi) chargés d'affaires *ad interim* of legations according to the date they took up their duties as such;
- (vii) Counsellors of embassies;

- (viii) First Secretaries of embassies;
- (ix) Second Secretaries of embassies;
- (x) other Secretaries, attachés, etc.

346. In categories (vii) to (x) seniority is determined by the date of the official letter addressed to the Foreign Ministry and covering the appointment of, or the assumption of functions by, the agent.

347. In recent years missions have had an increasing number of technical attachés assigned to them. These attachés are placed on the diplomatic list submitted by the head of mission and under his authority.

348. Among themselves, and in each category, technical attachés are classified according to the date they assumed their functions. However, as regards military, naval and air attachés, special precedence is granted to those who have the rank of general, or its equivalent.

Internal precedence of mission

349. This order is established according to the regulations of each country and is confirmed by the inscription on the diplomatic list, which generally respects the following hierarchy:

(i) *Head of mission* — he always has diplomatic status in view of the character of his official representation of a state in a foreign country.

(ii) *Chargé d'affaires ad interim* — in order to safeguard the authority of the agent who replaces the head of mission in his absence, such agent takes precedence immediately after the head of mission. In some embassies, in French embassies for example, there is one exception to this rule; i.e. if the *chargé d'affaires ad interim* of the embassy is not a minister he must yield precedence to the military attaché if the latter holds the rank of general.

(iii) *Technical attachés* are classified in each mission according to the date of their employment. However, prevailing custom gives precedence to the service attachés (army, navy, air). In this group, classification is made either according to national tradition or in the order of seniority of employment.

(iv) *Counsellors*, if any, and Secretaries and other attachés follow in their protocol rank.

When an official meeting has a technical character the head of mission may give precedence in the group of technical attachés to the one whose speciality corresponds to the purpose of the meeting. Other members of the mission present preserve among themselves their regular precedence.

350. If a consul-general or a career consul takes part in the ceremony in his capacity as principal officer at the post he takes precedence over the military group.

351. In official meetings in which the colony participates the consul-general or the consul takes precedence immediately after the head of mission.

PRECEDENCE IN THE CONSULAR CORPS

352. The Vienna Convention of 24 April 1963 regulated the precedence of the consular corps, which depended largely until then on the authorities of each country. Articles 16 and 21 cover this. The convention provides, in principle, that in each category (consuls-general, consuls, vice-consuls and consular agents) the heads of posts take rank following the date of the issue of the *exequatur*. However, when a head of a post has been authorised to perform his duties on a temporary basis it is the date of such authorisation which determines the order of precedence. If two or more heads of consular posts have received their provisional *exequaturs* or have taken up their posts on the same date they take rank following the date of their provisional letters or on which the request for authorisation was made on their behalf.

Temporary officials rank after chiefs following the date on which they assumed their functions.

Honorary consuls rank after heads of career posts of the same category.

353. Consular officials who are not heads of posts always rank after heads of posts. Career consuls always have precedence over honorary officials of the same category. Their internal order of precedence should be notified by the diplomatic mission to the Ministry for Foreign Affairs of the state of residence.

354. Where there exist no internal protocol arrangements concerning the honours and precedence which should be granted to foreign consuls in official ceremonies as well as the respect which should be paid to them, social convention and local custom should regulate these matters.

355. Foreign consuls who find themselves placed, by virtue of the *exequatur*, under the special protection of the government which receives them should be the object, individually and collectively, of the greatest respect.

356. In order to avoid an erroneous interpretation of the honour which is paid to them, consuls are generally, on the occasion of official ceremonies, not ranked with local officials. If they must take part in a ceremony it is the custom to assemble them in a special room and to reserve separate places for them. In principle, they are placed immediately after the highest authority.

357. In certain localities the large number of foreign consuls obliges the authorities to distinguish between career consuls and honorary consuls. In this event, the highest place and the greatest honours are always reserved for those in the first category.

358. In their districts consuls take rank among themselves as follows:

(i) According to the classification of their posts. The principal officers of consulates-general are followed by heads of consulates, vice-consulates and consular agencies.

(ii) In each category career consuls precede honorary consuls.

(iii) Within each one of these two categories, in chronological order of the *exequatur* or the provisional admittance.

359. In meetings where the consular corps is invited as a whole the personnel of each post is grouped with its head.

360. In the event of disagreement among consuls on protocol matters the question should be settled by reference to the regulations established by the local competent authorities in matters of this kind.

361. In capitals foreign consuls do not belong to the diplomatic corps. They cannot expect to be invited to, or to take part in, ceremonies in which the diplomatic corps participates unless, as is done in certain states, the consulate has been established as a consular section of the embassy, in which case its staff may appear on the diplomatic list.

362. In a number of cities consuls are grouped in a consular corps. Such a group constitutes a private association which is not entitled to official recognition or benefit under international law, the local authorities preserving complete liberty with respect to it. Pursuing the common defence of its members' professional interests the consular

corps should limit the scope of its activities to the interpretation of local customs and usages.

363. At the head of the consular corps is a Dean. He should, in his relations with the local political authorities:

- (i) keep an up-to-date consular list;
- (ii) be familiar with the precedence, privileges and immunities of the country of residence;
- (iii) advise his colleagues of all communications from the local authorities of interest to them collectively.

364. The deanship can no longer present problems since the Vienna Convention established the precedence of consular posts. The consular representative should be the career agent of the highest grade whose *exequatur* is the oldest. Consuls of other categories will normally find their place at the office of the head of the association, in which career agents should play the leading role if the association is to enjoy the esteem and the necessary authority in the defence of the co-operative interests of its members.

365. The archives of deanship should, as far as possible, contain:

- (i) the roll of the consular corps, including honorary consuls and consular agents;
- (ii) a current list of the career staff of consulates;
- (iii) local order of precedence;
- (iv) a list of official visits which consuls should make after their arrival;
- (v) a list of foreign national holidays as well as local holidays;
- (vi) an indication of the immunities and privileges granted to consuls in the district;
- (vii) a complete set, if possible, of treaties concluded by the country of residence, and all useful technical works.

366. The archives and possibly the library of the deanship should be passed on to the new Dean.

CHAPTER SEVEN

RULES OF PRECEDENCE IN CERTAIN STATES

United Kingdom – United States of America – France –
Union of Soviet Socialist Republics



INTRODUCTORY REMARKS

367. It is not the purpose of this book to give details of the varieties of precedence applicable in the different states. Solutions to precedence problems can be obtained in each capital from the protocol service of the Ministry for Foreign Affairs and from the highest local authority. However, it appears to us that it would be useful to include certain indications concerning the protocol procedures or practices followed in four characteristic states; Great Britain, with its Court protocol; the United States of America, which is a presidential type of federal republic; France, which is a parliamentary republic; and the Union of Soviet Socialist Republics, which is a federal soviet republic.

UNITED KINGDOM

368. Tables of precedence are published for the various territories which comprise the United Kingdom and for some of the other Commonwealth countries. The list for men for use in England (see Appendix II) shows that precedence is dominated by considerations of: near relationship to the sovereign; high position in church and state and at court; titles of nobility; high political, judicial and administrative positions; and membership of the orders of chivalry and decorations.

369. We do not consider that it would be useful to publish the parallel list for ladies since for the most part they take their precedence from that of their husbands.

Titles of nobility

370. There are five grades in the peerage: Dukes, Marquesses, Earls, Viscounts and Barons, in that order of seniority. Peers take their precedence from their grade and, within the grades, from the dates on which their titles were created. Dates of peerages are given in published works of reference.

371. The rank of Baronet, which is not a part of the peerage, is hereditary and baronets also take precedence according to the date of creation. On the other hand, a knighthood is not hereditary; it is often derived from membership of one of the orders of chivalry.

372. The title of Esquire belongs, strictly speaking, to certain categories such as the younger sons of peers and their eldest sons; the eldest sons of baronets and knights; and esquires by creation or office, such as mayors, officers, justices of the peace and barristers-at-law. But it is allowed by courtesy to all who are regarded as gentlemen.

Political personalities

373. Only those politicians who hold certain ancient offices of state, such as the Lord Chancellor, the Lord Privy Seal and, recently, the Prime Minister, are specified in the table of precedence. Secretaries of State as such occupy a comparatively low position, unless they possess a title of nobility giving them a higher place in the list.

374. The title of Excellency does not feature in internal British protocol. It is, however, given to foreign ambassadors and ministers plenipotentiary and to certain other foreign dignitaries.

Diplomats

375. Ambassadors and High Commissioners take precedence by courtesy after members of the reigning family having the title of Royal Highness, and after certain very high dignitaries of church and state. Wives of Ambassadors and High Commissioners receive, also by courtesy, parallel precedence. Ministers plenipotentiary and other heads of diplomatic missions are by courtesy placed after dukes and before marquesses, and their wives are given a similar position in the

table for women. Heads of international organisations have no position in the precedence list.

Religious personages

376. In England the Anglican Archbishops of Canterbury and York take precedence after royal dukes and the bishops, according to seniority of consecration, after the younger sons of marquesses. Representatives of other churches do not have any precedence.

377. In Scotland the Lord High Commissioner to the General Assembly of the Church of Scotland, during the sitting of the General Assembly, comes in the order of precedence only after the sovereign and (during the present reign) the Duke of Edinburgh. The Moderator of the General Assembly comes after the Lord Chancellor of Great Britain.

378. In Northern Ireland, the Primate of Ireland and other archbishops, and the Moderator of the General Assembly of the Presbyterian Church in Ireland, precede the Prime Minister of Northern Ireland.

379. Lesser members of the clergy have no place in the tables of precedence.

Other personalities

380. Officers of the Army, Navy and Air Force, members of the Bar and of the medical profession, and university officials also have no place in the tables of precedence.

Ladies

381. Precedence for ladies is regulated largely by the rank of the father or the husband. Notable among the exceptions are peeresses in their own right, and the rule does not extend to the wives and children of high officials who appear in the male precedence table. Thus neither the wives of members of the Cabinet nor of archbishops have any published precedence as such, but would by courtesy be given a place as nearly as possible in accordance with the rank of their husbands.

382. A dowager peeress (i.e. the widow of a peer) and a baronet's

widow take precedence over the wife of the new title-holder. On the other hand, the children of a peer or baronet take precedence over those of a former holder of the title.

383. The daughter of a peer who marries a peer takes the precedence of her husband. If she marries a peer's son she can take the precedence acquired from her husband or retain her innate precedence, whichever is the higher. If married to a commoner she will retain her innate precedence.

Precedence in the counties

384. Her Majesty's Lieutenants of Counties and the high sheriffs have first place in their own counties during their term of office, the former having precedence over the latter. They take precedence within their jurisdiction over mayors in their boroughs, when both parties are present officially but in the capacity of guests.

Precedence in cities and boroughs

385. The lord mayor or mayor should preside or act as host on all municipal occasions, whether for business or pleasure.

386. Each city hall has its own protocol for the consular corps. It is, however, a general rule that the Dean of the consular corps comes after judges and representatives of the Church, but precedes officers of the armed services and mayors of the region.

387. When the corps is present as a body it is the practice that special space or a particular row of seats should be reserved for them. They should not be mixed with the body of the guests.

Precedence in the colonies

388. The governor of each Crown Colony establishes his general table of precedence which has to be submitted to the sovereign for approval. As a result, the practice in the various colonies is largely uniform.

389. The precedence of the consular corps in colonies is dictated by the rules of courtesy. Usually consuls-general come after members of

the executive council. Consuls rank after members of the legislative council. In all categories career officers take precedence over their honorary opposite numbers.

UNITED STATES OF AMERICA

390. The United States of America is a federal type of presidential state. The rules of the separation of power are strictly respected on the federal level; on the one hand, the powers of the executive, represented by the president, the vice-president, the cabinet and the essential administration; on the other hand, the powers of Congress, composed of two houses (the Senate and the House of Representatives). Finally, there is the important judiciary organisation extending from the Supreme Court down to the inferior federal courts, which are established throughout the country and supervise the application of federal laws.

391. The individual states – which administer all powers not expressly delegated by the constitution to the federal authority or which are absorbed by it – have an analogous organisation where, in general, the separation of powers is also well respected. Governors and lieutenant-governors are elected. There is an assembly composed of a Senate and a House of Representatives, a supreme court, and tribunals. Those different posts are filled by elected representatives. An administration, whose members are chosen by the governor and are responsible to him, manages the handling of public services.

Diplomats

392. The federal constitution formally guarantees the inviolability of the heads of diplomatic missions and consuls, as well as their jurisdictional immunity so far as local courts are concerned. These provisions cover all persons mentioned in the diplomatic list, that is, duly accepted diplomatic officers, members of their families and their households, including their servants, provided they are registered with the Department of State.

393. Employees of diplomatic missions not included in the diplomatic list, i.e. administrative, clerical and service personnel of diplomatic missions, regardless of nationality, are immune from process or

summons. This immunity is not extended to the members of their families.

394. Members of the staff or servants of American nationality enjoy no immunities, except for acts performed in the course of their official duties and within the scope of their functions.

395. Officers and employees of international organisations are not entitled to diplomatic privileges and immunities, but are usually accorded certain courtesies and exemptions and enjoy immunity with respect to official acts. These favours are extended to members of families but not to servants. Certain members of delegations of international organisations enjoy diplomatic privileges and immunities pursuant to the charter of the organisation or to agreements between the organisation concerned and the host country.

396. The inviolability of foreign embassies and diplomatic residences is also guaranteed. It is even prohibited for certain parades to pass in review or for demonstrators to carry emblems or to make hostile remarks within a limited distance of diplomatic buildings.

397. Federal fiscal legislation grants generous immunities to career diplomats. Non-American citizens permanently residing in the United States and employed at foreign missions enjoy no personal privileges and immunities, whether or not they have applied for American citizenship, except as provided by certain treaties which came into force prior to the enactment in 1952 of the Immigration and Nationality Act. Customs privileges are accorded to diplomats pursuant to federal regulations.

398. In matters of protocol, the variation is so wide and complex that only custom of a general nature can be considered. First of all, there is no officially established protocol precedence in the United States. It has been the tradition since the origin of the country for formal cares of protocol to be much less marked than in Europe. From the standpoint of the United States, protocol and long-established formalities are not 'rules' invented by authors of books on etiquette. They are simply customs and modes of behaviour which, through observance, have come to be accepted as necessary or useful in the society in which they are found. Contrary to established procedures in Europe, for example, authorities in the United States endeavour to preserve wide latitude in matters of protocol in order to adapt precedence to the circumstances of each observance. They treat their guests

in the most agreeable manner possible, and they rely principally for this on the sociability and warm friendliness of Americans in respect to the treatment accorded to foreigners of distinction.

According to Stanley Woodward, former Chief of Protocol of the United States:*

No feature of diplomacy is more misunderstood by more people on more occasions than is the function of protocol. Protocol is the rule book by which international relations are conducted. Any organisation, any society must if it is to thrive, operate under certain rules if for no other reason than to prevent chaos. The same rules apply to relations between governments. It is necessary that contacts between nations be made according to law, custom, and some form of planned organisation. Thus made, the contacts connote mutual respect for the laws and customs of the countries concerned. They formalise the channels of communication between governments. These are the rules of foreign relations which are the concern of protocol, the point of contact between governments. It is the agreed method of doing business – of ‘getting along’.

A prime purpose of protocol is to create an atmosphere of friendliness in which the business of diplomacy may be transacted. This purpose is based on the conviction of most, if not all, nations that countries with differing viewpoints are better able to reach agreement in an atmosphere of friendliness than in one of hostility. In short, the rules of diplomacy tend to be reciprocal throughout the world.

The years have taken much of the pomp and picturesque ceremonial out of protocol, but they have not removed the necessity for good manners between countries. Today, when some diplomatic relations are conducted against a background of name-calling, the requirement of good manners is no less evident. It is significant that nations that indulge in name-calling are discreetly respectful of the time-honored methods of showing good manners in their public acts.

Some European and Latin countries have long histories and traditions of ceremonial elegance surrounding their official behavior.

* Stanley Woodward, *Protocol: What it Is and What it Does*, Dept. of State Bull., no. 3636, 3 October 1949.

The United States, however, has no such background. Its history, as reflected in its acts and in its public officials, is one of simplicity.

Although certain explicit functions of protocol are provided by the constitution and by the statutes, the implicit functions of protocol are unlimited. They involve acts which make the United States better understood and better appreciated. The scope of protocol . . . encompasses the broad, complex principles of human fellowship and good manners which have existed between peoples and nations for centuries.

399. Thus it is apparent that protocol in the United States is in a constant state of fluidity, and that as a result the establishment of protocol order or precedence is difficult to accomplish, even on an informal basis, with any degree of certainty. Nevertheless, the federal authorities called upon to receive heads of state, and to maintain relations with important foreign dignitaries and other personalities, follow a procedure somewhat on the plan of international diplomacy.

Guidance in protocol matters in the United States may be obtained from the Division of Protocol of the Department of State, at Washington, D.C.

Consuls

400. In the United States career consular officers cannot claim the privileges and immunities granted diplomats except those provided by treaty. At present, the conditions of bilateral consular conventions concluded by the United States are in many respects broader than those provided by the Vienna Convention of 1963, but do not include, for example, the right of departure from the territory of the receiving state. Career consular officers are always treated with particular consideration and are not arrested or prosecuted for minor offences.

401. While the federal constitution originally provided for the Supreme Court to have jurisdiction respecting foreign consuls, Congress had granted to the federal district courts concurrent jurisdiction over cases in which foreign consuls are involved. Consular archives are always inviolable. Consular offices and consular residences are not inviolable in the absence of applicable treaty provisions (see para. 249). Members of a consul's family are always subject to local jurisdiction.

402. In official ceremonies no distinction is shown as a rule between

career consuls and honorary consuls of equal rank, and they are designated in accordance with their grade and, in each grade, in the date order of their *exequatur*.

403. In official correspondence it is the custom in the United States to give consuls the title of 'Honorable'. This gives them the same importance as directors of ministries, members of Congress and mayors of large cities.

404. Honorary consuls do not usually enjoy privileges and immunities accorded to consular officers of career. The term 'career' thus used serves to distinguish these functionaries from 'honorary' consular officers.

The armed forces

405. The federal forces of the army are under the direction of the Secretary of Defense who occupies the third highest position among members of the Cabinet. Exceptionally, the Deputy Secretary of Defense holds rank second among his colleagues. He is followed by the Assistant Secretaries of Defense who rank third among their colleagues of ministerial departments.

406. The army, the navy and the air force are each under the direction of a Secretary who ranks above military chiefs.

407. The highest military authority of the armed forces is the Chairman of the Joint Chiefs of Staff, followed, in protocol, by generals of the army and admirals of the navy (five stars). Thereafter, in military hierarchy, come: judges of the Military Court of Appeals; Under-Secretaries of the army, navy and air force; the commandant of the marine corps; generals and admirals (four stars); the Assistant Secretaries of the army, the marine corps and the air force; lieutenant-generals and vice-admirals (three stars); major-generals and rear-admirals (two stars); brigadier-generals and commodores (one star).

408. Protocol procedures and practices to be followed in meetings among the military authorities of different nationalities will be found in the rules given in paras 1254 and 1255 for Supreme Headquarters Allied Powers Europe (see also paras 1256 and 1257).

409. The local authorities request the advice of the Department of State when they are called upon to receive and entertain heads of state, and other important foreign official personalities.

410. Unofficial precedence practices are subject to change at any time. Therefore, under such conditions, an unofficial listing of table precedence is considered inappropriate, and local traditions will have to be followed, illogical as this may appear. The object of protocol is to make order from disorder, but not to upset order established with general consent.

Names and titles of religious personalities

411. Among the churches, which are very varied in the United States, the hierarchy of dignitaries, which is generally the same, is respected. Clearly, it is the circumstances of the moment that must determine the precedence to be followed among representatives of the same rank of the various communities. If we refer to official protocol, first place would be shared by dignitaries of the Roman Catholic and Episcopalian churches, which comprise, generally, the majority of church-goers. Dignitaries of other communities follow, but there is no absolute rule.

412. In the United States, where Protestant churches are very numerous and include the majority of the population, the custom of each community is followed with respect to members of the clergy. In official relations, a Catholic archbishop should be called 'Excellency'. In less official circumstances he would be called 'Most Reverend Sir'. An Anglican bishop should be called 'My Lord Bishop'. Bishops of the Episcopalian church of the United States are called 'Sir'; Methodist ministers 'Reverend Sir'; and Mormon bishops 'Sir'. Protestant ministers and Catholic priests are called 'Reverend Sir', and rabbis are called 'Sir'.

FRANCE

413. French protocol derives from the Decree of the 24th of Messidor (Year XII of the Republic) after the proclamation of the Empire. This basic text has been modified many times; the last version, 16 June 1907, which eliminated prelates from official protocol, was remodified by the decree of 2 December 1958. This text deals successively with rank and precedence in Paris and in the departments,

as well as with civil, military and naval honours. We publish in Appendix III the full table of rank and precedence applicable in France.

Diplomats

414. Official French protocol does not provide for diplomats. In official meetings the diplomatic corps is seated as a corps immediately after the head of state, the prime minister and the presidents of the assemblies. Individually, in meetings of an official character being held in a French house, ambassadors precede all national authorities excluding the head of state. They are, if in a foreign house, seated after the Prime Minister, the presidents of the national assemblies and the Minister for Foreign Affairs. Ministers plenipotentiary, if heads of mission, take precedence over cabinet ministers.

415. Consuls are considered in France in the protocol of the Ministry of the Interior, as forming a part of the 'constituted corps'. The custom is to give, among consuls, the primacy to career consuls. The Dean is the career agent with the highest grade having the earliest dated *exequatur*. The consular corps is always treated with particular regard by the prefectorial authorities.

416. The order of official precedence, determined by the decree of 1907, applies to serving officials who are expressly designated. In no circumstances can this order be modified. It is permitted, however, to fit in personalities whose protocol rank is not provided for because they have no place in the official French administrative hierarchy, notably members of the clergy, former members of the government, former members of parliament and retired dignitaries who participate in ceremonies. But each case requires close study, and it is wise to make discreet inquiries in advance regarding the arrangements adopted concerning persons who might be offended.

UNION OF SOVIET SOCIALIST REPUBLICS

417. The Union of Soviet Socialist Republics (U.S.S.R.) is, according to the terms of the constitution of 1936, a federal state composed of fifteen union republics. They contain:

- twenty autonomous Soviet socialist republics;
- eight autonomous regions;
- ten national areas.

The Supreme Soviet

418. The supreme organ of the federal state is the Supreme Soviet of the Union of Soviet Socialist Republics, which is composed of two houses:

- (i) *The Soviet of the Union* – elected by universal and direct suffrage by all the inhabitants of the Union of Soviet Socialist Republics at the ratio of one deputy to 300,000 inhabitants;
- (ii) *The Soviet of Nationalities* – also directly elected at the rate of:
 - (a) 25 deputies to each republic of the Union;
 - (b) 11 deputies to each autonomous republic;
 - (c) 5 deputies to each autonomous region;
 - (d) 1 deputy to each national district.

The two houses generally meet in session twice each year for a period of one week.

419. The two houses, meeting in session together, elect the Presidium of the Supreme Soviet, composed of a president, eleven vice-presidents, one secretary and fifteen members. The president fulfils the functions of head of state.

420. The Presidium is a form of collective presidency. It opens and adjourns the sessions of the Supreme Soviet and appoints and removes ministers on the recommendation of the Council of Ministers, subject to confirmation by the Supreme Soviet. It enjoys a certain number of other powers which are exercised collegiately between the sessions of the assembly.

421. The federal executive authority is confided to an All-Union Council of Ministers (or Cabinet) appointed with the approval of the Supreme Soviet. There are two categories of minister at federal level:

- (i) *federal ministers* whose competence extends over the whole of the federal territory, either directly or through the intermediary of appointed bodies;
- (ii) *ministers of the Union and of the Republics* who exercise their functions through the intermediary of corresponding ministers of the federal republics and who can, in some cases, manage directly certain undertakings.

422. The number of ministers, their responsibilities and designations frequently vary, according to political and economic requirements.

423. As the Communist régime assigns to the state the property and means of production, transport and distribution, the powers of the government, like those of the administrations, are very extensive. Ministers belong, as such, to various categories, i.e. political, administrative, social, cultural and economic. The responsibilities of the government are therefore very heavy and complex. Cohesion and co-ordination of action are assured by a cabinet comprising, in addition to the prime minister, two vice prime ministers, five deputy prime ministers and four presidents of large commissions.

424. The supreme judicial organisation is the Supreme Court of the Union of Soviet Socialist Republics, which is elected for five years by the Supreme Soviet of the Union of Soviet Socialist Republics and includes also the presidents of the Supreme Courts of the Federated Republics. It controls the activity of all judicial organisations of the federation and of the federated republics.

425. In each republic there are a Supreme Court and tribunals of various degrees, provided with magistrates elected by corresponding territorial assemblies.

426. Control of law enforcement is the responsibility of the Attorney-General, elected for seven years by the Supreme Soviet. He appoints the public prosecutors of the republics, both in the territorial and autonomous regions, and approves the appointment of district attorneys for zones and cities.

427. The competence of these attorneys covers, simultaneously, governmental organisations, administrative services, the supervision of tribunals and the administration of justice.

428. The local subdivisions (territories, regions, districts, departments, cities and villages) are governed in the same manner: a local soviet is elected for two years by universal suffrage. It designates an executive committee responsible to it. These organisations manage local administration, assure the maintenance of public order and observance of the laws; manage local economic and cultural affairs, and establish the local budget.

429. It is thus seen that the whole of the population is called upon to elect its representatives to the various territorial assemblies by

universal suffrage. These representatives delegate their powers to an elected executive element whose activities they control in the course of periodical sessions.

The party

430. Organised parallel with the governmental and administrative structure, the Communist party is the only political group. It comprised ten million members in 1963. The party's mission is to assist governmental action in all possible ways, particularly in disseminating its directives and in seeing that they are executed; it also maintains the loyalty of the masses by recruiting and training members, thus ensuring the continuity of the régime.

431. The party draws up and submits to the electorate a single list of candidates to the assemblies and to elective governmental and administrative posts. Its machinery provides the government with dependable collaborators at all levels and with the essential means of controlling the administrations.

432. It should be noted that the party comprises only a moderate proportion of the population because membership, preceded by careful selection, involves participation outside normal working hours in numerous political and social activities.

433. At the head of the Communist party is the All-Union Party Congress, which meets periodically – in principle, every three or four years. The Congress designates a Central Committee and a Verification Committee.

434. The Central Committee directs the work of the party during the intervals between sessions of the Congress. It comprises at present 175 regular members and 155 candidates for membership. They are, for the most part, party secretaries or directing members of the Council of Ministers of the Union of Soviet Socialist Republics and of the Union of Republics.

435. The Central Committee elects a Presidium which comprises at present twelve members and six deputies. The deputies have no voting rights. Being composed of representatives of all trends in the party as well as of various technical organisations, it can obtain useful information on public opinion as well as on the activities of the country.

436. The Central Committee is assisted by a secretariat which has developed considerably with the consolidation of the régime. It includes sections controlling party organs, trade associations, youth organisations (Komsomols) and propaganda, as well as specialised sections for economic affairs, for the armed forces and even for a special police section.

437. The collegiate régime of the Central Committee ensures cohesive action. It is this committee which effectively governs the country. The first elected secretary of the Central Committee is the chief dignitary of the Soviet state. The Central Committee includes several federal ministers, but neither the Minister for Foreign Affairs nor the chiefs of the army or the police.

438. The central party organisation is reproduced at each level. In each republic is found a congress which elects a central committee which in turn elects its governing body. The secretariat supervises party discipline and the dissemination of orders and propaganda functions by its inspectors in each republic. Analogous organisations function in the smaller administrative areas (territories, regions, districts, departments, cities and villages). The secretariat of the committee plays a critical role, particularly in party recruitment and the control of the behaviour of its members.

Protocol precedence

439. Precedence is complicated in the Union of Soviet Socialist Republics by the dovetailing of the administration and the party, for several leading personalities belong at the same time to one and the other.

440. There would appear to exist in the Union of Soviet Socialist Republics, two different orders of protocol:

(i) *Protocol for ceremonies of an international character.* These are presided over, *à-qualité*, by the head of state. In receptions for a foreign head of state and the presentation of credentials by an ambassador the role of head of state is held by the President of the Presidium of the Supreme Soviet.

(ii) *Protocol of a national order.* This has not, as yet, been the object

of an officially published list and has been reconstructed here by comparing the reports of a certain number of recent ceremonies. They were found to be similar and seem to be reliable. They are used as the basis for the order shown in Appendix IV.

CHAPTER EIGHT

CEREMONIES, FOREIGN NATIONAL AND NATIONAL HOLIDAYS

Foreign national flag – Foreign national holidays – National holidays – Official mourning – Official registry



FOREIGN NATIONAL FLAG

441. Diplomatic missions are entitled to fly their national flag on the premises which they occupy as offices, as well as on the premises where the head of mission resides, if the two are separate.

442. Local custom determines the conditions under which the national flag is flown on diplomatic chancelleries and residences.

443. The national flag is hoisted at 8 a.m. and lowered at sundown. If it is flown several days at a time, the flag is lowered each night.

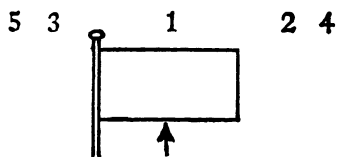
444. The flag, being the national emblem of the country, should be kept in good condition and replaced when its colours fade.

445. In the case of national mourning the national flag is flown at half-mast during the period fixed by directive.

446. Diplomatic missions fly only their national flags. However, when the head of state of the country of residence officially visits the mission premises custom permits his personal flag to be hoisted as a courtesy and following local usage. Local custom determines whether the two flags will be flown simultaneously or if the flag of the head of state will be flown alone. In the latter case it is raised at the moment of arrival of the head of state and brought down upon his departure. Local custom also determines if honours to the flag are rendered outside the hours when military honours are normally rendered.

447. If circumstances lead a mission to fly the national flags of several countries, such flags should be placed in the order of local precedence of diplomatic missions according to the diagram opposite.

First place of honour belongs, in all circumstances, to the national flag of the mission.



National flag

FIG. 6

448. Consular conventions generally authorise consuls and consular agents to fly the national flag above the coat of arms over their office. Certain conventions do not, however, grant consuls established in capitals the right to fly their national flag if the diplomatic mission of their country is also situated there. The Vienna Convention of 1963 authorises consulates to fly their flag on the office as well as on the residence of the consul (see para. 249).

449. The national flag can also be flown over the premises of other official services.

450. Heads of diplomatic missions fly a distinguishing flag of the colours of their country on their automobiles when travelling on official business. The distinguishing flag with national colours is carried on a detachable staff placed at the top of the front left mudguard or fender of the car. In countries where driving is on the right side the distinguishing flag is placed on the top of the right mudguard. It can also be fixed on the top of the car.

451. A certain number of consular conventions expressly grant to consuls the right to fly their national flag on their motor-boats if travelling on official business.

452. The Vienna Convention of 1963 authorises consuls to fly the flag of their country on their automobile when travelling on official business (see para. 249).

453. In any event, agents should conform in these matters to the customs of the localities of their residence.

454. In foreign countries private persons are not authorised to fly the national flag of their country on their homes. However, it is proper for them to be authorised by local custom or by the local

competent authorities. In that case they should conform to the rule of courtesy which requires that the national flag of the country of residence be flown at the same time. This latter flag should have precedence, that is, occupy the right side if there are two flags, or the centre position if there are more than two flags, in accordance with Fig. 7.

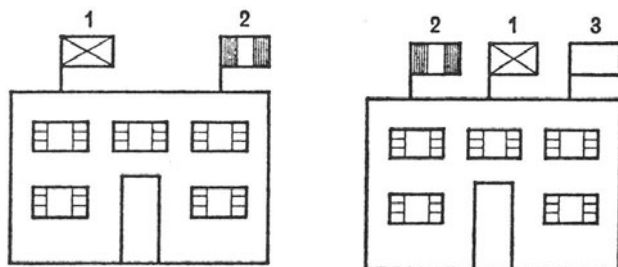


FIG. 7

FOREIGN NATIONAL HOLIDAYS

455. The celebration of one of its own national holidays by a diplomatic mission calls for the decoration of the premises with flags and a reception for the authorities of the country and of the diplomatic corps. The colony is received by the head of the diplomatic mission in the capital, and by the consuls in the cities in the provinces. Local customs prevail regarding these ceremonies. The reception of the colony generally calls for the making of speeches and the sending of a message of loyalty to the head of state.

456. On the occasion of his national holiday the agent receives the visit of the foreign authorities. He should return the visit with the least possible delay. Visiting cards are sent within twenty-four hours at the latest. If the head of the post was the recipient of special attention he should immediately send his card of thanks with the initials 'pr' (*pour remercier*).

457. Foreign representatives who do not attend foreign national holidays send their cards. They are replied to without delay by sending visiting cards with the initials 'pr' (*pour remercier*).

NATIONAL HOLIDAYS

458. The rules of international courtesy oblige diplomatic representatives and consuls to take part in ceremonies on the national holidays of

the countries where they reside, of which the protocol service should furnish a list to diplomatic missions. On such occasions the national flag of the diplomatic mission is flown over premises where the mission or the consulate is established and on other official establishments. Agents attend official ceremonies to which they are invited by the local authorities, as well as when the head of state or a foreign head of state makes a visit.

459. The national flag of the diplomatic mission can also be flown on official premises on special occasions and when requested by the local government. The following rules apply:

- (i) *on diplomatic posts* at the request of the Dean of the diplomatic corps or of the protocol service;
- (ii) *on consulates* on notice from the local authorities.

460. Finally, it is the custom for diplomatic and consular posts to fly the national flag on the occasion of national holidays of states which are represented in the city of their residence, and on notice given by heads of diplomatic missions or local consuls.

461. A detailed list of the national holidays of various states will be found in Appendix V.

462. In Moslem states it is the custom for diplomatic missions and consulates to associate in religious holidays by flying their flag on the days concerned, and by visits or the sending of visiting cards of congratulations to members of the government and to persons of distinction.

OFFICIAL MOURNING

463. Official mourning exists when expressly decreed either by the state sending the diplomatic and consular agents or by the government which receives them.

464. In the first case, instructions determine the external marks of mourning and their duration. In general, the flag is flown at half-mast during a certain period of time and the post uses black-bordered writing paper. In certain official or private ceremonies the agents wear mourning as specified in paras 611 and 615.

465. When the country where the agent is established decrees

national mourning, whether it is following the death of the head of state, of a member of the reigning family or for any other special reason, the arrangements made by the government are brought to the attention of the diplomatic corps by the protocol service, which indicates the date, the place and the hour of the ceremony which the diplomatic corps should attend and the dress for the occasion, as also the place where the registry book is located.

466. The shortest period of official mourning is when the deceased is an elected head of state. The general custom is for the national flag to be flown at half-mast for a period of three days for the death of a sovereign and one day for the death of a president of a republic. The high position of the Pope being elective, the official mourning on the occasion of the death of the Holy Father is the same as for a president of a republic.

467. When the head of a sending state dies, the head of the receiving state sends a senior official to the home of the head of the mission concerned to express his sympathy. The head of the government, should there be one, also sends one of his senior assistants, while the Foreign Minister, accompanied by the chief of protocol, goes in person to express his sympathy.

468. Heads of state, heads of government, presidents of assemblies and Ministers for Foreign Affairs send their own telegrams of sympathy to the corresponding authority whose head of state has died.

469. The diplomatic mission lowers its flag to half-mast in accordance with its national rules or regulations and, possibly, the instruction which it receives. The local government and all other diplomatic missions do likewise.

470. If the diplomatic mission of the state concerned holds a religious ceremony the flags are flown at half-mast during the day of the ceremony. For the order of the ceremony, see paras 328–32.

471. When agents attend an official ceremony of mourning in uniform they should wear the dress prescribed in Chapter 10, paras 611 and 615.

472. In monarchical states, during official mourning, established custom requires that all persons appearing at court wear mourning dress. Otherwise, whatever the circumstances of the visitor, he never appears at court in morning dress.

473. Each state establishes protocol rules for ladies of the diplo-

matic corps and makes known to them the colours which are permitted. As a general rule, during a period of mourning, ladies wear a black dress with trimmings of the same colour and black gloves. During the period of half-mourning, grey and violet colours are also permitted and ladies can wear gold and pearl jewellery.

OFFICIAL REGISTRY

474. In certain circumstances (New Year, official anniversary, national holiday, death of a personage) a register in which names are inscribed is provided. The agent should inquire either of the protocol service or of the qualified authorities if such a register is being set up, and where.

475. On the occasions of official mourning, heads of diplomatic missions, presidents of assemblies, members of the government, and senior officials of the Ministry for Foreign Affairs and other ministerial departments inscribe their names in the register specially opened at the premises of the mission, and leave their visiting cards.

476. The head of mission or the consul sends cards with the initials 'pr' (*pour remercier*) to all persons who sign a register.

CHAPTER NINE

RECEPTIONS — TITLES — VISITING CARDS

Nature of official and unofficial receptions — Day receptions —
Table receptions — Reception of a foreign head of state at an
Embassy — Punctuality — Titles — Visiting cards

*Courtesy is the most precious of jewels. Beauty without courtesy is like
a garden without flowers.* BUDDHACARITA



INTRODUCTORY REMARKS

477. Respect for form and precedence is essential in official and private receptions. Any error in protocol can disturb the harmony of a meeting from the success of which guests always expect certain advantages.

NATURE OF OFFICIAL AND UNOFFICIAL RECEPTIONS

478. A reception is official when the guests are invited exclusively by reason of their position. Men participate without their wives and women occupying official positions which justify their invitation participate without their husbands. An official luncheon usually includes only men or women without their respective wives or husbands.

479. A luncheon to which husband and wife are invited is informal, regardless of the number of participants.

480. It should be noted, however, that dinners to which the wives of heads of diplomatic missions are invited may be considered official dinners, as the wives share in the official dignity of their husbands.

481. An official invitation is distinguished by its form. On the invitation card appears the title of the guest, without any mention of

his name or the name of his wife. In the body of the invitation the form 'has the honour to' is used.

482. When the invitation to an official reception bears the mention 'evening dress' (*tenue de soirée*), decorations, unless stated to the contrary, may be worn (for dress and decorations, see Chapter Ten).

483. Receptions at diplomatic missions are held either in the afternoon, at dinner-time or in the form of a ball or reception after dinner.

484. Receptions in the afternoon are generally given on the occasion of a national holiday, of the visit to the city of a personality or of a congress, etc.

485. Official dinners are offered in honour of the head of state, members of the government or members of the diplomatic corps. Other receptions are generally of a more private character.

486. The head of the diplomatic mission being an official personage of first rank, the receptions should be marked by dignity and decorum.

487. At official receptions the attention of all those participating should be drawn to the following points:

- (i) all official personages should be shown due respect (official precedence is explained in Chapters Six and Seven);
- (ii) certain notables other than official authorities are also entitled to respect and special consideration (clergy) or to traditional attention (nobility);
- (iii) each person should be given the appellation and title due him.

DAY RECEPTIONS

488. It is customary for diplomatic missions to give large afternoon receptions on the occasion of their national holiday. Each capital has its usual practice and each mission has its invitation list on which appear official personages, heads of diplomatic missions (with a variable number of their staff), personalities with whom the mission has permanent contact and those who have, on occasion, rendered service to the mission during the past year.

489. Invitation cards are sent. Each mission has its model; the guests reply following the indications given on the invitation card. A reply must always be sent if a reply is requested. Such a request is often abbreviated to *R.S.V.P.* (*Répondez, s'il vous plait*).

490. The lay-out of the place where the reception is to be held decides the manner of receiving. In any case, the police must be consulted about the general arrangements, the route automobiles will take on arrival and departure, their place when parked, the loud-speakers to call the chauffeurs when the guests leave, etc. If the weather is doubtful, arrangements should be made to enable guests to leave their automobiles, and to enter them when departing, under cover.

491. When receptions of this kind are given, the host and hostess stand at the entrance to the salons where they welcome their guests. The staff of the mission should contribute to the smooth running of these receptions since it is in the national interest that they be a complete success.

492. Counsellors, Secretaries and their wives, who should arrive prior to the opening of the reception, should assist in seeing that the guests circulate and escort them, especially the ladies, to the buffet. However, the host and hostess should never remain alone at any time and one of the head of mission's colleagues — they can take turns — remains at their side for any eventuality, particularly to accompany an important guest who arrives or who is looking for another person.

493. A secondary exit should permit guests who are pressed for time to depart without taking leave of the host and hostess, if the latter are still occupied in receiving newly arrived guests.

494. When the majority of the guests has arrived, the host and hostess leave their place and circulate in the salons among their guests. During this time the highest-ranking agent replaces them at the head of the receiving line, together with another member of the mission. He should note the late arrival of a notability, escort him to the host and hostess, then take his place again at the head of the receiving line. When departures increase appreciably, the host and hostess return to the head of the receiving line, where guests take their leave.

TABLE RECEPTIONS

Invitations

495. When a head of mission chooses his guests for an official luncheon or dinner he must constantly keep in mind the guests who must receive special marks of consideration and the places where they

will be seated. Two lists in protocolar order, one for men and the other for ladies, are prepared.

496. Invitations to a ceremonial dinner, or when there are guests of special importance, should be sent at least a week in advance.

497. As an invitation to a luncheon or dinner is addressed to each person individually, the precedence of guests being determined according to personal rank, the sending of replacements to an official luncheon or dinner is not permitted. The person to whom an invitation to a lunch or dinner is addressed should reply immediately, either by accepting or by declining if unable to attend. If a person is uncertain of his availability it is preferable to decline the invitation rather than withdraw at the last moment. Delay in replying puts the host in an embarrassing position by leaving him without a decision for the preparation of the meal and the organisation of his table, and preventing him from taking advantage of the circumstances to invite another person. It also puts him under the obligation of requesting a reply. The total omission of a reply constitutes a grave error.

498. In countries where the custom of eating meals while standing has increased it is well to specify, on invitations to table receptions, 'seated dinner', as the guests will then know that they should arrive at the appointed hour.

499. In countries where polygamy is practised, only one wife is invited to a lunch or dinner or official reception. It is for the husband to designate the wife who will accompany him.

500. It is more correct for the reply to an invitation to be sent by letter or correspondence card than by visiting card. In certain countries a reply addressed in this form is considered incorrect, especially when it is to an official invitation. It is also the custom in some countries to reply direct to the hostess.

501. Certain invitations carry the telephone number of the host, in which case the reply may be given by telephone. However, if the invitation is to a formal lunch or dinner, it is nevertheless more correct to reply by letter.

502. It is recommended that invitations contain an indication of the dress to be worn.

*Precedence**Official lunches and dinners*

503. At official lunches and dinners the seating of guests is established in accordance with their rank in the order of official protocol. Circumstances can modify the order of classification. For instance, at the home of a foreign diplomat, the head of the receiving state, the presidents of the elected assemblies and the Minister for Foreign Affairs take precedence over foreign ambassadors and cabinet ministers and ministers plenipotentiary. Conversely, at the home of the Prime Minister or of the Minister for Foreign Affairs, ambassadors take precedence over presidents of assemblies, and foreign ministers plenipotentiary over members of the government.

504. In his own country, at a private home, the Minister for Foreign Affairs yields precedence to foreign ambassadors but takes precedence over foreign ministers plenipotentiary.

505. In the country where they are accredited, heads of diplomatic missions, whether holding the rank of ambassador or minister plenipotentiary, take precedence over heads of diplomatic missions accredited to another country, regardless of their title or their appellations. The representative character of a head of mission gives him, in fact, a position of first rank in the country where he is accredited.

506. Officials holding grades or honorary titles, or who are on leave or unattached – in other words, who occupy no functions corresponding to their title – yield precedence to guests of the same rank on active service. When a guest exercises functions superior to his grade he takes, in the locality where he exercises his functions, the highest position which is due to him.

507. Due to female emancipation more and more women now occupy government positions, elective office and high administrative posts. At official lunches or dinners these women are seated by their rank in relation to men.

508. When meals are mixed it is the custom for the men and women to be interspersed as much as possible. In these conditions, except in the case of a woman head of a diplomatic mission, ladies are seated according to the same precedence as their husbands.

509. Widows retain their former rank. Unaccompanied ladies are

seated according to their age, their station or their honorary distinctions. Married women take precedence over divorcées. All women take precedence over young girls, unless their rank, functions or an honorary distinction gives to one of them a particular standing.

510. The husband of a woman official is seated among the men in rank corresponding to his wife's, unless his personal situation (titles of nobility, honorary distinction, etc.) gives him a superior rank.

511. The husband of a woman head of a diplomatic mission recently posed problems with respect to his place in protocol.

512. The rule which gives to the ambassador's wife a privileged place in relation to other women of the mission would not apply entirely to an ambassador's husband. The solution adopted has been to seat the husband of the 'ambassador' immediately after the representative of the mission who would perform the functions of chargé d'affaires if she were absent.

513. The husband of a woman Secretary of Embassy has the same precedence as his wife, unless he is entitled personally to a superior rank. If his wife became chargé d'affaires he would sit immediately after the agent who would eventually replace her.

514. In France official protocol at luncheons and dinners in which foreign diplomats participate is regulated according to the list below, which can serve as a general model:

Protocol for official lunches and dinners

At the Prime Minister or the Minister for Foreign Affairs	At an Ambassador or Minister (foreign)
Dean of the diplomatic corps	Prime Minister
Ambassadors	President of the Senate
President of the Senate	President of the National Assembly
President of the National Assembly	Minister for Foreign Affairs
Ministers plenipotentiary heads of mission*	Dean of the diplomatic corps
Former presidents of the republic	Foreign ambassadors
Cabinet ministers	Former presidents of the republic
Secretary-General	Cabinet ministers
Political director	Secretary-General
	Political director
	Ministers plenipotentiary heads of mission
	Deputies (congressional representatives)

* At large dinners it is the general rule to mix foreign ministers plenipotentiary heads of mission with members of the government.

Mixed gatherings

515. At gatherings where official personalities and distinguished persons are mixed, inevitable conflicts will arise between precedence of right as against courtesy precedence. The solution of the problem depends on the circumstances at the time and place, and no solution *a priori* can be suggested. However, it is desirable to take into account the following rules:

(i) The relative place of persons having official positions should always be respected.

(ii) Once precedence of right is established, notabilities can be interspersed with official personages. Each place should be determined by taking into account the following principles:

(a) exceptional courtesy precedence should be accorded persons holding positions of high spiritual and symbolical importance in relation to the circumstances of the meeting;

(b) pre-eminence of social order should be taken into consideration (titles of nobility, honorary distinctions, etc.);

(c) precedence of guests of foreign nationality is universally admitted. If equal in rank, foreigners take precedence over nationals. Nationals from outside the country have precedence over those with comparable rank residing in the country.

(iii) When the character of an official meeting prevents recognising courtesy precedence, it is preferable not to invite personalities who might be offended by the treatment of which they would be the object.

Private gatherings

516. In gatherings which are more or less private the host and hostess always preside over the table. Places of honour at table are arranged in the order shown in Figs. 10 and 11.

517. In matters of precedence the general rules given below apply as a whole. But one or several guests of distinction can be interposed in precedence without a person with official status having any reason to complain of the treatment accorded him.

518. One should take into consideration not only the official situation but also traditional or family precedence, and, if necessary, proceed to make adjustments and changes justified by the circumstances of the moment. Account should accordingly be taken of the age of persons, their social standing and their relationship to the person who is receiving. For instance:

(i) It is the custom for young men to yield precedence to older persons. This is a basic rule which is only changed in exceptional circumstances.

(ii) Honorary distinctions of which certain guests may be holders should be taken into account.

(iii) Greater consideration should be given to local situations.

(iv) A special favour is often paid to a person who is received for the first time in a private home and who is of equal rank with foreigners.

(v) Finally, members of the family of the host yield precedence to guests.

Places of honour

519. Particular attention should be given to the distribution or allocation of seats of honour because those claiming to be entitled to them are numerous and often sensitive.

520. The place of honour is in front of the entrance door. If the door is on the side, the place of honour is on the side of the table which faces the exterior window.

521. A sovereign or royal highness, invited to a diplomatic residence, is considered, from the point of view of protocol, as being at home. The presidency of the table belongs to him and he is supposed to receive the guests. The table plans should be drawn up by the local protocol service.

522. At luncheons or dinners in which only men are present, first place is at the right of the host (see Fig. 8). When the host desires to pay special attention to a guest of particularly high rank he may give him the second presidency of the table with the seat in front of him. The first place of honour remains, nevertheless, at the right of the host (see Fig. 9).

523. When the wife of the host is present at a lunch or dinner the place of honour is at her right. It is customary, on such occasions, to invite the wives of the guests.

524. If the host is unmarried or if his wife is absent he may, if he wishes, in the case of a mixed lunch or dinner, place in front of him the personage of the highest rank or any lady of his own choice. The interspersing of male and female guests around the table will require one or the other solution.

525. This condition prevails even where difficulties cannot be avoided except by the setting up of two tables, one presided over by the host, and the other by the hostess. In this case it is customary to seat husbands and wives at different tables.

526. When the number and rank of personalities invited make their seating a delicate problem it may be advantageous to split up the guests among several tables. In that case presidency over the various tables is divided between the host and hostess and the principal guests of note. The plan of each table should be prepared and the seats marked in advance.

Table plans

527. The problems of courtesy arise principally in the seating of notables among official personages.

528. Figs 10–14 indicate the manner in which places around the table should be assigned:

(i) At a lunch or dinner at which only men participate and the host presides alone:

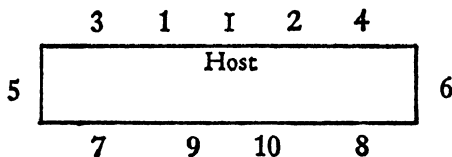


FIG. 8

(ii) At a lunch or dinner at which only men participate but at which, in order to pay special homage to one of the guests, the host requests him to share in the presidency of the table:

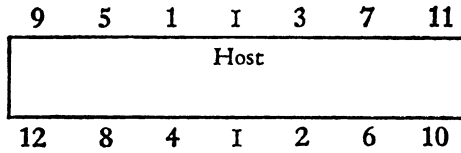


FIG. 9

(iii) At a lunch or dinner at which men and women participate and at which the host and hostess are seated, for convenient conversation, in the middle of a rectangular table:

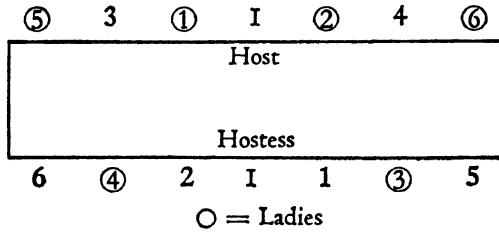


FIG. 10

(iv) At a mixed meal at a rectangular table where the host and hostess are seated at each end of the table. (This arrangement, which may be used when receiving guests who might feel neglected at the end of the table, is often followed in British countries and has the advantage of giving two centres of conversation.)

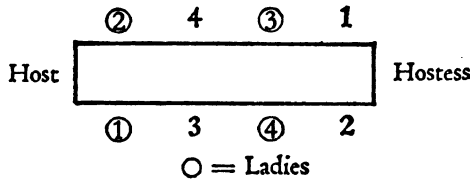


FIG. 11

(v) At certain meals, the host may yield his place to a guest whom he wishes particularly to honour. In that event, the host seats the guest opposite his (the host's) wife. He himself then takes either the place at the right of the first lady or, which is more courteous when

there are prominent foreign guests or elderly guests, the last place or seat.

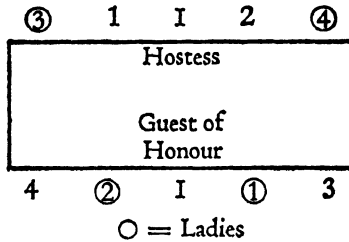


FIG. 12

(vi) At a meal at which a consul receives his head of mission, the latter presides over the table, facing the former's wife. However, if the wife of the head of mission is also present she presides over the table with her husband, the consul's wife being seated before the other ladies in attendance. The host then takes place number (3) or (4) (see Fig. 12).

(vii) Mixed lunches or dinners at a horseshoe table where the host and hostess are seated opposite each other:

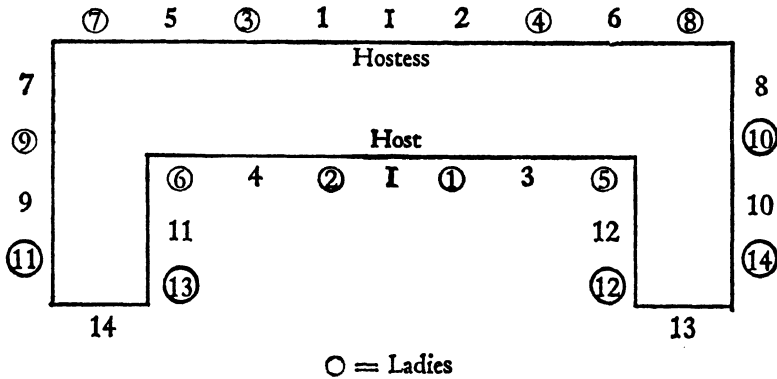
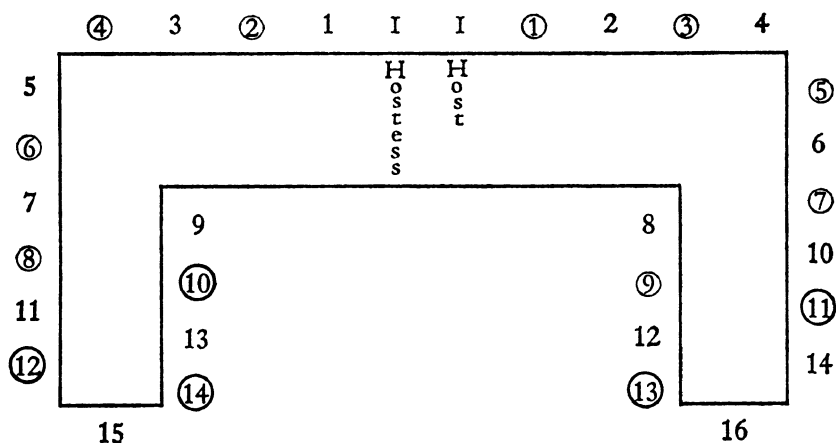


FIG. 13

(viii) Mixed meals at a horseshoe table where the host and hostess are seated side by side. (At a ceremonial meal when a head of state presides over the table alone this arrangement is obligatory because nobody may sit in front of him.)



○ = Ladies

FIG. 14

Beginning and termination of reception

529. When a head of a diplomatic mission gives an official luncheon or dinner one of his Secretaries should be invited to assist him in receiving.

530. If the cloakroom is at a distance from the salons where the host receives his guests it is recommended that the Secretary stand near the entrance to the cloakroom and make sure that the guests note the table plan, which should be placed near that entrance. When it is the custom for each guest to escort a lady to the table a servant presents each man, on arrival, with a small card bearing his name and the name of the lady he is to escort to the dining-room. This card should be presented on a tray.

531. The host is careful to see that each guest knows the lady whom he is to escort to the table.

532. It is advisable also to put at each place at table a card bearing the name of the guest.

533. It is customary, when table arrangements will permit, to place husband and wife on the same side of the table and not facing each other.

534. In certain circumstances it may not be possible to give a dignitary the seat that is due him by protocol. In that event the host should express his regrets to the guest as soon as he arrives and explain to him the cause for the lapse in protocol of which he is the object.

535. If one member of a couple cannot be seated with his or her protocol rank the host should arrange for the wife at least to be seated at her correct place and express his regrets to the husband. Men will accept good reasons for this sort of difficulty; ladies never.

536. In the presence of a sovereign, reigning or in exile, of a head of state, of a royal highness or of a cardinal, the major-domo (*maître d'hôtel*) announces to the personage concerned that the meal is ready, using the form: 'His Majesty (or Highness, etc.) is served.'

537. As soon as the major-domo has announced the serving of the meal the host offers his arm to the first lady and proceeds first to the dining-room. The guest of honour offers his arm to the hostess, and they enter last. However, high ecclesiastical dignitaries who attend lunches or dinners do not offer their arm to the lady they accompany.

538. If a sovereign, a head of state, a royal highness or a cardinal is invited, the hostess precedes the group by the side of the highest dignitary. The host enters last.

539. The major-domo waits at the door of the dining-room for the guest of honour and the hostess, then precedes them to their seats and advances their chairs. Guests take their seats only after the hostess is seated.

540. At the end of the lunch or dinner the hostess rises and leaves the table first.

541. At meals where there is no ceremony, especially lunches, the custom is not to offer the arm. In this case, when the major-domo announces that the meal is served, the hostess conducts the ladies to the dining-room, her husband acting in a similar manner with the men. It is always the hostess who gives the signal to leave the dining-room.

General conversation

542. The host and hostess should endeavour to see that the conversation at the table is general and that it includes criticism neither of the country of residence nor of its authorities nor of persons not present. Indeed, it is not only highly improper but also imprudent for diplomats to be involved in gossip, as it might be wrongly interpreted. We can do no better than recall Satow's warning not to forget that servants always listen to and often repeat – too often unfaithfully – what is said.

Official speeches

543. When it is necessary to exchange toasts at the end of an official banquet the person who extends the invitations should send the guest of honour a copy of the speech or toast he intends to propose in order to enable the guest to prepare a reply. When it is an important political meeting the reply is also communicated in advance.

544. The language used on the occasion of a toast should be the same. When the national language of the guest of honour cannot be used, another language known to both speakers is chosen.

545. The toast should consist of:

- (i) a salute to the guest of honour;
- (ii) a summary of the considerations which inspired the meeting;
- (iii) the conventional form of good wishes for the foreign head of state, for his honoured guests, for the prosperity of his country and for the happiness of his people.

546. The reply, in turn, should consist of:

- (i) thanks for the welcome;
- (ii) an expression of the considerations which motivated the meeting and the affirmation of reciprocity of the sentiments manifested;
- (iii) the good wishes of the head of state for the prosperity of the country and the people he is visiting.

Smoking

547. Smokers nowadays seem to show less and less consideration and respect for the non-smoker at a dinner-party, and frequently smoke without the hostess's permission and without ascertaining whether smoking would inconvenience the person sitting alongside them. Many persons have formed the ill-mannered habit of smoking almost as soon as the first dish is served, or before the meat course, and nearly always before the dessert. Such a habit is not only in very bad taste but persons who yield to it may be considered uneducated and uncultured.

548. Tobacco smoke inconveniences more people than impenitent smokers want to believe. Moreover, it alters the taste of food and,

according to gastronomes who have studied the combination of wine and food in a meal, tobacco odour disturbs this harmony. To smoke at the dinner-table without her permission is considered a lack of courtesy towards the hostess in particular, considering the effort she took to plan and serve an exquisite meal. Nevertheless, it appears that some hostesses push fastidiousness to the point of offering cigarettes whose taste are supposed to accord with that of the dish, forgetting or indifferent to the presence of a guest who may be allergic to tobacco smoke and greatly inconvenienced by it.

549. We believe that the time to smoke is when coffee and brandy are served. At all events, smoking should take place at dinner-parties only with the consent of the hostess and those present.

550. In Great Britain especially, at official banquets, smoking only takes place after the toast to the Queen. Usually, the men remain at the dinner-table to smoke and drink port while the ladies retire.

RECEPTION OF A FOREIGN HEAD OF STATE AT AN EMBASSY

551. When the head of state to whom the head of mission is accredited makes an official visit to the embassy the details of the reception are worked out in advance with the local protocol service. In any event, the general rules given below apply.

552. All guests should be in the salons before the announced hour of arrival.

553. Upon arrival, the head of state is received at the entrance door of the embassy by the ambassador, accompanied by all career staff of the mission. The ambassador advances towards the head of state as soon as he descends from his automobile, greets him and presents his colleagues. A procession is formed (paras 266–8). The personal flag of the head of state can then be raised (see para. 446).

554. At the entrance to the salons the ambassador's wife and the wives of members of the mission advance and pay their respects. It should be noted that ladies curtsey only to sovereigns and royal highnesses. After the presentations the head of state enters the salons where a special room should be arranged to permit him, if he so desires, to converse privately with persons of his choice. The ambassador, who is not actually required to be present all the time, should be careful to

see that the head of state is never left alone. If the wife of the head of state accompanies him, the ambassador's wife is required to show her the same attention.

555. The same ceremonial takes place on departure. The ambassador's wife and the wives of members of the mission escort the head of state and his wife, if she is present, to the antechamber. The head of state is then accompanied in procession to the door of the embassy, the ambassador not leaving the premises until his guest has departed. The personal flag of the head of state is then hauled down (see para. 446).

556. Formerly, in the large embassies of the Western powers, at night, the procession accompanying the sovereign was traditionally preceded by servants of the embassy dressed in their livery, bearing candelabra.

PUNCTUALITY

557. It was not just yesterday that punctuality was recommended. It was Louis XVIII who stated the maxim: 'Punctuality is the politeness of kings and the duty of all good people.' To arrive on time is obligatory on all who attend not only official receptions but private receptions as well.

558. Punctuality is one of the qualities of the great that the more humble will never find it humiliating to imitate.

559. It is a mark of attention towards the host and hostess who are ready to receive at the hour shown on the invitations. It is not pleasant for them to wait in their empty salons, and they are always appreciative of those who arrive on time. Likewise, there is no reason to prolong the stay by remaining later than the hour fixed on the invitations, even if the buffet table is still filled with food.

560. Punctuality should be respected even more for table invitations. Some people have the bad habit of arriving late. This behaviour is extremely ill-bred in the case of a formal dinner, for delicate dishes cannot always wait. It is also a lack of consideration for other guests who are obliged to depend, so to speak, on the caprice of others.

561. There are countries where it is correct for guests *not* to arrive before a specified time after the hour stated on the invitation, and where receptions are conducted according to rigid rules. Agents should

conform to the rules of society in the countries where they reside and which they are not called upon to change; they should not, however, carry these customs to countries where they do not apply.

562. At all events, in principle, a host should never wait more than half an hour after the time fixed for the arrival of a guest. If the guest arrives later he takes the meal where it is at the moment of his arrival.

TITLES

Royal titles

563. It is the rule to give certain titles to persons belonging to royal families and to address them in a particular manner.

564. Kings are called Sir or Your Majesty; queens are called Madam or Your Majesty. This protocol applies also as regards sovereigns who have abdicated or been deposed.

565. Sovereign princes are generally entitled to the appellation Royal Highness (*Altesse Sérénissime*).

566. Royal princes and princesses generally have the title Royal Highness (*Monseigneur*) or Madam, and are addressed as Your Royal Highness.

567. The rules of each court determines the titles to which members of the royal family and the aristocracy have a right, and it is well, whenever possible, to inquire in advance regarding the name, title and appellation of the person or persons to be met.

Titles of nobility

568. European monarchies gave titles to their most distinguished public servants and these titles have been preserved and are still held even though the monarchy has disappeared. Their origin as well as their evolution is rather complex.

Continental Europe

569. In continental Europe recognised titles are Prince, Duke, Marquis, Count, Viscount and Baron. They generally confer hereditary nobility on all male descendants of the first title-holder. The title of

Knight, often accompanied by an honorary distinction, generally brought only personal nobility.

570. In republics, which have taken the place of most monarchies, titles of nobility are no longer granted, but respect for former titles still lingers and their holders always benefit from courtesy precedence.

571. Certain peculiarities apply in France. For instance, the title of prince, except when held by members of the royal family, was considered a foreign title, and French dukes claimed precedence over all foreign princes who were not sovereigns or of royal blood. French tradition entitles a duke and duchess to be addressed as *Monsieur le Duc* and *Madame la Duchesse*, whereas other titles are mentioned only at the time of presentation. In the case of the preposition of (*de*), this is not referred to in conversation when it is not preceded by *Monsieur*, except when the name has but one syllable or is pronounced as such. Such is the case of the name *de Gaulle*. When a family has a title, the eldest branch holds it. The succeeding branch takes the title immediately inferior, and so on.

Great Britain

572. In the peerage of the United Kingdom there are five grades of nobility: Dukes, Marquesses, Earls, Viscounts and Barons. The holders of these titles, which are very largely hereditary and are transferred in the order of male succession, form the peerage. Life peers, created under the Life Peerages Act of 1958, are non-hereditary. They include peeresses in their own right who are addressed (when of the lowest grade) as *Baroness* and not *Lady*. All peers, with the exception of certain Scottish and Irish creations and peeresses in their own right by inheritance, are members of the House of Lords.

573. In addition, but outside the peerage, there are *Baronets*, a title which is hereditary, and the non-hereditary title of *Knight*.

574. Contrary to the custom on the continent of Europe, titles of nobility are inherited only by the head of the family. The eldest son, and in some cases the eldest son of the eldest son, may bear a courtesy title, but the other members of the family use the family name.

575. In the case of courtesy titles, the eldest sons of dukes, marquesses and earls bear their father's second title as a courtesy. This courtesy title is one or more ranks below that of the father, and if the son is a marquess or an earl, his son will also have a courtesy title. For

example, the eldest son of the Duke of Richmond has the courtesy title of Earl of March, while the eldest son of the eldest son is Lord Settrington. All other members of the family bear the family name of Gordon-Lennox.

576. The younger sons of dukes and marquesses have the title Lord prefixed to their Christian and family names, while the younger sons of earls and all sons of viscounts and barons have the title Honourable, normally abbreviated thus: The Hon. John Smith, but not used in speech, where he would be addressed as Mr John Smith.

577. The daughters of dukes, marquesses and earls bear the title of Lady which, on formal occasions – for instance, on the address on an envelope – should always have a ‘The’ before it, and those of viscounts and barons, Honourable. These come before the Christian and family names thus: The Lady Mary Smith, or The Hon. Jane Jones. It should be noted that in normal circumstances only dukes and duchesses are always referred to by their full titles. A duke will be introduced as The Duke of X, while in conversation he is addressed as Duke and his wife as Duchess.

578. Marquesses, earls and viscounts, on the other hand, are only referred to as such on certain formal occasions, such as in the address of letters and, but not invariably, when announcements are being made on entering drawing-rooms, on invitation cards and recently on place-name cards for dinner-tables. Otherwise, they are addressed and referred to as Lord or Lady. Barons and baronesses are also referred to as Lord and Lady except in the most formal documents. The Christian name of a peer is never used as a part of his title: i.e. he is Lord X (called by his friends, John), but he would only be Lord John X if he was the younger son of a duke or marquess. A peer signs himself with his title, a peeress with her Christian name before the title: i.e. Lord and Lady X would sign themselves respectively ‘X’ and ‘Charlotte X’.

579. The rank of baronet, although hereditary, is not a part of the peerage. A baronet has the title Sir prefixed to his name and the abbreviation Bt after it. The full style and title, Sir John Brown, Bt, is used in correspondence. But he is introduced socially and publicly as Sir John Brown and this is also the form used on his visiting cards. His wife is known and addressed as Lady Brown (not The Lady Brown, which would indicate that she was the wife of Lord Brown).

580. The dignity of knighthood is not hereditary. It may be conferred

with or without appointment to one of the two senior classes of an order of chivalry. In either case the dignity is indicated by the use of the prefix Sir. But if the knight is a member of an Order he will add after his name the appropriate letters indicating his appointment. Thus, Mr John Brown, if given a simple knighthood, becomes Sir John Brown. But if he is appointed to the first or second class of the Order of the British Empire, for example, he becomes Sir John Brown, O.B.E., or Sir John Brown, K.B.E.

581. A knight's full style and titles must be used in correspondence, but he is introduced socially and publicly, and describes himself on his visiting cards, as Sir John Brown. His wife is invariably Lady Brown (not The Lady Brown).

Official titles

582. In all countries of the world it is the custom to give holders of important political offices, high-ranking officials, military authorities and heads of diplomatic missions the titles of their office.

583. In formal presentations the titles of members of governments and of presidents and vice-presidents of political assemblies are always mentioned. There are also countries where administrative titles are always given to officials, even minor officials, and are extended to include their wives as well. There are other countries where former ministers or presidents of assemblies, as well as high officials in retirement, continue to hold their former titles. These are local rules that cannot be enumerated in detail here, but which should always be remembered.

584. A few examples are given below. In many countries, particularly in Germany and in Great Britain, the title Doctor is given to all holders of university doctorates, including doctors of medicine, but not for lower degrees such as M.A. In France that term is reserved for doctors of medicine. In France, Great Britain and in Germany, university professors are given their professional title (Monsieur le Professeur, Professor Jones, Herr Doktor). In the United States, when addressing doctors, the complimentary title Dr is generally omitted. However, this title is used in the salutation: My dear Dr Smith.

585. As regards the military authorities in the United States, all military ranks may be referred to by their professional titles: General,

Colonel, Captain, etc. All titles are used officially. A wife does not share her husband's official title and is addressed as Mrs Jones. In Great Britain, above the rank of Captain, the grade of the officer is given, whether in the active or reserve service, with the surname. However, the omission of the surname is less formal. In France, Marshals of France are called by men and women Monsieur le Maréchal, as was done by King Louis XIV. Other officers are addressed as, for example, Mon Capitaine, by men, and Capitaine, by ladies, without mentioning the name. The wife of a Maréchal of France is called Madame la Maréchale; other women, Madame. In Germany it is Herr Hauptmann. The ladies are given the title of their husband, e.g. Frau General.

586. In all countries, heads of diplomatic missions are called by their grade: Mr Ambassador (Monsieur l'Ambassadeur), Mr Minister (Monsieur le Ministre). This term is retained, by courtesy, when they leave their functions. The ambassador's wife is also called Madame l'Ambassadrice. For other employment no mention is made of the title.

587. At their post, ambassadors are entitled to the title Excellency, which has been extended by courtesy to ministers plenipotentiary heads of legation. This title is given, by courtesy, by foreign diplomats to high foreign political personalities (presidents of republics, chiefs of government, ministers), even in countries where they do not use such official titles.

Clerical titles

The Roman Catholic Church

588. The Roman Catholic Church is a *centralised organisation*. It has a hierarchy that it is well to know and which will also serve in regards to other Christian churches whose titles have the same origin. The order is as follows:

- (i) legates *a latere*; cardinals representing the Holy Father and entitled to royal honours;
- (ii) cardinals who have the rank of royal princes;
- (iii) representatives of the Holy See; nuncios, internuncios and apostolic delegates (see paras 67–74);

(iv) other prelates. Precedence depends on their title; patriarch, primate, archbishop or bishop. Archbishops in their provinces and bishops in their dioceses take precedence over all other ecclesiastical authorities of the same rank, except diplomatic representatives of the Holy See;

(v) vicars-general or capitulars, taking precedence in their dioceses over all ecclesiastics except bishops;

(vi) priests in their parishes.

Precedence can also be regulated following the order; bishops, priests, deacons and, in each order, according to the date of ordination.

Orthodox communities

589. The Christian communities in the Near East have had a different history.

In 330 Constantine chose Byzantium as his capital. At that time the eastern part of the Mediterranean was the more civilised and the more prosperous of the Roman world; it also was under the greatest threat from outside the Empire. In 395, on the death of Theodosius the Great, the Empire split in two parts; the Eastern Empire and the Western Empire. As early as 381 the patriarch of Byzantium had been recognised by Council as an 'honorary primacy', immediately after that of the Pope, bishop of Rome. The holders of the title went their own way and, after the Great Oriental Schism and the events which followed, the Eastern churches completely separated from those of the West which depended on Rome. The anathemata which heads of both churches had pronounced, one against the other, have been cancelled by common agreement as of 7 December 1965.

Collegiate tradition practised in the East led various territorial communities to claim from the Patriarch of Constantinople, autocephalia and then autonomy. This patriarch, whose authority had been diminished by Islamic expansion in the Middle East (the conquest of Asia Minor and of the Balkans by the Turks), had to yield to these claims which were often supported by certain major powers, particularly by Russia. The Orthodox community of the Near East then broke up. We now find eight patriarchs of the Orthodox rite: Constantinople, Alexandria, Antioch, Jerusalem, Moscow, Bucharest, Sofia and Belgrade; the last three dating from the collapse of the Ottoman

Empire in Europe. There also exist five independent autocephalic churches: Greece, Cyprus, Poland, Czechoslovakia, Albania; and four autonomous churches: Finland, dependent on Constantinople; China, attached to Moscow; Sinai (with fifty members – all monks) attached to Jerusalem, and Western Europe (1965). The patriarchs and heads of autonomous churches are entirely independent one from the other. Nevertheless, the ecumenical patriarch of Constantinople, although he maintains his seat or place of abode in a Moslem country, and has only a small number of faithful members, holds first rank in protocol.

An ecumenical council of Orthodox churches exists but it has not convened during the past eleven centuries.

590. *Church hierarchy* is as follows:

(a) Episcopate

(i) patriarchs;

(ii) metropolitans, who can either (a) be heads of autocephalous churches or (b) belong to a patriarchy. They are then members of synods or at the head of one or several archdioceses;

(iii) archbishops;

(iv) bishops.

(b) Archimandrites

Archimandrites do not have episcopal dignity and are generally heads of monastic establishments (Higoumenes).

(c) Priesthood

While the two preceding categories are recruited only among the regular clergy, the priests can either be monks or belong to secular clergy.

(d) Diaconate

The same conditions prevail for deacons. In Oriental churches, the lower clergy may be recruited from among married laymen.

591. *Heresies*. The Orthodox Church, in addition to divisions of a geographical and national character, was subjected over the centuries to reforming efforts which resulted in the founding of separate communities. The most important among them that still exist are:

Duophysite heresy. The Nestorians (428), whose patriarch is at Mosul. This church comprises twelve dioceses.

Monophysite heresy. Condemned by the Ecumenical Council of

Chalcedon in 451. Monophysite heresy is found in the following communities:

Gregorian Armenians (506), whose Catholicos resides at Eschmiadzin (Soviet Armenia), and a subordinate patriarch at Jerusalem, have five dioceses.

Jacobites (543), whose patriarch bears the title of Antioch and resides at Homs, have six dioceses. The Malabar churches belong to this community.

Copts, who originate, like the Jacobites, from the Monophysite doctrine (543), have at their head an Amba, with eighteen bishops in Egypt. An Abouna in Abyssinia, with five bishops, leans towards autocephalia.

These communities were later attracted to Rome, so that they split up in their turn, one branch recognising anew the primacy of the Pope. Thus we now find:

The Chaldeans, an off-shoot of the Nestorians, who came back to Rome in 1560. Their patriarch, who bears the title of Mossul, resides at Chicago, and they have two dioceses.

Syrian Catholics, off-shoot of the Jacobite movement, came back to Rome in 1659. Their patriarch, who bears the title of Antioch, resides at Beirut. They have five dioceses.

Greek Catholics, who rallied to Rome in 1724. Their patriarch, of Antioch, resides at Damascus.

Catholic Copts, rallied to Rome in 1741. Their ambra resides at Cairo, and they have three dioceses.

Catholic Armenians, came back to Rome in 1849; their patriarch, of Cilicia and of Constantinople, resides at Beirut.

The *Maronites* have a different origin. That community, founded in 405, after having followed monothelite heresy, reattached itself to Rome. The patriarch, of Antioch, and of all Orient, resides at Beirut.

Appellations and titles

592. *The Roman Church*. The Pope is called Holy Father or Your Holiness, and is addressed in the third person. A cardinal is entitled to the appellations of Eminence and Your Lordship and is addressed in the third person. Archbishops and bishops are called Excellency or Your Lordship and are addressed in the second person. Other members

of the clergy are called by their titles. For correspondence, see para. 764.

Orthodox churches. The ecumenical patriarch of Constantinople is called Your Holiness, like the Pope. Other Eastern Orthodox patriarchs are called Your Beatitude, and are addressed in the third person. Archbishops and bishops are called Your Grace and Your Lordship. For hierarchy, see para. 590.

Protestant churches

593. These churches, issue of the Reform movement, are very numerous. Their organisation, generally of a national or regional character, varies greatly. They have no diplomatic representation.

The hierarchy of the *Lutheran Church*, stems directly from the Catholic hierarchy which preceded it.

The *Anglican Church* has, in Great Britain, the official status of *Established church*. The position of Anglican archbishops and bishops is expressly provided for in British protocol (see para. 376). It has kept the hierarchy of the Roman Church; Archbishop, Bishop, Suffragan Bishop, Dean, Archdeacon, Canon, Prebendary, Rural Dean, Rector, Vicar, Curate and Deacon. An archbishop is entitled to be called His Grace, like dukes; a bishop, Lord, like peers. They both have seats in the House of Lords. Up to the rank of prebendary, they are called Sir. Other members of the hierarchy are called The Reverend, followed by their christian and family names. If they are doctors in theology, 'doctor' is added.

In designating ecclesiastics, different forms are employed according to their religion. An Anglican minister is The Reverend James Jones; for a Catholic priest, the word 'Father' is added and the Christian name omitted, i.e., The Reverend Father Jones.

In the United States, where Protestant churches are very numerous and comprise the majority of the population, ceremonial as regards the members of the clergy follows the custom of each community. In official dealings, a Catholic archbishop would be called Excellency. In circumstances less official, he would be called, Most Reverend Sir. An Anglican bishop should be called, My Lord Bishop; bishops of the Episcopal Church of the United States are called Most Reverend Sir: Methodist bishops, Reverend Sir; and Mormon bishops, Sir.

Churches and communities which stem from the Calvinist movement are usually grouped territorially. The superior religious authority

belongs to a Consistory whose elected president is counted equal to a bishop by French protocol. He is generally called Mr President.

VISITING CARDS

594. Some countries or circles have very strict protocol on the exchange of visiting cards. The custom varies in different countries. In Anglo-Saxon countries, apart from official visits which are made first, the newly-arrived agent waits for the visits or cards from persons of the country wishing to make contact with him. In France, on the contrary, it is the newly arrived agent who takes the initiative to pay the visits or to send cards. French custom is generally adopted in diplomatic circles.

595. It is necessary, to meet all contingencies, for agents with families to have four sets of cards including:

- (i) The name, rank and address of the agent which is his official card. (Heads of mission use two official cards: one carries their complete title, the other the simple term 'Ambassador' or 'Minister'.)
- (ii) The name of the agent only, for private occasions.
- (iii) The name of his wife.
- (iv) The inscription 'Mr and Mrs'. In Great Britain there are no joint cards.

596. This latter card only bears the address. The Christian and family names are never abbreviated.

Great Britain

597. In Great Britain the customs are different. Ladies' visiting cards are large, those of the men are smaller. The name is preceded by title, military rank in shortened form, or Mr, but it is never followed by any initials to indicate degree or an award. The personal address is given.

United States of America

598. All visiting cards should be engraved. The card of a married couple gives the address. It is the same for ladies or bachelors. The card

of a married man does not mention his address, for it is supposed to be left at the same time as that of his wife. The Christian name is preceded by Mr for men and Mrs for married or divorced women. The term Miss is used for young girls more than eighteen years old. Under the age of eighteen, boys and girls have cards which carry only the Christian name followed by the surname.

599. Certain high-ranking officials leave cards for official visits on which the title only appears without any mention either of the name or address. Such is the case of the President of the United States, the Vice-President, the Chief Justice, the Speaker of the House of Representatives. Ambassadors, Secretaries and Under-Secretaries of the different ministerial departments. The usual type of card used by American diplomats gives the Christian and surname in their entirety, and the rank, but neither the place of residence nor the address. The wife's cards and those of the family are similar.

600. Visiting cards left at the residence by the agent himself or by a third person have a corner turned up. Some people attach significance to the manner in which this operation is effected, according to which corner, the upper or lower, is turned back, etc. To avoid this convention it is advisable to fold the card along the entire left side.

601. Cards sent in an envelope are not folded. It is recommended that, whenever possible, a few words be written on the card to prevent its use at a later date as false identification by a third person.

602. When a card is left by hand, only pencil notations appear on the envelope. When it is posted, the notations should be written in ink.

603. Agents can refer to the following practices in matters of sending and of exchanging visiting cards, if local customs are silent on the subject:

- (i) The sending of a visiting card is the equivalent of a visit.
- (ii) It is more correct to leave cards personally.
- (iii) Visiting cards should always be returned within twenty-four hours.
- (iv) A bachelor leaving cards at the residence of a man and wife should leave two cards.
- (v) A woman never leaves a visiting card at the home of a bachelor.
- (vi) A married couple leaving cards on another married couple

leave one of the husband's cards for the husband and a card with Mr and Mrs for the wife. In Great Britain, leave two of the husband's cards and one of the wife's.

(vii) The initiative to leave cards after an introduction belongs to the person who holds the inferior rank. In the absence of other elements of consideration the age of the person determines the obligation to leave cards. The youngest must be the first to leave a card. When in doubt it is the one who is the more polite who leaves the card first.

(viii) After being introduced to a lady a man should, as soon as possible and in any event not later than within a week, leave his card as well as one for the husband, even if he has not yet been introduced to him. It is, however, preferable, before making this courteous gesture, to be introduced to the husband if he is not absent.

(ix) A lady who has been introduced to another lady, if she expects to have further contact with her and if the other lady is older than she is or married to a person holding a rank superior to that of her husband in the administrative or social hierarchy, leaves her visiting card. If she is married, even though her husband does not know the lady, she should leave two cards.

(x) All those who are guests at a luncheon or dinner or an evening party (not a tea-party) are expected, if they do not send a letter of thanks, to leave, within a week, their visiting cards at the home of the hostess.

(xi) When foreign notables in transit leave their cards they should do so within twenty-four hours of arrival, and these should be returned also within twenty-four hours.

(xii) The handwritten indications on cards have the following meanings:

- P.R. — Pour remercier
- P.F. — Pour fête
- P.F.C. — Pour faire connaissance
- P.F.N.A. — Nouvel An
- P.P.C. — Pour prendre congé
- P.C. — Pour condoléances
- P.P. — Pour présentation

CHAPTER TEN

CEREMONIAL DRESS AND DECORATIONS

Ceremonial dress – Forms of decoration – Wearing of decorations – Exchange of and proposals for decorations

Society is founded on dress, without which it would cease to exist.

CARLYLE



CEREMONIAL DRESS

604. Attention is particularly drawn to the strict rules concerning the wearing of uniform or civilian dress in accordance with the solemnity of the ceremonies in which agents are invited to participate *à-qualité*.

Uniform dress

605. Before 1914, most states provided their diplomats and consuls with a particular uniform. It generally included for full dress, a waistcoat, embroidered trousers, plumed hat and sword; for informal dress, a dark blue, close-fitting jacket or a coat with ornaments, embroidered shoulder straps and an embroidered hat or cap. There also was a tropical uniform for warm climates.

606. Since the 1939–45 war many new countries have failed to provide uniforms and their representatives appear on all occasions in civilian or street dress.

607. In states where there is a court its rules determine the circumstances when wearing the uniforms is in order. These rules must be respected by the agents whose national regulations require the wearing of uniform. But there are other circumstances where the wearing of uniform is required of diplomats and consuls, for example, when they

appear officially on board a warship of their country. On such occasions the gun salute is rendered only if they are in uniform (see para. 314 (i)-(ii)).

Civilian dress

608. The protocol service should specify in each case the dress that should be worn by members of the diplomatic corps when participating in official ceremonies.

609. Full-dress uniform is worn at official ceremonies in which the head of state participates. The first such occasion is the presentation by the head of mission of his credentials (see paras 132-4). In Great Britain national dress is readily accepted, and evening dress with white waistcoat and decorations is also permitted.

610. Diplomats can be called upon to wear uniforms at ceremonies which take place on special occasions, such as the crowning or the death of a sovereign, or in any other circumstances when invited by the protocol service to do so.

611. When in official mourning, agents in uniform carry a black *crêpe* on the handle of their sword. White gloves are obligatory in all circumstances. Private mourning is marked by a band of *crêpe* around the left arm.

612. Diplomats who are not in uniform wear evening dress with black waistcoat and decorations (ribbon, star, neck badge, miniatures) (see paras 633-6). White waistcoat is admitted in Great Britain.

613. Officials of diplomatic and consular posts who are not entitled to wear uniforms and who are required to attend ceremonies where career agents do wear them, wear evening dress with black waistcoat and top hat.

614. Except in cases where agents are required to wear uniform the ceremonial dress for official protocol meetings in the morning and afternoon is the morning coat with top hat and grey or white chamois gloves. This dress is worn by all official participants who have an official position. Those attending who do not occupy such an official position also conform to the practice. In principle, the agent wears in the buttonhole of his coat lapel the highest decoration of his country or of the country where he is accredited and of which he is the holder (see paras 620 and 621).

Dress for official ceremonies

615. The table below indicates the various types of dress worn at official ceremonies:

	<i>Dress</i>	<i>Shirt</i>	<i>Tie</i>	<i>Collar</i>	<i>Gloves</i>	<i>Hat</i>	<i>Shoes</i>	<i>Decorations</i>	<i>Overcoat</i>
<i>Ceremonies from 9 a.m. to 7 p.m.</i>									
<i>Official</i>	Full dr., black waist-coat	White starched	White	Straight	Kid	Top or opera	Black	Ribands, stars, neck badge, medal brochette	Black with silk lapels or black cape
<i>Morning</i>	Black morning coat and striped trousers	White	Grey or black	Turned down	Kid or white	Ditto	Ditto	Button-hole	Black
<i>Mourning</i>	Ditto	Ditto	Black	Ditto	Black	Ditto	Ditto	Ditto	Ditto
<i>Ceremonies after 7 p.m.</i>									
<i>Formal</i>	Full dr., white waist-coat	White starched	White	Straight, corners turned back	White chamois	Top or opera or cocked	Black patent leather	Button-hole or brochette	Black with silk lapels or black cape
<i>Informal</i>	Smoking (Tuxedo) Black waist-coat	Starched or soft special	Black bow knot	Turned down			Ditto	Button-hole	Ditto

FORMS OF DECORATION

Full-size insignia

616. Characteristics of full-size insignia are usually the following:

- (i) grand cross – large riband across the breast passing over the shoulder and fastening on the opposite hip with the badge suspended;
- (ii) grand officer (Knights in the United Kingdom) – star on the left breast;
- (iii) commander – neck badge, suspended crosswise on a ribbon;
- (iv) officer – breast medal suspended from a ribbon which bears a large rosette of the same colour;
- (v) member – breast medal suspended from a ribbon without the rosette.

Miniature insignia

617. The decorations of grand cross, grand officer and commander are only worn in miniature on the brochette when the dress for the occasion will not allow for the larger size. The miniature medal is

always suspended from a ribbon of reduced size to permit, when necessary, the wearing of the marks of the higher grade of which the agent is the holder.

618. The insignia of officer and member and the various medals are worn in miniature. In continental Europe, if only one decoration is worn, it is with its ribbon through the buttonhole of the left coat lapel. If several decorations are worn, they can be worn either on a brochette, with or without ribbon, hooked on to a small chain pinned to the left lapel of the coat, or as a barrette mounted with their ribbon on a metal bar which holds them together. In Great Britain the barrette is always used. Only one row of miniature medals is worn.

Ribbons and metal bars

619. Certain dress does not include the wearing of badges. In this case only the ribbons of the decorations are sewn on side by side or mounted on metal bars.

Buttonhole (boutonnière)

620. In various countries it is customary to wear the decorations of one's country in the form of a rosette or a ribbon in the buttonhole of morning dress. The best rule is to wear only one decoration.

621. In Great Britain, and generally in British countries, decorations are very seldom worn on morning dress. On the other hand, decorations are indicated in the form of initials in the formal title of holders.

WEARING OF DECORATIONS

On uniforms

622. Insignia should be arranged in the manner shown in Fig. 15.

Grand cross

623. Only one ribbon is worn at a time. The holder of several grand crosses wears the ribbon of the highest order and, according to the rules of the order, the stars of the other orders on the right or left side.

If he wears several stars on the same side they should be disposed as shown in Fig. 15.

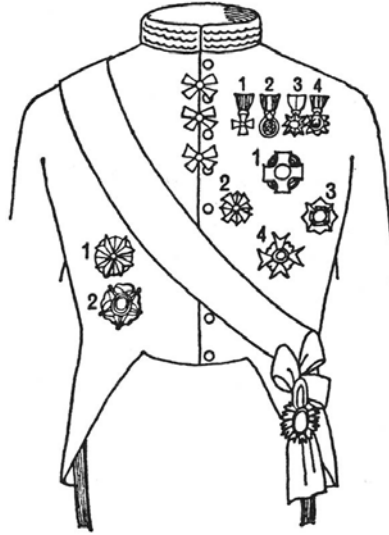


FIG. 15

624. National rules determine the number of stars that can be worn on each side. Two stars at right and four at left appear to constitute the maximum, but a certain discretion in the matter is not out of place.

625. When the rules prescribe that the grand officer star be placed on the right side of the uniform, a maximum of two stars is worn. The highest order is placed above (see Fig. 15). The rules of certain orders prescribe wearing with the star either a neck badge or an insignia on the breast (*Légion d'Honneur*). These rules should be respected as far as possible.

Neck badge

626. As a general rule, two neck badges attached to the same ribbon may be worn around the neck. A maximum of two other badges may be worn, one below the other, each suspended from a ribbon hooked on to a button of the uniform. If the uniform is double-breasted, the two badges are placed under the first and second buttons at right.

Officer and member insignia

627. Officer and member insignia and medals are worn on the left side of the breast at the height of the second button of the uniform on the left breast. The badge is suspended from a ribbon, the width of which is determined by the general rules. The wearing of a badge without corresponding ribbon is not authorised. When several decorations are placed side by side they should be arranged from the centre towards the left so that the bottom of the decorations is on a level in the same line.

628. Decorations can be worn to a maximum of two rows only.

629. National decorations take precedence over foreign decorations.

On civilian dress

Daytime dress

630. When diplomats appear at official ceremonies in dull dress they wear decorations shown in Fig. 16. The ribbons, stars and neck badges

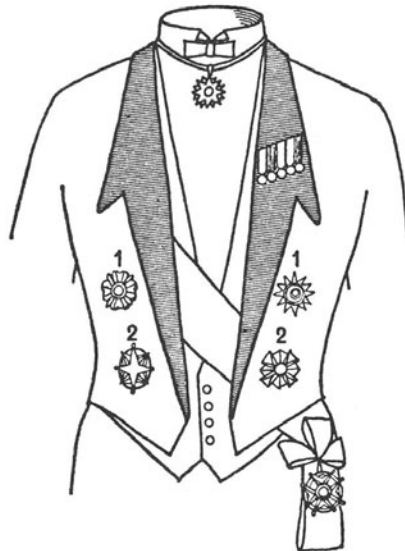


FIG. 16

are of full size, the badges of officer, member and medals in miniature. It is to be remembered that black waistcoat is the rule, except in Great Britain.

631. At official mourning ceremonies only one decoration is worn in the buttonhole of the morning coat: a rosette or a ribbon. This can be the agent's highest decoration, either of the receiving state or of the sending state.

632. There are countries, however, which admit that in certain circumstances complete insignia may be worn on the morning coat. In this case the neck badge should be placed under a bow knot. This is only an indulgence and local custom should be followed.

Evening dress

633. In the evening, decorations are worn on ceremonial dress in the presence of the head of state or of a royal highness and at an official reception. In the first case, the invitation should mention that high personalities will attend the reception. This notice suffices for the wearing of decorations. The ribbon is worn on the waistcoat.

634. The official character of a reception given by diplomatic missions is indicated by the invitation when it bears the words 'full dress' (*tenue de soirée*). If the host does not wish decorations to be worn, he should so state.

635. In other circumstances, when full dress is indicated on the invitation, the host who desires that guests wear decorations should so specify by adding the word 'decorations' following the indication 'full dress'.

636. Ribbons, stars and neck badges are worn full-size, the insignia of officer and member and medals in miniature (see paras 617, 618, and Fig. 15). In principle, only one neck badge is worn. It is fixed around the neck by a ribbon of reduced size which is covered by a white tie. The stars of grand officer and grand cross are placed on the right side of the coat, one above the other. The riband is worn under the waistcoat, unless a head of state or a royal highness is present. In Great Britain stars are always worn on the left and ribands *over* the waistcoat.

637. Decorations are not worn on the mess-jacket unless local custom requires it. On the tuxedo or dinner jacket, which is informal dress for receptions, only one decoration is worn in the buttonhole (rosette or ribbon without insignia).

638. Although the question is controversial, it is never good taste to wear a decoration on an overcoat.

EXCHANGE OF AND PROPOSALS FOR DECORATIONS

Decorations on the occasion of exceptional events

639. When, on special occasions, two governments agree to exchange honorary distinctions, the various official communications exchanged on the subject pass through diplomatic channels. The lists of persons to be decorated may be exchanged between the two governments. Before nominations or promotions are actually signed, diplomatic agents are charged to obtain the agreement of the government whose nationals are to be decorated. It is also by their intermediary that nominations are announced and that the insignia are sent to the new dignitaries.

640. Nominations are made not only on the merits of each person proposed but also according to the relative importance of the decorations exchanged.

Routine decorations

641. It sometimes happens that agents are induced to propose the granting of decorations to foreign nationals of the state where they reside on the basis of merit or service rendered. These proposals are also handled by the protocol service.

642. It is customary, before granting decorations, to solicit the agreement of the foreign country whose nationals are being proposed. Such, notably, is the case:

- (i) for all countries with a monarchical régime;
- (ii) for France, Germany, Austria, Spain and Portugal. The British and Commonwealth governments usually oppose the granting of foreign decorations to persons engaged in the public service or occupied in international fields of endeavour.

3

Diplomatic Action

Diplomatic action is exercised by negotiation which, in its broad sense, covers all forms of discussion between governments and their representatives. Negotiation takes the form of conversations, private interviews, private conferences, dinner-parties and formal conferences. The ratification of international agreements is always effected in written form, whether they be expressed in formal texts or in an exchange of letters or notes. Diplomatic correspondence contributes to this process the traditional forms which guarantee the accuracy of the texts and the force of the agreements entered into.

CHAPTER ELEVEN

CONFERENCE NEGOTIATION

Prior contacts between Ministry for Foreign Affairs and diplomatic mission – Composition of delegations – Liaison – Precedence among delegations and delegates – Privileges and immunities – Welcoming of delegates – Material facilities for each delegation – Visits after arrival – Conference seating – Conference procedure – Press relations – Delegation reports – Receptions – Departure of delegates



INTRODUCTORY REMARKS

643. The search for solutions by way of peaceful and concerted agreements constitutes negotiation.

644. It takes place between Ministries for Foreign Affairs and diplomatic missions and leads to deeper mutual understanding and to adjustments which consolidate peaceful relations. This constitutes the essential purpose of diplomacy.

PRIOR CONTACTS BETWEEN MINISTRY FOR FOREIGN AFFAIRS AND DIPLOMATIC MISSION

645. In all countries the direction of international relations as well as of negotiation and the conclusion of international agreements are the prerogatives of the executive power. They are exercised through the medium of the departments in charge of international relations. Diplomatic missions are associated with these relations.

646. Except in specific cases where the law expressly delegates limited competence in matters of international negotiation to certain ministerial departments, the general direction of negotiations and their orientation in the general framework of national politics, as well as the responsibility for their success, belong to the Ministry for Foreign Affairs. Consequently, when negotiation by conference is necessary it

is normal to appoint, at the head of delegations called on to negotiate, officials of this Ministry who, by virtue of their contacts with foreign powers, are more experienced than anyone else in methods of conciliation and in seeking for equitable and honourable settlements.

647. Since interested ministerial departments hold different and often conflicting points of view on the object of negotiation the Ministry for Foreign Affairs must arrange consultations and confrontations with the purpose of defining the goals to be attained, the propositions that the delegation will present, the position which it will support and the limits which it will not exceed. It must also finalise the drafting of instructions to the delegate in charge of negotiations. So that he may have at his disposal the technical advice which he might need in the course of the negotiations, it is usual for the principal interested ministries to be represented by qualified officials.

648. In negotiations of a technical character it is customary for the Ministry for Foreign Affairs to give the leadership of the national delegation to a representative of whichever ministry is especially interested in the proceedings. This delegation of power does not, however, lessen in principle the responsibility of the Ministry for Foreign Affairs. In particular, the preparation as well as the signing of instructions always rests with that department. It is proper for the Ministry, in such cases, to appoint one of its representatives to be associated in the work of the delegation and to occupy the position of joint or alternate delegate.

649. In all circumstances it is the Minister for Foreign Affairs or his duly authorised representative who signs international agreements on the express authority of the head of state (see paras 849 and 906). His department then presents them, if necessary, to the head of state and to parliament for ratification (see paras 916 and 994) and ensures their publication and custody. As soon as the agreement becomes a law of the state, the interested ministerial departments take the necessary administrative measures for its execution.

650. These rules of principle apply to bilateral negotiations as well as to negotiations which take place at a congress or a political conference of major importance. Negotiations for the purpose of concluding multilateral agreements, or which take place through the medium of an international institution, present more complex problems (see paras 956–1005).

651. Heads of mission are generally empowered by their credentials to deal with all questions which may arise between the two states and to speak in the name of their governments. The foreign authorities to whom they address themselves should accept their good faith and consider them as acting in accordance with instructions. Agents themselves are to blame if they exceed their competence or neglect their duty. Numerous questions of interest to governments are settled by routine activities at the post.

652. If the solution is sought by special conferences designated for the purpose or within the assemblies of international organisations, special procedures are followed in each case. These will be described in detail in Chapter Thirteen.

653. Nevertheless, heads of diplomatic missions play an important role in the course of this preparatory phase of the negotiations. When warned directly or through their consuls of difficulties which arise, they submit questions of principle to the Ministry for Foreign Affairs on which they depend.

They make, when deemed advisable – and especially when private interests are threatened – the necessary reservations. If a solution cannot be found in international law or in local legislation they refer the matter, with appropriate recommendations, to their governments, which consider the advisability of action and the manner in which the diplomatic mission should proceed, whether by negotiation leading to the adaptation of local legislation or by the conclusion of a new international instrument. In all these assumptions missions should act with prudence and moderation with the view to reserving the freedom of action of their government department.

654. In the case of consuls whose mission is to exercise over their nationals the administrative powers which devolve upon them by their national laws as well as by local law, the role they fill is unofficial. It is their duty to settle the various types of case which arise, but they are not competent to interpret conventions and should not create incidents. All questions of principle are settled with the central administration through the medium of the diplomatic mission.

655. When it appears necessary to have a question examined more closely by a conference of special officials dependent on two or several governments an exchange of notes determines the objectives to be reached by the anticipated meeting and the place where it will be held.

COMPOSITION OF DELEGATIONS

Delegates

656. When questions debated in bilateral conferences are not of first importance, particularly in technical debates, it is not usual for the chief of a diplomatic mission to lead his country's delegation. It is more advantageous for him to remain in the background, free to intervene in an effort to straighten out negotiations as a person can do who is not involved in the discussions. He is himself represented in the delegation by the Secretary of the mission, who is charged with current responsibility for the question under consideration by the negotiators.

657. When bilateral negotiations take place, each of the two governments makes known to the other the composition of its delegation, specifying the names and rank of each of its members. The composition of the delegations can be modified at any time, either by the addition of new names or by the withdrawal of certain members. These operations should always be notified in advance in written form in order to avoid any misunderstanding as to the identity and rank of the participants as well as the administrative position from which they derive their place in protocol.

658. In the case of multilateral conferences the composition of each delegation is notified to the host state.

659. Members of the delegations receive the titles of 'delegate', 'alternate delegate' or 'expert' according to their rank. The title of delegate is, in principle, reserved for those called upon to act as spokesmen and qualified for that purpose by the authority which designated them. The delegation comprises only one delegate from each interested ministry. The alternate delegates and experts are specialists who participate in the internal work of the delegation, assist at plenary meetings and are qualified to act as spokesmen in the technical commissions and subcommittees created to debate the proposed texts.

Chief delegate

660. The delegations always have a leader. It is recommended that all leaders of delegations hold the same rank, thus guaranteeing their

reciprocal authority. It is well to choose them as far as possible from among senior officials who are aware of their country's general policy in foreign affairs, and have had experience in international conferences. They must be familiar with conference procedure and peculiarities and be trained in methods of conciliation and of reaching honourable and equitable settlements. Finally, it is essential for them to know at least one of the foreign languages used at the conference, preferably the one which will be spoken by the majority of the delegates.

Secretary

661. The delegation should include a Secretary appointed in advance. This person should, in principle, be the official who, either at the Ministry for Foreign Affairs or in a technical ministry, has conducted the preparations for the conference, taken part in drawing up the instructions to delegates, and will keep the records of the delegation (paras 735–8).

662. During the proceedings he plays an essential role as intermediary between his country's delegation and the officials charged with organising the conference, not only as concerns questions of material interest but also regarding the preparation of the agenda, the distribution of documents, the control of the drafting of minutes of meetings, and the drawing up of final texts. He should, in addition, prepare a report of the conference for his chief (see para. 735).

Alternate delegate

663. The development of international relations, and in particular the multiplicity of delegations participating in inter-governmental conferences, has made it well-nigh impossible to find sufficient officials in the various national Ministries for Foreign Affairs to assure both the permanent work of the services and the chairmanship of the delegations called upon to negotiate outside national territory. Consequently, senior officials of technical ministries are being increasingly called upon to preside over delegations.

664. The intervention of these senior officials, who are called by certain authors 'para-diplomats', presents new problems. Their

administrative preparation has not always been oriented towards the work methods of international meetings; although they are experts and represent their own ministerial departments, they are not likely to be as well informed on the details of international relations as the agents of the Ministry for Foreign Affairs charged with important functions. This is especially so, since they do not always have the time necessary to acquire the information. The language qualifications, also, are often lacking. It is therefore necessary for each delegation to include an agent of the central administration of the Ministry for Foreign Affairs, sufficiently senior to enable him to fulfil the duties of alternate delegate, guide his less experienced colleagues, and speak with authority for his ministerial department, which remains responsible at government level for the international relations of the country. This agent must see to it that international agreements contracted by delegations are concluded in the form required, are registered with all indispensable guarantees, and can, as such, be put into effect. There is nothing worse than confusion in matters of foreign affairs. This confusion leads more and more frequently to international agreements being insufficiently known, badly executed and even lost sight of. We need not stress the faults too often discovered in agreements concluded exclusively between experts.

Experts

665. Delegations generally include representatives of the ministries which have been associated in preparation for the conference and in drafting the written instructions for the leader of the delegation. This ensures the competence of the delegation by enabling each member, at the request of his chief, to be called upon to intervene in the general debates or participate in the working groups and in the preparation of the texts of the agreement. They will see to it that the particular interests they have been charged to represent during the conference are not compromised.

666. When a delegation goes abroad to negotiate in a capital it is customary for its diplomatic mission to assign to it an agent who is also expert in the matter at issue. He follows the negotiations and is in a position ultimately to control, with full knowledge of the facts, the application of the agreement.

Observers

667. It frequently happens that governments which desire to keep an eye on a multilateral negotiation without wishing to associate in its conclusions, or to follow the debates of an international organisation of which they are not a member, designate observers who are charged solely to observe and who have not, in principle, the right to participate in public debates.

Press officers

668. At important political conferences, particularly when the leaders of the delegations are members of their governments, they are accompanied by officials for special contacts with the Press and with the correspondents of news agencies or of the large newspapers of their country.

669. All diplomatic missions have contacts with the Press and lists of correspondents or of reporters whom they know. If a mission enjoys the services of a press officer he will supply the Press with information, otherwise the Secretary of each mission dealing with the preparation of the conference should prepare the necessary press release.

Secretariat

670. The delegation will need extra clerical assistance. If such personnel is not included in the delegation the diplomatic mission should supply suitably qualified and dependable staff. The delegation should also find all essential material available to it through its diplomatic mission. However, its telephone or telegraphic communication services should be provided by the host country.

Individual delegations

671. The diplomatic mission should endeavour to ascertain as soon as possible the composition of the other participating delegations in order to make up its own national delegation so far as possible in a similar manner.

672. The composition of each delegation should be communicated as soon as possible to the host government, which is not only responsible for the functioning of the conference and for welcoming and accommodating the delegates but also for the receptions and so forth which might be organised for their benefit.

LIAISON

673. The diplomatic mission instructs the Secretary who is usually in charge of the questions examined by the conference to handle the liaison with the Ministry for Foreign Affairs and, if the conference is multilateral, with the other interested missions. This agent should be a member of the delegation and ensure contact both with the local authorities and the mission.

PRECEDENCE AMONG DELEGATIONS AND DELEGATES

674. On the occasion of conferences it is necessary to establish precedence between delegations and delegates.

675. Each government is free to form its delegation in its own way as well as to choose the leader of the delegation and the number of its members. It is, however, desirable, in order to guarantee the smooth working of the debates, for the leaders of the delegations to be of equivalent rank.

676. In the official part of the conference all the delegations have equal rights and should receive identical treatment. Heads of delegation are entitled to identical honours, whether they are members of the government, diplomats or officials. The deliberations are conducted in accordance with this principle of equality. The only rule to follow, therefore, is the alphabetical order of the states in the official language of the meeting. The presidency of the conference is established in advance, either to be held by the chief delegate of the country where the conference is held or day to day in rotation among the heads of delegation. Alphabetical order rules unless some other order has previously been agreed upon.

677. As for individual precedence among delegates, alphabetic order of the participating countries, which would always place delegates of the same countries together, is not used, the individual stand-

ing of the delegates being taken into account. Heads of delegation are classified in the following order :

cabinet ministers
ambassadors
ministers plenipotentiary
other delegates.

678. In official table receptions, foreigners are generally interspersed with nationals of the host country in equal numbers in the following order :

foreign cabinet ministers with cabinet ministers of the host country ;

foreign delegates having the rank of ambassador with local officials having the rank of ambassador ;

foreign delegates having the rank of minister plenipotentiary with local officials having the rank of minister plenipotentiary, etc.

679. In these circumstances, if a delegation is led by a member of the government of its country, the accredited ambassadors lose the place attributed to them by virtue of their representative quality (see para. 119). Accordingly, in spite of their status as head of the diplomatic mission, the second place must then be assigned to them in their delegation.

PRIVILEGES AND IMMUNITIES

680. Foreign delegations proceeding to a conference enjoy special privileges and immunities designed to facilitate their journey, ensure freedom of movement and communication during their stay, and in general permit them to fulfil without hindrance the mission confided to them.

681. The country to which they proceed should treat them, temporarily, in the same manner as members of the diplomatic mission, that is, ensure them :

(i) personal and jurisdictional immunity, and immunity from arrest and from prosecution for acts performed by them in their official status ;

- (ii) inviolability of all the personal papers and documents they carry, and immunity from detention and seizure of their personal baggage;
- (iii) the right to the use of codes and to the receipt of sealed correspondence through the post office or departmental bag;
- (iv) exemption from all restrictive immigration measures and from the formalities of registration as foreigners;
- (v) the same exchange facilities granted to diplomats;
- (vi) the same immunities and facilities granted to diplomats as regards their personal baggage and their automobiles.

682. Courtesy requires that the countries crossed by delegates on their way to a conference accord them all transit facilities for their person and their baggage. These facilities are granted not only to all members of the delegation, including working personnel who form a part of it, but also to husbands and wives who accompany them, and should cover, in particular, the following points:

(i) *Passports* — career diplomats who are members of delegations are generally supplied with a diplomatic passport (see para. 223) which permits them to obtain immediate facilities in matters of visas. This document likewise assures them courteous treatment by the police and the frontier Customs officials.

Officials attached to other administrations do not generally enjoy the benefits of diplomatic passports, which are normally only issued to career diplomats. To facilitate the movements of such officials, private travel documents called 'Special Passports', which give them all the advantages granted to diplomats for obtaining visas, and which assure them the courteous consideration of the Customs and police authorities, have been instituted by various states. That does not prevent members of delegations from possessing individually, at the time of their departure, an administrative document showing that they are charged with an official mission abroad.

(ii) *Customs facilities* — as a general rule, the presentation of a diplomatic passport or a special passport permits its holder to clear personal baggage through the Customs without delay or difficulty. It is as well, however, to notify the frontier authorities in advance of

the passage of a delegation, in order that the necessary instructions can be given the Customs officials.

In practice, there is no distinction, from the point of view of immunities, between members of delegations and those of diplomatic missions.

In general, governments do not like very large delegations which may, by their presence or their contacts, provoke public or Press comments. On the other hand, immunities granted to members of delegations cover them only within the narrow framework of their international activities. They should therefore avoid doing anything which might lead them into awkward situations, as the local authorities are not powerless and always have the right, if the conduct of any delegate appears reprehensible, to oblige him to leave the country by making representations to the diplomatic mission to which he belongs.

WELCOMING OF DELEGATES

683. The local authorities, like the representatives of the diplomatic mission, should be informed in advance of the time of the delegation's arrival. The leader of the delegation should always be welcomed, if he arrives by a public service (train, ship, aeroplane), by a representative of the local authorities and of his own diplomatic mission. If he is of high rank the head of the mission himself welcomes him. The mission should make sure of this, as well as of his good reception by the police and Customs. Means of transport should also be provided. If the other members of the delegation arrive with their chief they should enjoy the same privileges and treatment. Those who arrive separately can be welcomed more simply but it is as well, if their arrival has been announced in advance, for them to be met by a qualified person. This helps them to complete the formalities and ensures them transportation to their hotel.

MATERIAL FACILITIES FOR EACH DELEGATION

684. The Secretary will see to it that the hotel selected for his country's delegation is of similar standing to the hotels of the other foreign delegates, if there are any, and will ascertain the costs to his government. Furthermore, he should provide a private office for the

leader of the delegation and a working room for the other members, either at the hotel or in the building where the conference will be held, if there are no facilities at the diplomatic mission. These rooms should be sufficiently well equipped to enable the delegation to work together if necessary.

685. The question of transport between the hotel and the seat of the conference should be settled in advance.

686. The Secretary should arrange for a large hall, suitably furnished, in which to receive the whole of his delegation.

VISITS AFTER ARRIVAL

687. The first visit of the leader of a delegation arriving in a capital should be made to the head of the diplomatic mission of his country, and as soon thereafter as possible, to the appropriate authorities of the host country. He should likewise call on or send cards to the local authorities who were responsible for his reception. Local protocol determines, according to the rank of the person concerned, the steps which should be taken for this purpose.

688. The leader of the delegation will also make contact with the heads of other delegations for private talks prior to the conference. Suitable arrangements should be made in advance if he does not know the language of the personalities on whom he will call.

689. It is because of these various obligations that the delegations usually arrive some time before the beginning of the conference.

690. The Secretary in charge of the conference organisation should make the necessary arrangements and submit a draft work programme to the leader of the delegation as soon as he arrives. He should also inform him of the arrangements made to ensure communication with his government.

691. The leaders of the delegations and the delegates should make contact with the various levels of the secretariat in order to obtain the additional documentation they will need, to learn of the privileges and immunities granted them, to ascertain the state of preparation of the agenda and to make known their observations on this subject. In the case of periodic sessions of an organisation, delegates should already be in possession of all basic documents, such as statutes, by-laws, etc.

692. The leader of the delegation will find it profitable to hold a

plenary meeting of his delegation as soon as convenient after his arrival. This enables him to assign to his collaborators the various tasks of the conference, to compare information and obtain any that is still required and, in particular, designate the persons to be in charge of verifying the minutes of the meetings and the official conference documents.

CONFERENCE SEATING

693. The seating plan of the delegations should be agreed upon in advance with each delegation Secretary, who should assure himself that the decisions taken guarantee to his country's representatives equality of rank and of treatment in relation to the other delegations.

694. The seats reserved for the delegations are clearly indicated by name cards.

695. When there are only two delegations they are placed face to face on each side of a table covered with the traditional green cloth. The leaders of the delegations sit at the centre, their places being marked by high-backed chairs, a desk blotter, an inkwell and anything else that the Secretaries consider necessary (see Fig. 17). The Secretaries are seated at each end of the table.

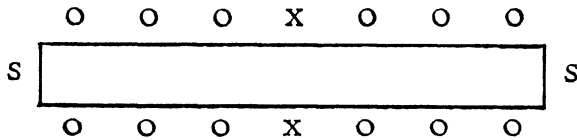


FIG. 17

696. The seating of several delegations depends on the arrangement of the hall. In all cases the delegations are arranged in alphabetical order determined by the rule of the conference or the custom adopted by the organisation.

697. It is prudent to leave one side of the hall free to permit the participants to move around and for the distribution of documents during the session.

698. We refer to the plans on p. 174 (Figs. 18 and 19):

699. When, for political reasons, it is necessary to distinguish between the invited powers and the inviting powers, the arrangement shown below (p. 174 Fig. 20) may be considered:

700. Finally, if a group of official delegations expects representatives from other states or qualified organisations, the arrangement shown below may be utilised:

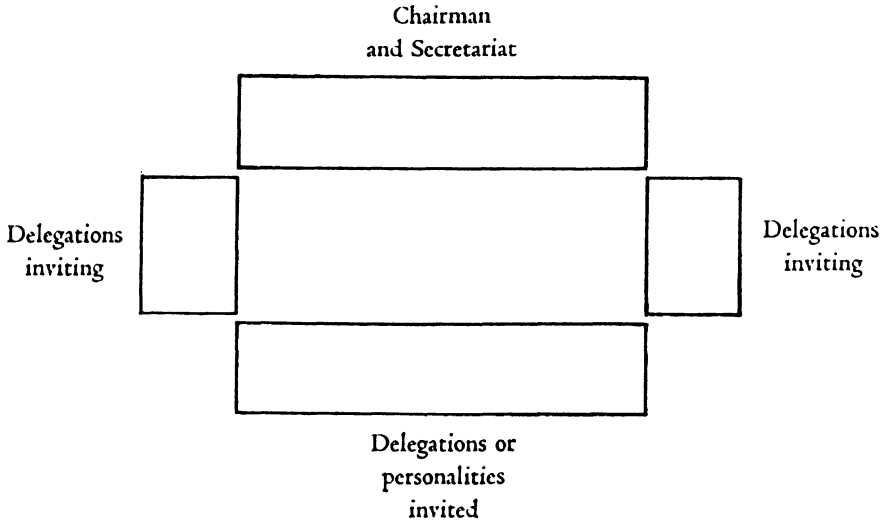


FIG. 21

CONFERENCE PROCEDURE

Powers

701. In the days before the establishment of permanent diplomatic missions it was indispensable for the negotiators to furnish authenticated documents announcing the mission which had been entrusted to them and the limits within which they were authorised to commit their governments. These documents were exchanged between the delegates at the beginning of the negotiations. However, since the establishment of permanent missions such a document is no longer required, as the objective of the negotiations has usually been laid down and detailed in advance between the interested governments. If the head of the diplomatic mission is to be chief of the delegation, his credentials are sufficient to give him the necessary authority; if not, the written agreement entered into between the interested governments on the purpose of the negotiations, followed by the exchange of notes making known the composition of each delegation, effectively enables the head of the delegation to negotiate.

702. These powers are extended to cover the signature of agreements

requiring ratification in constitutional form by each head of state. Details concerning this document will be found in Chapter Thirteen.

Presidency

703. The opening session of the conference, often public and surrounded by a certain pomp, is presided over by the representative of the country in which the meeting is being held, which is referred to as the host country.

704. On the occasion of diplomatic conferences it is the custom – and the exceptions found in diplomatic treaties are so scarce as not to warrant any change – for the first person elected to continue after the opening session to preside over the conference. The proposal for this election is usually made by the Dean of the leaders of the delegations.

705. When the conference is convened by an international organisation the internal regulations of the organisation generally provide for the election of a chairman for the session. The rule of rotation is sometimes fixed in advance (in the alphabetic order of the members) by the statutes of the organisation. Certain organisations have also established detailed rules of procedure for conferences and committees.

Governing body

706. The conference is generally provided with one or more vice-presidents and a reporter (recorder). The latter, assisted by the secretariat, is entrusted with the preparation of the documents which should be submitted to the plenary session, notably the results of the work of the commissions. He also draws up the conclusions reached by the session, together with the relevant resolutions for submission to and adoption by the participating states. In addition, he presents the reports to the plenary assembly.

707. As soon as the governing body has been constituted the chairman should submit to his colleagues a certain number of questions for settlement in advance and for which advance proposals should have been prepared. These are, in their order of urgency, as follows:

- (i) official language;
- (ii) agenda;
- (iii) rules of procedure;

- (iv) methods of work procedure;
- (v) organisation of the secretariat;
- (vi) preparation and distribution of official documents (minutes of meetings);
- (vii) Press relations.

Official language

708. The question of the official language in which the discussions of the conference will be held and of the working language or languages should be settled in advance.

709. This question does not arise when the negotiating states use the same language. With the exception of Brazil, Spanish is used in America south of the Rio Grande. The British Commonwealth and the United States use English. French is the official language in Belgium, Haiti, Luxemburg and Switzerland, and is generally spoken in the Mediterranean basin and in many new African states.

710. The problem of an additional diplomatic language is relatively recent. During the Middle Ages and at the beginning of modern times, negotiations took place in Latin, which was then the language common to all civilised Christian powers. However, the debates of the treaties of Westphalia showed the insufficiency of Latin. Its vocabulary had not developed, while its pronunciation varied so much from one country to the other that it ceased to be a practical means of conversation.* Negotiators were therefore led to the use of modern languages which were more practical in society. French, which had been since the sixteenth century the common language of European high society, was preferred to Spanish and Italian. Although the pre-eminence of Louis XIV, the 'Sun King' (*le Roi Soleil*), and the richness of French literature in the seventeenth century, were partly responsible in the first place, the intrinsic qualities of the French language itself contributed to consolidating the situation during the eighteenth and nineteenth centuries. Strict rules of syntax guaranteed the precision of the sentence, while its vocabulary was constantly supervised by the Académie Française which, in purging the language of its corruptions, guaranteed its incontrovertible accuracy of meaning and constant

* Henriette Roumiguière, *Le français dans les relations diplomatiques*, University of Columbia Press, 1926.

lucidity. The fact that Vattel wrote his *Law of Nations* in French made it the language of international law, and it remains as such today.

711. We need not recall here the delays and difficulties of translation which marked many international conferences, whether it was the Treaty of Versailles or meetings of the League of Nations or of the United Nations,* and which recur every time a document has to be elaborated or translated into several idioms. The authors are not alone in having experienced considerable difficulty in finding the proper expression when one language does not contain the words that exist in another.

712. The problem is therefore important and merits objective examination. The argument based on the numerical preponderance of the persons speaking a given language is the least acceptable. In fact, an additional international language interests only a relatively restricted number of diplomats, jurists and men of culture in each country. It is therefore the quality of the language as such which should be borne in mind in making the choice. Apart from the arguments of Nicholas Murray Butler and of James Brown Scott on the preference to be given the French language as a diplomatic language, it is not out of place here to recall that it has qualities of clarity, precision and firmness not found in English, the latter being too often elliptic and its construction and vocabulary lacking conciseness, thus resulting in a looser version of the same text.

713. It should be mentioned that at the Vienna Convention of 1961 on diplomatic relations and immunities the great majority of the delegations used the French language.

714. It is noteworthy that all British career diplomats have a good knowledge of French.

Rules of Procedure

715. To be able to conduct the debates effectively, the chairman should obtain the negotiators' acceptance of a certain number of rules of working procedure. These rules are necessitated by the orderliness required at a diplomatic conference. Consequently, as soon as the questions of the official language and the programme of work have been

* Anthony Leriche, *Diplomatic Language in the Organisation of the United Nations. A Review of International Law in Diplomatic Science and Politics*, Geneva, 1953.

resolved, it is usual for the chairman to submit to his colleagues a procedural plan of the conference. Such a plan should contain the following details:

- (i) purpose of the conference;
- (ii) number of plenipotentiary delegates likely to act as spokesmen, and rules concerning the precedence in session of other members of the delegations;
- (iii) voting rules, notably an indication of the majority required (simple, two-thirds, unanimous) for the adoption of texts and resolutions;
- (iv) chairmanship;
- (v) Secretariat and archives;
- (vi) inspection of powers (credentials);
- (vii) composition and chairmanship of the working parties and of the drafting committee;
- (viii) necessity of presenting all proposals in written forms;
- (ix) rules for distribution of documents;
- (x) public relations;
- (xi) official communications;
- (xii) preparation of minutes of meetings;
- (xiii) rules and approval of communications by delegations.

Translation (interpretation) of debates

716. If several languages are to be employed concurrently, interpretation should be anticipated and carefully organised in advance. The slowness of successive translations of speeches and interventions has led increasingly to the costly system of simultaneous translations. This system saves time but, not being controlled by the speaker, runs the risk of inaccuracy, which is always serious when international interests are discussed in juridical or political terms.

717. Whichever system, successive or simultaneous translation, is used, it should be tried out and controlled first and contact should be made with the interpreters in order to supply them with all the facilities needed to assist them in their task.

718. The host country's organiser should make sure that all precautions have been taken to ensure that the sound system in the hall is satisfactory.

Secrecy of debates

719. The secretariat of the host country should be careful to see that the necessary arrangements are made to ensure that access to the conference building, and in particular to the session rooms, is closely controlled and that the secrecy of the debates is safeguarded.

Secretariat

720. In a diplomatic conference the organisation of the conference secretariat is usually entrusted to the official of the Ministry for Foreign Affairs of the host country who has overall charge of the material preparation of the conference. He is assisted in his task, as well as by a group of colleagues from his own department, by a member of each national delegation who not only co-operates in the drafting of minutes of the meetings but also guarantees their distribution within his own delegation and maintains liaison with the representatives of the host country and the other delegations.

721. International organisations, on the contrary, always have at their disposal a permanent secretariat, one of the principal roles of which is the preparation of conferences.

Documentation

722. Conferences may lead to the drawing up of an agreement. If they are limited to the examination of problems of common interest their conclusions may be drawn up in the form of a set of resolutions which express in more or less absolute terms the results of the deliberations adopted in common. The conclusions can also be drafted in the form of either a single text or an act covering the treaties concluded and the resolutions adopted (e.g. Final Act of Vienna, 1815).

723. All these documents are based on the minutes of the various meetings, and one of the essential tasks of the secretariat is the compiling of good minutes. Too much attention cannot be given them. Delegates frequently need to refer to them, and experience shows that they are rarely satisfactory. Confused minutes of meetings and documents can only produce misunderstandings, and one of the greatest dangers in the course of negotiations is for delegates to let themselves

drift into lack of precision, loose terminology, vagueness and inaccurate statements.

724. If the secretariat is called upon to draw up minutes of meetings these minutes should always include the day and hour of the opening of the debates, the names of the members present, the matters discussed, the decisions adopted and the hour of adjournment of the session.

725. If debates must be supplied *in extenso*, the stenotype or recording machine quickly supplies a complete text of the discussions from which, after elimination of inevitable repetitions, an accurate reconstruction of the debates can be obtained for the record.

726. When the documents are to be prepared in several languages the secretariat should be careful to see that they are distributed simultaneously, and the necessary technical means for this must be provided.

727. Another essential work of the secretariat as far as documentation is concerned is to prepare, as the conference progresses, an authentic and definitive text of the decisions taken, and have it formally accepted and, if need be, signed or initialled by the leaders of the delegations. It has been observed that decisions reached by conferences are all too frequently unrecorded in a signed and authenticated document having the indispensable solemnity and authority needed, for example, in matters of policy, or legal or financial affairs. The Secretary should therefore be most careful to see that each delegation supplies him with an official document covering the text and guaranteeing the conformity of the terms of the agreements; also that each delegation unequivocally admits its obligatory responsibility.

PRESS RELATIONS

728. A Press service is always provided by the authorities of the host country.

729. Press representatives and photographers are generally admitted to the opening session of conferences, particularly international conferences which are always of interest to information agencies and local newspapers. They must therefore have facilities for accurate information, and for this purpose either a general Press conference is organised by the local authorities or private meetings are held by the various delega-

tions. This entails advance consultation among qualified officials, who then submit their suggestions to the leaders of the delegations.

730. Contacts between delegations and representatives of information agencies and newspaper correspondents always constitute an important element of major international meetings. Precautions should be taken in advance to avoid one delegation giving information that another delegation feels should be reserved. On occasion, the leader of the delegation may wish to make a statement to the Press immediately upon his arrival. In that event it is advisable for the diplomatic mission to raise the question in advance.

731. The attention of the delegates should therefore be drawn to the following points. Sometimes the statements of a delegation leader are released before they have been delivered. The leaders of other delegations can rightly take offence at such a procedure, and it is advisable that no such release be made. Also there are times when delegates are more or less deliberately indiscreet towards correspondents of the Press. Discipline in these matters is essential in order to preserve the necessary confidence among the various members of the delegations.

732. It can also happen that reporters may intend to put direct questions to the leader of a delegation. In such a case their intention should have been brought to the notice of the chief so that he is not taken unawares.

733. Subsequently, the leaders or certain members of the delegations may be asked to make statements either for the Press, radio or television. While they are not obliged, in principle, to refuse such requests, their statements should be prepared in advance and the limitations of their instructions respected. They should avoid implicating the authorities of the host country, other delegations and, in general, all personalities whatsoever.

734. The members of the delegations should not make statements without having been expressly authorised to do so by their chief and without having checked with him regarding the content and limitations of such statements.

DELEGATION REPORTS

735. Each delegation will keep its national Minister for Foreign Affairs informed of the progress of the debates, either directly or

through the intermediary of the diplomatic mission. It is, however, essential that each delegation leader makes out a detailed report so that his government is accurately informed of the development of the debates, the manner in which the delegation intervened (either directly or in support of other delegations) and the reception of these interventions.

736. The leader of the delegation should therefore, immediately upon his return to his home country, present to the ministry which appointed him, in practice, to the Ministry for Foreign Affairs, a written report, completed if need be by a verbal commentary. This report should inform the Minister of the manner in which his instructions were executed, the atmosphere of the debates, the decisions adopted and their particular repercussions on his country and his administration. He should emphasise the positions taken by his delegation in the course of the debates, and possibly prepare the necessary counter-measures to the decisions adopted in opposition to his vote.

737. It is essential for the leader of the delegation to file a report of his findings. This practice is not always followed, especially when the leader of the delegation is a technical expert who can spare very little time on his return home to devote to the drafting of this document. This is one of the causes for the delays which too often occur in carrying out the decisions adopted at conferences, and greatly reduces the authority of the international organisation concerned. The organisation ought, for its part, to bring pressure to bear in order that official documents stating the outcome of the agreement are promptly drawn up.

738. It is therefore essential for heads of delegation to obtain, before they leave the conference site, a complete file of resolutions adopted by the conference and possibly the minutes of the meetings distributed as the sessions progressed. They should pay particular attention to all the texts which modified or extended the agreement on any point or to previous regulations relevant to the conference and the interpretation of the basic texts.

739. It is in order for the qualified department to study the terms of these deliberations without delay so as to set in motion, if necessary, the recommended procedure for ratification.

740. It should be borne in mind that, as a general rule, it is the Minister for Foreign Affairs, responsible for the external relations of the

country, who should receive and distribute the reports of the chiefs of delegation at international meetings, and that it is also he who should be informed regarding the further attention that the adopted deliberations might require.

RECEPTIONS

741. Conferences are accompanied by receptions given by the host country and sometimes by delegations. The time available and the means that either party may have at its disposal for that purpose vary from conference to conference.

742. Each government has its own practice in this respect. The question should in any case be studied in advance, and the schedule of receptions prepared and submitted to the leader of the delegation as soon as possible before his departure in order that he may take all necessary steps or request the modifications which he feels are required.

743. The definite programme of receptions should be submitted upon the arrival of the head of delegation, together with a list of the personalities (members of delegations, local authorities, Press correspondents, etc.) that he will perhaps be called on to invite. It is necessary, in view of the limited time available, that this work should be advanced as far as possible before the arrival of the delegations, and in particular that the invitation cards and envelopes are already prepared. The conference secretariat will ensure the distribution of the invitations and transmission of the replies.

744. The secretariat of each individual delegation should, for its part, anticipate what time will be available between the working sessions and the obligations of its representatives so that its head of delegation can make the personal contacts which could be utilised in ensuring the friendly progress and successful outcome of the negotiations.

DEPARTURE OF DELEGATES

745. The same procedure as for arrival will be followed on the occasion of the departure of the delegates, who should be accompanied by a senior local official and by the representative of the diplomatic mission. If farewell visits have not been provided for, the leader of the delegation should be given a list of letters or messages of thanks which he should send immediately upon his return to his home country.

CHAPTER TWELVE

DIPLOMATIC CORRESPONDENCE

General terminology – Official correspondence – Semi-official (informal) correspondence – Private correspondence



INTRODUCTORY REMARKS

746. This chapter involves a comparative study of the correspondence forms used in the United States, Great Britain and France. Information covering current correspondence practices in the U.S.S.R. was not available at the time of publication.

747. The rules of official correspondence in Great Britain and the United States serve as a model for English-speaking countries. However, we believe it to be of interest to include certain French forms as well because French regulations, as Satow wrote, may be safely taken by other nations as a model in matters of etiquette.

GENERAL TERMINOLOGY

748. The term 'official correspondence' covers any letter or other form of communication sent by an official of the government in that capacity and under cover and by virtue of his office.

749. The term 'semi-official' correspondence covers letters exchanged between specific persons dealing with administrative matters.

750. The recognised terms given below designate the different parts of correspondence. Satow used French terms without translating them. The current English term is used below and its French translation has been added in parenthesis:

(i) *Salutation (Appel)* – the salutation indicates the official title of the addressee, e.g. Sir, My dear Ambassador, etc.

(ii) *Title of address (Traitement)* – this is the courtesy title given to

the addressee, e.g. Your Majesty; Monseigneur; Excellency; Votre Excellence, etc.

(iii) *Complimentary Close (Courtoisie)*— this is the term of politeness used in ending letters. The terms vary according to the nature of the correspondence (see paras 758–838).

(iv) *Signature*— authenticates the document. The name of the authorised signatory is usually typed at the end of the communication.

(v) *Date*— this should include the place at which the letter is written and the day of the month and year. These details should never be abbreviated.

(vi) *Address (Réclame, Adresse)*— the full name, title and address of the Addressee are placed either at the top or bottom of the first page of the communication depending upon its nature (*Réclame*), and reproduced on the envelope (*Adresse*).

OFFICIAL CORRESPONDENCE

Chancellery styles

751. Chancellery styles necessarily vary with the language and traditions of the different countries but are nevertheless subject to certain general rules determined by international usage and convention. Chancellery protocol, the object of which is to give the recipients of correspondence the marks of distinction which are due them, at the same time respects the relative rank between sender and addressee. It is established in such a manner as to place the relations between states and their representatives on a basis of equality, respect and reciprocal consideration. It is the duty of representatives to exercise the greatest care in observing these rules.

752. It can be argued that in these matters form has often as much importance as the subject itself.

753. The first point to which the sender of a letter should pay attention is that the addressee's name is spelled correctly and that he is given his correct title (rank or office). This, in fact, is no more than the demands of ordinary politeness. It is then essential to follow carefully, in the body of the letter and at its end, the prescribed forms of courtesy. These forms ensure that the ranks of the sender and the addressee are respected, and any modification of these forms may well be taken as deliberate neglect or lack of respect. The forms can, how-

ever, be adapted in doubtful cases, but it should be borne in mind that some people are sensitive to attestations of this sort and that it is better to include too much rather than too little.

Abbreviations

754. Abbreviations, such as H.M. for His or Her Majesty, H.H. for His or Her Highness, H.E. for His Excellency, M. for Monsieur, Mme for Madame and Hon. for Honourable, are used in some countries in conjunction with the name or title of the person so qualified, e.g. H.M. King A of B, or H.E. the Ambassador of Y. They are never used in formal British or American correspondence. They must not be used by themselves, e.g. 'His Highness (not H.H.) arrived . . .' Such abbreviations should be avoided in the address of letters.

755. The terms Your Majesty, Your Highness, Prince and Princess cannot be abbreviated, and it is also preferable to write out in full the titles of nobility and of military ranks. The latter consideration applies also to the words: 'Government' and 'Administration'. It also applies to countries, such as, for example, U.S. for United States, U.K. for United Kingdom and U.S.S.R. for Union of Soviet Socialist Republics.

Correspondence between sovereigns

756. Each Court has its own rules of protocol which often differ in detail. While the information given below is generally applicable and can be used when it is impossible to obtain specific instructions, the examples are taken from the United Kingdom protocol.

757. Letters exchanged between sovereigns contain a salutation and complimentary close and at the end a form of words indicating the style and title of the addressee. The salutation is written on a line by itself. For the most part, sovereigns refer to themselves in the first person singular in letters to other sovereigns, but in the first person plural when addressing presidents.

758. The Queen of England writes to another sovereign in the following manner:

Salutation:

Sir, My Brother (Madam, My Sister)

Complimentary Close:

Sir, My Brother (Madam, My Sister),
Your Majesty's
Good Sister
Elizabeth R.

Salutation at bottom of letter:

To
My Good Brother (Sister)
The King (Queen) of Y—

NOTES:

(i) When the Queen is writing to a sovereign with whom she has a family relationship (it does not matter how remote), the words: 'and dear Cousin' are added after 'Brother (Sister)' in all three parts of the letter described above.

(ii) These forms of address are employed in correspondence with all sovereign heads of state. For lesser royalty, the style is different.

(iii) In the United Kingdom, the form of letters of credence does not differ from that of any other type of formal royal letter as described above.

Correspondence between sovereigns and presidents of republics

759. When the Queen of England writes to a president of a republic, she does so in the first person plural. The letter starts with a recital of her titles, and then continues:

To
The President of . . .
Sendeth Greetings,
'Our Good Friend'

The complimentary close is as follows:

And so We commend you to the protection of the Almighty.
Given at our Court of St James's the . . . day of . . . one thousand,
nine hundred and sixty . . . and in the . . . year of Our Reign.

Your Good Friend
Elizabeth R.

760. When a president of a republic writes to a sovereign, the form of the letter is, in principle, that of a sovereign's letter.

The following forms are used :

	United States	France
<i>Salutation:</i>	Sir, or Your Majesty	Cher et Grand Ami
<i>Title and Spoken Address:</i>	Your Majesty	Votre Majesté
<i>Complimentary Close:</i>	Very respectfully	Je prie Votre Majesté d'agrée . . . (to a queen) l'hommage de mon profond respect (to a king) l'assurance de ma (très) haute considération

Correspondence with sovereigns and other royalty

761. An ambassador rarely writes to a sovereign. But he can be called upon to write to the wife of a sovereign. In that event, she is addressed as Your Majesty or Madam and in the third person. The ambassador concludes with the following complimentary close: I beg Your Majesty to be pleased to accept the homage of my deep respect.

762. Sovereign princes and princesses are entitled to the terms Sir and Madam and, in the title address, to His Serene Highness. They are addressed, in letters, in the third person.

763. As to other members of royal families, unless the custom of a particular court requires otherwise, the following forms are employed :

	United States	United Kingdom	France
<i>Salutation:</i>	Sir	Your Royal Highness	Monseigneur (or Madame)
<i>Title and Spoken Address:</i>	Sir	Your Royal Highness	Votre Altesse (Impériale, Royale or Sérénissime)
<i>Complimentary Close:</i>	Very respectfully	I have the honour to be, Your Royal Highness's most obedient Servant	Je prie Votre Altesse (Impériale, Royale, or Sérénissime) d'agrée les assurances de . . . (Ambassador) ma très respectueuse considération (Other representatives) mon profond respect

Correspondence with presidents of republics

764. The following forms apply:

	United States	United Kingdom	France
<i>Salutation:</i>	Excellency	Your Excellency	Monsieur le Président
<i>Title and Spoken Address:</i>	Your Excellency	Your Excellency	Votre Excellence (letters in the third person)
<i>Complimentary Close:</i>	Accept, Excellency, the assurances of my highest consideration	I have the honour to be, with the highest consideration, your Excellency's obedient Servant	Veillez agréer, Monsieur le Président, les assurances de ma plus haute considération

*Correspondence between Ministers for Foreign Affairs and various foreign ranks*765. *To a Minister for Foreign Affairs*

<i>Salutation:</i>	Excellency	Your Excellency	Monsieur le Ministre
<i>Title and Spoken Address:</i>	You or Your Excellency	You or Your Excellency	Vous
<i>Complimentary Close:</i>	Accept, Excellency, the (renewed) assurances of my highest consideration	I have the honour to be, with the highest consideration, your Excellency's obedient Servant	Je vous prie d'agréer, Monsieur le Ministre, les assurances de ma très haute considération

766. *To a foreign ambassador, minister plenipotentiary, head of mission*

<i>Salutation:</i>	Sir	Sir	Monsieur le Ministre
<i>Title and Spoken Address:</i>	Excellency	Your Excellency	Monsieur l'ambassador
<i>Complimentary Close:</i>	Accept, Excellency, the assurances of my highest consideration	I have the honour to be, with high consideration, your Excellency's obedient Servant	Je vous prie d'agréer, Monsieur le Ministre, les assurances de ma haute considération

767. To high dignitaries and officials of Oriental and Far Eastern states, as their titles have no equivalent in Western languages, the form of salutation includes: Excellency. . . . You, and the complimentary close: Accept, Excellency X (name). For abbreviations, see paras 574 and 755.

Correspondence between Ministers for Foreign Affairs and their national representatives abroad

768. Correspondence between Ministers for Foreign Affairs and their representatives in foreign countries vary from nation to nation. A summary of the rules in the three countries under review is given below.

The United States

769. For dispatches, the Department of State and the British Foreign Office follow, in general, the same practice.

The United Kingdom

770. Correspondence between the British Foreign Office and its posts abroad is carried on in the form of dispatches and letters, of which the former have the characteristics described in para. 751 above. The formalities of Foreign Office dispatches (from heads of mission to Foreign Ministers and vice versa) are given below. It will be noted that they are very traditional.

France

771. In France, the style of administrative correspondence is different. The salutation includes the name and designation of the sender as well as of the addressee, and the department concerned is also given. There is no complimentary close.

772. The traditional forms of dispatch of the three countries are:

To an ambassador, minister, chargé d'affaires, consul-general or consul

773. *To an ambassador (man)*

	United States	United Kingdom	France
<i>Salutation:</i>	Sir (formal) My dear Ambassador (informal)	Sir (My Lord)	Monsieur l'Am- bassadeur de (or Chargé d'Affaires, etc.)
<i>Title of Address:</i>	You	You or Your Excellency or Your Lordship (the last two when appropriate)	Vous
<i>Complimentary Close:</i>	Very truly yours	I am, with great truth and respect, Sir (My Lord), Your Excellency's obedient Servant	None

To an Ambassador (woman)

	United States	United Kingdom	France
<i>Salutation:</i>	Madam or My dear Madam ambassador	Your Excellency	Madame l'Ambassadeur
<i>Title of Address:</i>	You	Your Excellency	Madame l'Ambassadeur
<i>Complimentary Close:</i>	Very truly yours	I am, with great truth and respect, Madam, Your Excellency's obedient Servant	Veillez agréer, Madame, les assurances de ma très haute considération

774. *To a Minister*

<i>Salutation:</i>	Sir	Sir	Monsieur le Ministre
<i>Complimentary Close:</i>	Very truly yours	I am, with great truth, Sir (My Lord), Your obedient Servant	None

775. *To a chargé d'affaires*

<i>Salutation:</i>	Sir	Sir	Monsieur le Chargé d'Affaires
<i>Complimentary Close:</i>	Very truly yours	I am, with great truth, Sir (My Lord), Your obedient Servant	None

776. *To a consul-general or consul*

<i>Salutation:</i>	Sir	Sir	Monsieur le Consul-Général (or Consul)
<i>Complimentary Close:</i>	Very truly yours	I am, with great truth, Your obedient Servant	None

777. *Dispatches addressed by a head of mission to his Minister for Foreign Affairs*

<i>Salutation:</i>	Sir	Sir (My Lord), or My Lord Marquis	Monsieur X, Ambassadeur de France . . . à son Excellence Monsieur le Ministre des Affaires étrangères (direction d' . . .)
<i>Title and Spoken Address:</i>	You	You or Your Lordship	Votre Excellence

	United States	United Kingdom	France
<i>Complimentary Close:</i>	Very truly yours	I have the honour to be, with the highest respect, Sir (My Lord), Your (Lord- ship's) obedient Servant	None

Correspondence between foreign missions and local governments

778. Regulations, which differ from one country to another, prescribe the forms of official correspondence that may be exchanged between diplomatic missions and national authorities and of personal correspondence between diplomats and the same authorities.

It is the responsibility of the head of each mission to decide what forms of correspondence his mission shall use in dealing with the authorities of the country where he exercises his functions. He will be guided by local protocol and custom. In general, correspondence is replied to in the same form as that used by the correspondent.

779. The general term 'note', covers traditionally all formal correspondence exchanged between diplomatic missions and the governments of the countries where they are situated. Notes can be in the first person or third person form, formal or informal.

780. In the same capital, diplomatic missions often employ different practices. Some heads of mission sign all formal correspondence (notes, *notes verbales*, *aides-mémoire*) and affix the official seal thereto, while others merely initial them. Affixing the seal of the mission is not generally practised.

781. *British diplomatic missions* use only two kinds of formal notes; the 'first person' note, and the 'third person' note, with a preference for the former since the impersonal note is often considered too severe or not sufficiently flexible.

782. The 'first person' note begins with:

Your Excellency (Sir)

and ends with the usual courtesy ending:

I have the honour . . . etc.

and the signature.

783. The other kind of note uses the following form:

Her Majesty's Principal Secretary of State for Foreign Affairs (or

The British Ambassador, or as the case may be), presents his compliments to and has the honour . . . etc.

There is no courtesy ending.

784. The only other form of formal communication used is the *aide-mémoire* or memorandum, which is a written statement handed over in the course of a personal discussion with the object of recording, for the convenience of the other party, the details of a possibly complicated or involved matter.

785. In the American diplomatic service the custom is to use, under the name of diplomatic correspondence, first person, third person, formal or informal style form. The different types of notes are distinguished by the form of salutation and the complimentary close currently used, and by the style of the signature.

786. *Notes verbales*, in the third form, are prepared in the name of the Secretary of State and initialled. Initialled *memorandums* are prepared in the name of the Department of State. *Aides-mémoire*, as well as *pro-memoria*, the object of which is to record a matter discussed, either formal or informal, are initialled. Third person notes are dated and initialled and do not give the address of the recipient.

787. In the French diplomatic service the third person note is widely used.

788. Personal letters are used to indicate to someone the special interest of the sender in some particular matter.

789. With the above reservations, the following rules are generally observed:

790. An official note is prepared in the third person, in order to emphasise its formal nature. It begins with a courtesy form such as:

The Embassy or — presents its compliments to the Ministry for Foreign Affairs and has the honour to . . .

and takes a courtesy ending as follows:

The Embassy takes advantage of this occasion to address to the Ministry the assurance of its high consideration.

791. The note is written on foolscap printed paper. It carries neither summary nor salutation. The name and official designation of the addressee must be included. The note is signed or initialled. The

date is inserted on a separate line following the last word of the text. To put the date thus at the end of the note is considered a particular mark of consideration. The seal of the post is affixed.

792. Various types of note are used to meet the following special circumstances:

(i) *The Collective Note* is addressed to a government by the representatives of several countries, with the object of presenting common observations. This is a particularly weighty form of communication. It is prepared in only one copy which bears the signatures of all the heads of mission concerned, and is delivered in the course of a meeting at which all the signatories should be present. Alternatively, since it is drafted in identical terms, it can be sent separately, but simultaneously, by each head of mission.

(ii) *The Identical Note* carries rather less weight. Each mission sends its own note, but while the substance of the communication is similar, its form and the details may vary. These notes need not be presented simultaneously.

(iii) *A Memorandum*, in the traditional language of diplomatic usage, is a note addressed to a head of state. It begins: 'The undersigned has been ordered to . . .' In United States practice, it indicates a note sent in the name of the Department of State (see para. 786).

(iv) *A Manifesto* (proclamation) is a note which is to be published.

(v) *An Ultimatum* sets forth the demands which one government has decided to make on another government. It suggests that the use of force is not precluded and is indeed often the prelude to war.

(vi) *A Note Verbale* is destined to clarify details or to give a summary of an important conversation. It is presented as an ordinary note. The title 'note verbale' appears at the top. It is initialled and bears the seal of the post.

(vii) *The Pro-memoria* or *Aide-Mémoire* is a formal record of a subject discussed and its object is to explain or justify the conduct of a government or of its representative. It is sent on paper with a printed letter-head and is handed over in the course of an interview. Since it is not supposed to be circulated, it contains neither summary, salutation nor complimentary close. The date is inserted on a separate line below the text. It is not signed and does not bear the seal of the post.

793. Official letters and notes are normally written in the language

of the sender. If, however, a mission prefers to use another language, the general custom is that it should be French. The Ministry for Foreign Affairs will, in any case, reply in its own language unless another language has been agreed upon.

Correspondence with ecclesiastical dignitaries

794. We do not give current, internal forms of the various churches, but only those which are used in correspondence with political authorities.

The following forms may generally be used:

(i) *The Pope (The Holy Father)**

	United States	United Kingdom	France
<i>Salutation:</i>	Your Holiness	Your Holiness	Très Saint Père
<i>Title and Spoken Address:</i>	Your Holiness	Your Holiness	Votre Sainteté
<i>Complimentary Close:</i>	Respectfully Yours	—	Veillez agréer, Très Saint Père les assurances de ma haute estime et de ma constante amitié
<i>Official Title:</i>	His Holiness, The Pope	His Holiness The Pope	Sa Sainteté le Pape Paul VI, Cité du Vatican

(ii) *Cardinals*

<i>Salutation:</i>	Your Eminence or Most Reverend Sir	My Lord Cardinal	Monsieur le Cardinal
<i>Title and Spoken Address:</i>	Your Eminence	Your Eminence	Votre Eminence
<i>Complimentary Close:</i>	Respectfully yours	I have the honour to be, Your Eminence's obedient Servant	Veillez agréer, Monsieur le Cardinal, les assurances de ma plus haute considération
<i>Official Title:</i>	His Eminence, The Most Reverend John Cardinal Doe, Archbishop of Y—	His Eminence, Cardinal — (or, if an Archbishop) His Eminence, the Cardinal Archbishop — (If the See is in British territory, the personal name and not the name of his See is used)	Son Eminence, le Cardinal X—, Archevêque de Y—

* Only sovereigns and heads of state write directly to the Holy Father.

(iii) *Oriental Patriarchs*

	United States	United Kingdom	France
<i>Salutation:</i>	As for the United Kingdom	The Patriarch of Constantinople is called Your Holiness. The others, Your Beatitude	Monseigneur
<i>Title and Spoken Address:</i>	As for the United Kingdom	Your Holiness or Your Beatitude	Votre Béatitude (letters in the third person)
<i>Complimentary Close:</i>	Respectfully yours	I am, Your Holiness's (Beatitude's) obedient Servant	Ma haute considération et mon profond respect
<i>Official Title:</i>	As for the United Kingdom	His Holiness or His Beatitude X—, Patriarch of Y—	Sa Béatitude le Monseigneur Y—

(iv) *Archbishops and Bishops of the Church of England and other Anglican Churches*

<i>Salutation:</i>			
To an Archbishop:	My Lord Archbishop	My Lord Archbishop	Monsieur l'Archevêque
To a Bishop	My Lord Bishop	My Lord	Monsieur l'Evêque
<i>Title and Spoken Address:</i>			
To an Archbishop	You	Your Grace	Vous
To a Bishop:	You	Your Lordship	Vous
<i>Complimentary Close:</i>			
To an Archbishop:	Respectfully yours	I am, My Lord Archbishop, Your Grace's obedient Servant	Agréez, Monsieur l'Archevêque, les assurances de ma plus haute considération
To a Bishop:	Respectfully yours	I am, My Lord, Your Lordship's obedient Servant	As for Archbishops
<i>Official Title:</i>			
To an Archbishop	His Grace, the Archbishop of Y—	For Canterbury and York: His Grace, the Lord Archbishop of Y— For others: The Most Reverend, the Archbishop of Y—	As for Archbishops

	United States	United Kingdom	France
To a Bishop:	The Right Reverend, the Lord Bishop of Y—	The Right Reverend, the Lord Bishop of Y—	As for Archbishops
<i>(v) Roman Catholic Archbishops and Bishops in Residence</i>			
<i>Salutation:</i>			
To an Archbishop – American citizen:			
Most Reverend Sir			
<i>Salutation:</i>			
Foreign citizen:			
	Your Excellency, or Most Reverend Sir	Most Reverend Sir	Excellence
To a Bishop:	Your Excellency, or Right Reverend Sir	Most Reverend Sir	Excellence
<i>Title and Spoken Address:</i>	You	You	Vous
<i>Complimentary Close:</i>	Respectfully yours	I am, Sir, Your obedient Servant	Agrééz, Monsieur l'Archevêque (ou l'Evêque), les assurances de ma plus haute considération

Official Title:

To an Archbishop – American citizen:

The Most Reverend, John Doe, S.T.D. Archbishop of Y—

Foreign citizen:

	His Excellency, the Most Reverend X— Archbishop of Y—	The Most Reverend Archbishop (name, not See, in British territory)	Son Excellence Monseigneur X—, Archevêque (ou Evêque) de
To a Bishop:	His Excellency, or The Most Reverend The Bishop	The Right Reverend Bishop (name, not See, in British territory)	As for Archbishops

*(vi) Titular Catholic Archbishops and Bishops**Salutation:*

To an Archbishop:

Most Reverend Sir Most Reverend Sir Monseigneur

To a Bishop:

	Right Reverend Sir	Right Reverend Sir	Monseigneur
<i>Title and Spoken Address:</i>	You	You	Excellence, Vous
<i>Complimentary Close:</i>	The same as for Archbishops and Bishops in Residence	The same as for Archbishops and Bishops in Residence	The same as for Archbishops and Bishops in Residence

(vii) *Other Bishops*

	United States	United Kingdom	France
<i>Orthodox:</i>			
<i>Archbishops</i>			
<i>Salutation:</i>	Your Beatitude	Your Beatitude	Votre Béatitude
<i>Complimentary</i>	Respectfully yours	I am, your Beati-	The same as for
<i>Close:</i>		tude's obedient	Anglican Bishops
		Servant	
<i>Bishops</i>			
<i>Salutation:</i>	Most Reverend Sir	Right Reverend Sir	The same as for
			Anglican Bishops
<i>Complimentary</i>	Respectfully yours	I am, Sir, Your	The same as for
<i>Close:</i>		obedient Servant	Anglican Bishops
<i>Episcopals</i>			
<i>Salutation:</i>	The Right Reverend John Doe, Bishop of Y—	Right Reverend Sir	The same as for
			Anglican Bishops
<i>Complimentary</i>	Respectfully yours	I am, Sir, Your	The same as for
<i>Close:</i>		obedient Servant	Anglican Bishops
<i>Mormons</i>			
<i>Salutation:</i>	Sir	Sir	The same as for
			Anglican Bishops
<i>Title and Spoken</i>	Same as for	Same as for	The same as for
<i>Address:</i>	Catholic Bishops, i.e. You	Catholic Bishops, i.e. You	Anglican Bishops
<i>Complimentary</i>	Very truly yours	I am, Sir, Your	The same as for
<i>Close:</i>		obedient Servant	Anglican Bishops

(viii) *Apostolic Delegates*

<i>Salutation:</i>	Your Excellency, or Most Reverend Sir	The same as for an Archbishop or Bishop as appropriate	Monseigneur le Délégué Apostolique
<i>Title and Spoken</i>	You	The same as for an Archbishop or Bishop, as appropriate	Vous
<i>Address:</i>			
<i>Complimentary</i>	Respectfully	As for an Archbishop or a Bishop, as appropriate	Agréez, Monsieur le Délégué Apostolique, les assurances de ma plus haute considération
<i>Close:</i>			
<i>Official Title:</i>	His Excellency, Most Reverend X— The Apostolic Delegate	The same as for an Archbishop or Bishop	Son Excellence, Monseigneur X—, Archevêque titulaire de Y—, Délégué Apostolique à Z—

(ix) *Catholic or Episcopal Priests, Protestant Ministers, Jewish Rabbis and other religious personages*

	United States	United Kingdom	France
<i>Salutation:</i>	Reverend Sir	Reverend Sir (a Rabbi is called Sir)	Monsieur l'Abbé; Monsieur le Pasteur; Monsieur le Rabbin
<i>Title and Spoken Address:</i>	Dear Father	You	Vous
<i>Complimentary Close:</i>	Sincerely yours or Very truly yours	Believe me, Reverend Sir, yours sincerely	Recevez Monsieur l'Abbé (or other title) les assurances de ma considération distinguée
<i>Official Title:</i>	The Reverend X—	The Reverend X—	Monsieur l'Abbé Monsieur le Pasteur Monsieur le Rabbin

Moslem religious personages

795. Special treatment is, by custom, given to important Moslem religious figures. For instance, Queen Victoria gave the rank of His Highness to the first Aga Khan, on account of his exceptionally important role as head of the Ismaili Mohammedans, and Queen Elizabeth II did the same for the present Aga Khan in 1957.

796. For a Mufti, the term Excellency is used or, in certain cases, Eminence, and in the complimentary close, My very high consideration. For Cadis, the term Excellency, is the rule. The complimentary close is, My high consideration.

Order of Malta

797. Special mention should be made of the Order of Malta. Founded in the eleventh century under the title 'Sovereign Military Hospitallery Order of St John of Jerusalem', it has had its headquarters in Rome since 1834. It is recognised as having international legality by certain states which give its representatives diplomatic status.

The Grand Master of the Order, who bears the title of Prince and is entitled to be addressed as Most Eminent Highness, receives at the Vatican Court the same honours as members of sovereign royal families.

Correspondence between ladies and others

798. Though it is incorrect in Great Britain to write directly to the sovereign (letters should be addressed to the private secretary), French protocol allows women to write to a king or queen, as also to other members of royal families. The following complimentary closes are used:

(i) To Kings and Queens: Je prie Votre Majesté d'agréer l'expression de mon profond respect.

(ii) To Princes with the rank of Imperial Highness or Royal Highness: Je suis, Monseigneur, de Votre Altesse (Impériale or Royale) la très respectueusement dévouée.

(iii) To Princesses with the rank of Imperial Highness or Royal Highness: J'ai l'honneur d'être, Madame, de Votre Altesse (Impériale or Royale) la très respectueusement dévouée.

SEMI-OFFICIAL (INFORMAL) CORRESPONDENCE

The United States

799. In the Department of State, officers use the informal style of correspondence. The form of address is: 'My dear Mr X—.'

800. A number of American customs are given below.

801. The complimentary title Excellency is used only in addressing a foreign president, foreign cabinet officer (except the Prime Minister or a cabinet officer of a member of the British Commonwealth of Nations), foreign ambassadors, foreign high officials or former foreign high officials, governor-general or governor of a member of the British Commonwealth.

802. The Honorable is used in addressing high officials and former high officials of the American government, foreign ministers, career ministers (including those serving as chargé d'affaires), and heads of international organisations (unless entitled to His Excellency by reason of a position previously held).

803. Anyone who becomes entitled during his career to the title of Excellency or The Honorable retains it indefinitely. Moreover, a former ambassador continues to be entitled to be addressed as ambassador.

The United Kingdom

804. A great deal of correspondence between the British Foreign Office and posts abroad is what is known as semi-official correspondence. This consists of personal letters addressed by individuals to other individuals. The address is, for example, John Smith, Esq., at the Foreign Office or at an embassy abroad.

805. The beginning and close of letters depend on how well the two correspondents know each other. The letters generally close with the words: Yours ever, followed by the Christian name of the writer, or a full signature, depending upon the degree of intimacy existing between them. The name should in any case be typed below the signature. Similarly, the letters will start either 'Dear John' or 'Dear Smith'.

806. It is necessary to add to the name in the address the initials of any decorations that the addressee may hold, e.g.:

His Excellency Sir John Smith, K.C.M.G., O.B.E., *or*
John Smith, Esq., C.M.G., M.C., *or*
Miss Jane Smith, M.B.E.

Members of the Foreign Service do not add their university degree to their names. Neither decorations nor degrees are indicated on their visiting cards.

France

807. For many years it was the custom for letters addressed by subordinates to a superior to be handwritten and not typed. This custom is now practically obsolete. However, as a mark of respect, some people write the salutation and the complimentary close in their own hand, thus giving a more personal touch to the letter. This practice is also widely followed in the British Foreign Office.

808. Private letters from officials to the Minister for Foreign Affairs include the salutation *Monsieur le Ministre*, and in the address the title 'Son Excellence, Monsieur —, *Ministre des Affaires étrangères*'.

809. The complimentary closes are:

(i) For ambassadors: *Veillez agréer, Monsieur le Ministre, les assurances de ma très haute considération.*

(ii) For ministers: . . . les assurances de ma respectueuse considération.

(iii) For other representatives: . . . assurances de mon respect.

810. The protocol for private letters exchanged between officials of the Ministry is based as much on age and position as on difference of grade and seniority.

811. Ambassadors are entitled to be addressed by officials serving under them, as well as by all members of the Service junior to them, as Excellence with the following complimentary close: *Veillez agréer, Monsieur l'Ambassadeur, les assurances de ma respectueuse considération.*

812. In principle, ministers plenipotentiary and directors of division are entitled to the following complimentary close: *Agréer, Monsieur le Ministre (or le Directeur), les assurances de ma respectueuse considération.*

PRIVATE CORRESPONDENCE

813. The term 'private correspondence' embraces all written communications on unofficial matters. This type of correspondence is presented following the form set out in para. 750 above.

814. The greatest care should be taken to write correctly the name (Christian and family), title and address of the addressee. Mistakes in this respect betray a negligence which may rightly upset or displease the recipient.

815. The appearance of letters is important. A letter should never be written in pencil. However, it is no longer bad form for private letters to be typewritten, especially if the writer is known to have illegible handwriting. The actual style, of course, varies from country to country and therefore we give a number of details of the practice in the United States, the United Kingdom and France.

The United States

816. In the United States, English customs are generally followed. There are, however, certain variations, and these are given below.

In private correspondence, the form of salutation is: *My Dear Mr Doe* or *Dear Mr Doe*. The complimentary close, if the letter is formal,

is Very truly yours. In other cases, it is Sincerely yours. The address is: Mr John Doe. The English form 'Esq.' is not used.

817. Many people in the United States are very particular about the writing and the order of their Christian name, which should always be given in the form and in the order in which it is written on their visiting cards.

818. Married women use the Christian and family names of their husbands.

819. Divorced women sometimes add their own family name to that of their former husband. Thus Mrs John Doe might become Mrs Mary Martin Doe.

820. The address on letters to unmarried women should always indicate the Christian name.

The United Kingdom

821. Traditional rules, which are both precise and complex, govern the form of formal private and unofficial correspondence in the United Kingdom. But the formal letter is rapidly becoming obsolete in this respect and we give alongside the more usual styles employed in informal correspondence. The latter, particularly in the complimentary close, vary considerably according to the degree of intimacy existing between the writer and the addressee, and we give the least familiar forms. A foreigner should always use these forms when in doubt.

Dukes (not of royal blood)

	Formal	Informal
<i>Salutation:</i>	My Lord Duke	Dear Duke
<i>Title of Address:</i>	Your Grace	You
<i>Complimentary Close:</i>	I have the honour to be (or I remain), Your Grace's most obedient Servant	Yours sincerely
<i>Official Title:</i>	His Grace, the Duke of —	His Grace, the Duke of —

Marquesses

<i>Salutation:</i>	My Lord Marquess	Dear Lord —
<i>Title of Address:</i>	Your Lordship	You
<i>Complimentary Close:</i>	I have the honour to be, My Lord Marquess, Your most obedient Servant	Yours sincerely
<i>Official Title:</i>	The Most Honourable, The Marquess of —	The Marquess of —

Other Peers

	Formal	Informal
<i>Salutation:</i>	My Lord	Dear Lord
<i>Title of Address:</i>	Your Lordship	You
<i>Complimentary Close:</i>	I have the honour to be, My Lord, Your Lordship's most obedient Servant	Yours sincerely
<i>Official Title:</i>	The Right Honourable, The Earl (of) (or The Viscount or The Lord)	The Earl of —

Duchesses

<i>Salutation:</i>	Madam	Dear Duchess
<i>Title of Address:</i>	Your Grace	You
<i>Complimentary Close:</i>	I have the honour to be, (or I remain) Your Grace's most obedient Servant	Yours sincerely
<i>Official Title:</i>	Her Grace, The Duchess of —	Her Grace, The Duchess of —

Other Peeresses

<i>Salutation:</i>	Madam	Dear Lady —
<i>Title of Addresses:</i>	Your Ladyship	You
<i>Complimentary:</i>	I have the honour to be, Your Ladyship's most obedient Servant	Yours sincerely
<i>Official Title:</i>	The Most Hon. The Marchioness of —	The Marchioness of —
	The Right Hon. The Countess of —	The Countess of —
	The Viscountess —	The Viscountess —
	The Lady —	The Lady —

NOTES:

(i) When writing the full title of a peer, as for instance in addressing an envelope, it is important to know whether it includes the word 'of'. All dukes and all but three marquesses are 'of'. No viscounts or lords are, except certain viscounts in the Scottish peerage. The rank of earl is most difficult. The great majority are 'of', but there are many important exceptions.

Examples: The Duke of Devonshire
The Marquess of Bute
The Earl of Airlie

The Earl Attlee
The Viscount Hambleden

Peeresses follow their husbands exactly in this respect. When a marquess or earl or his wife is referred to informally as 'Lord' or 'Lady', the 'of' disappears, e.g. The Marquess of Bute becomes 'Lord Bute'.

(ii) The younger sons of earls and the sons and daughters of viscounts and lords use the appellation 'Honourable' only in a formal sense, e.g. in the address of letters. Otherwise they are Mr, Mrs or Miss, as the case may be. 'The Honourable' is almost invariably abbreviated to 'Hon.'

Baronets and knights and their wives

822. Baronets and knights are not peers. The title of baronet is by descent while that of knight is not, but both are addressed as 'Sir' followed by the Christian and family names. The latter is often omitted, for instance when speaking to a baronet or knight. In correspondence the following forms are employed:

<i>Salutation:</i>	Dear Sir Henry
<i>Title of Address:</i>	You
<i>Official Title:</i>	Baronets: Sir Henry Smith, Bt Knights: Sir Henry Smith, or Sir Henry Smith, G.C.M.G.

823. The wives of baronets and of knights have the title Lady, followed by the family name of their husbands. The Christian name is omitted.

824. But a Lady, in her own right, e.g. the daughter of an earl, retains her Christian name, and an innate Honourable retains the appellation. Thus Lady Mary Brown, on her marriage to Sir Henry Smith, becomes Lady Mary Smith and *not* Lady Smith, and The Honourable Mary Brown would become The Honourable Lady Smith.

Privy Councillors

825. Members of the Privy Council, which includes all cabinet ministers, are entitled by long-established custom or courtesy to be designated The Right Honourable. In practice, this prefix is sometimes absorbed in other designations that are superior. For instance, a duke remains His Grace, even if he is a Privy Councillor. Privy Councillors have the letters P.C. after their name.

Members of parliament

826. Members of the House of Commons place the initials M.P. after their name. Example: Thomas Smith, Esq., M.P.

Lord Mayors and Mayors

827. Lord Mayors should be addressed as The Right Hon. The Lord Mayor of —.

828. For Mayors, the style is: 'His Worship, the Mayor of —.

Other individuals

829. In the formal addresses of other individuals, most commonly on the envelope of a letter, the name (and title and rank, if any) should be followed by initials indicating (as appropriate) medals and decorations, university degrees, technical diplomas, etc. The rank of officers of the armed services, whether they are serving or retired, should always be given in the address. Officers of the Royal Navy also have the letters R.N. after their name and thus become 'R.N. ret'd' when they have retired. Temporary wartime officers are given an honorary rank on retirement and are entitled to use it for the rest of their lives. A large number, however, prefer not to do so.

Private, untitled persons

830. In writing to private, untitled persons, the forms are as follows:

	Formal or business	Informal
<i>Salutation:</i>	Dear Sir or Dear Madam	Dear Mr, Mrs, or Miss X. My dear Mr, Mrs, or Miss X. (The latter form is more familiar.)
<i>Complimentary Close:</i>	Yours faithfully or Yours truly	Yours sincerely

Tradesmen

831. It is usual to address a tradesman on the envelope as Mr John Smith; when in doubt, he should be called Esquire, abbreviated to Esq. and never used in conjunction with Mr.

Widows and divorced women

832. Widows and divorced women retain the family name of their late or ex husband, but divorced women precede it with their Christian

names. Thus, Mrs John Smith would become Mrs Mary Smith. A widow generally remains Mrs John Smith. On the death of her husband and when his successor has a wife, a peeress can either put her Christian name in front of her title or use the prefix Dowager to distinguish her from the new peeress. The latter is more usual and more correct. If she is divorced, she will put her Christian name in front. Examples: The second Earl of A's widow is The Dowager Countess of A or Elizabeth Countess of A, while the third Earl's first wife is Beatrice Countess of A and his current wife merely The Countess of A.

Signature

833. The most usual signature for men and women is the first Christian name (or the name by which the person is known) and family name. Many people, however, use their initials with the family name, and there are still other variations. The eldest unmarried daughter in a family should be addressed without her Christian name. Example: Barbara Smith and her younger sister, Jean, are Miss Smith and Miss Jean Smith.

Abbreviations

834. The words 'Mister' and 'Missis' (a corruption of 'Mistress') are always abbreviated to Mr and Mrs, nor are they used alone without the family name, except in dialect. On the other hand it is preferable to write out in full, especially on the envelope of letters, such rank and titles as General, Colonel, Professor or President.

France

Men

835. Protocol for private individuals is based on official position or social rank. Except in the case of persons who, regardless of their title, must be treated with special distinction, the convenient form, in most cases, is the following:

<i>Date:</i>	Paris, le . . . (month in full) 196—.
<i>Salutation:</i>	Monsieur.
<i>Complimentary Close:</i>	Recevez, Monsieur, l'assurance de ma considération distinguée.

836. The title of nobility of the addressee always appears in the

address, but it is not customary to mention it in the body of the letter, except in the case of French dukes and duchesses.

Women

837. Protocol for women is, for the most part, based on the position or standing of their husbands. Wives of ambassadors, marshals and admirals of France are entitled to be addressed 'Madame l'Ambassadrice', 'Madame la Maréchale' and 'Madame l'Amirale', because the title of their husbands is one of dignity. In all other cases they should be addressed as 'Madame'.

838. The following forms are used in France:

Salutation: Madame.

Complimentary Close: Veuillez agréer (or Agréer), Madame, mes respectueux hommages.

839. For women, as for men, the title of nobility is written only in the official title.

840. Married women use the full Christian names and the family name of their husband. They sign the initials of their own Christian names and their husband's name. Unmarried women sign their Christian name before the family name.

Divorced women resume their maiden name which they precede with Madame and their Christian name. Example: Madame Jean Martin becomes Madame Simone Durand.

Unmarried women are addressed Mademoiselle followed by their Christian and family names.

841. Abbreviations are never used for *Monsieur*, *Madame* or *Mademoiselle* in the address, the salutation or in the complimentary close. It is, however, permissible, in the body of correspondence, to abbreviate as follows: *Monsieur* to *M.*, *Madame* to *Mme*, *Mademoiselle* to *Mlle*, *Messieurs* to *MM.*, and *Mesdemoiselles* to *Mlles*.

CHAPTER THIRTEEN

INTERNATIONAL AGREEMENTS

Basic definition of an agreement – Treaties and conventions – Inter-government agreements – Agreements by exchange of notes or letters – Technical conference protocols – Declarations or Communiqués: ‘Gentlemen’s Agreements’ – Inter-agency agreements – Administrative commission agreements – Drawing up of agreements – Full powers – Ratification – Entry into force: publication – Application – Termination – Special features of multilateral agreements



INTRODUCTORY REMARKS

842. It is not our intention to give a collection of formulae. Each state has its own rules and its traditions, and the negotiation of an international agreement is always the object of careful study. But it appears to us useful to describe certain of the most typical forms of international agreement in such a fashion that diplomats will understand their significance and their multiple possibilities.

BASIC DEFINITION OF AN AGREEMENT

843. The term ‘international agreement’ covers all agreements having an obligatory character concluded under whatever form between members of the international community, whether it be sovereign states, including the Holy See, or international organisations.

844. Although there is no rule of international law that requires that international agreements be in written form, custom and the expediency of having a document evidencing the existence of the commitments undertaken almost invariably result in these agreements being in

writing. We are here concerned only with those which are in written form.

845. International agreements can be negotiated either by delegations specially appointed for this purpose or by any other procedure considered acceptable in the field of permanent negotiation maintained between governments through the intermediary of diplomatic missions. It is the responsibility of the latter to watch over the proper application of all such agreements.

846. An essential difference which distinguishes international agreements from private contracts is that the obligations stipulated in the latter can be imposed on the recalcitrant contracting party by the courts and put into execution by public force, whereas international agreements are not governed by any jurisdiction whose court judgements are enforceable. An exception is that the International Commission of Jurists' judgements may be enforced by the Security Council (art. 94 of U.N. Charter). The execution of treaties, pacts, etc., depends essentially on the goodwill and mutual self-interest of the contracting parties. Such agreements are normally juridical obligations without direct sanctions; this is expressed in the Latin formula *pacta sunt servanda* whose brevity lends itself to no quibbling. In his *Testament Politique*, Cardinal Richelieu expressed himself with the same force: 'Kings [he wrote] should beware of treaties they make. When they are made, they should observe them religiously.' This obligation is expressed in modern juridical language in the Declaration of London of 17 January 1871, as follows: 'The Powers recognise as an essential principle of the law of Nations that no one of them can unbind treaty engagements nor modify their stipulations except with the consent of the contracting parties, by means of friendly understanding.' This formula was taken literally by the League of Nations of 17 April 1935, and by the Declaration of London of 19 March 1936, at the time of the deliberate violation of the fifth part of the Treaty of Versailles and the unilateral denunciation of the Locarno Pact by the German Reich.

847. Many of the words used in designating these agreements have become sanctified by custom. 'Treaties' of peace, of alliance, of commerce, of labour, are referred to, while the word 'convention' is more usually employed in consular, cultural or social matters. These two designations are, however, often used interchangeably without any apparent distinction between them. The words 'agreement' or 'under-

standing' are often used in commercial or financial matters. The term 'concordat' is reserved for treaties concluded between sovereign states and the Holy See, to regulate the status of the Roman Catholic churches. These terms have a certain hierarchy, but it is admitted as a general rule that the name chosen to designate an international instrument carries by itself no juridical significance. The substance embodied in the actual terms of the agreement will determine its actual effect in international law.

848. We divide international agreements into four principal categories: treaties and conventions; inter-government agreements; protocols; international instruments (*rèlements internationaux*).

849. There has long been a tendency to reserve the use of the word 'treaty' for very important political agreements contracted between heads of state, negotiated in major conferences and drawn up in accordance with the most solemn and traditional forms. 'Convention' is generally used for multilateral agreements on specialised or technical subjects (such as consular relations) and negotiated through conferences on all other matters of common interest, and also presented in a relatively formal manner. Both treaties and conventions are concluded on behalf of heads of state, the preamble mentioning the name of the head of state and normally, in bilateral agreements, the names of the negotiators, as well as the powers which were given to them to negotiate and sign the treaty. Negotiators are usually called 'plenipotentiaries'. Such treaties are generally made subject to ratification in accordance with constitutional procedure.

850. The term 'inter-government agreements' covers the majority of agreements concluded between governments. Neither the heads of state nor the plenipotentiaries are mentioned by name. These agreements are signed at the end of the negotiations and do not require ratification unless they concern matters for which the constitution requires parliamentary intervention. They are generally in the form of an exchange of letters or notes, but are sometimes in the form of an initialled or signed memorandum (*procès-verbal*).

851. The term 'protocol' designates many sorts of official documents recording, in an authoritative and solemn manner, the results of a negotiation. The form is very flexible. In the field of international agreements, it is most usually used to designate particular agreements which supplement a basic agreement.

852. Finally, by 'international instruments' (*règlements internationaux*) are meant the rules agreed upon as the result of conferences or the deliberations of international organisations called together for the purpose of laying down some sort of detailed procedure or requirements. The characteristics of international instruments are that they usually originate in and draw their binding power from a vote but are not signed documents.

853. For some time, agreements concluded between states were almost invariably bilateral. Only certain major political treaties had numerous signatories. But in the course of the last century there appeared an increasing number of situations of all kinds which governments found it in their interest to regulate collectively. Multilateral agreements became more and more important in the arsenal of international conventions. Their conclusions carry certain characteristic features that we shall examine separately (paras 956–1005).

854. Generally speaking, diplomats divide international agreements into three parts. First, the preamble, which states the overall purpose of the act. The second part embodies the substantive commitments undertaken by the parties and comprises most of the 'text'. The third part is the 'final forms', more or less stereotyped, equivalent to the precautions that governments have been traditionally called to take to guarantee juridical regularity of the negotiation and the qualification of the plenipotentiaries, and the specifications of how the agreement shall be brought into force, how it may be terminated and, sometimes, how it may be amended. This is what is called the 'protocolary' or 'formal provisions'.

855. It is not the purpose of this book to classify international agreements according to their contents or their aims. We restrict ourselves to the study of their form.

856. An international agreement does not necessarily contain all that was agreed upon during the negotiations. It sets forth principles and rules; but it does not always include certain clarifications which should be known to the executors in order that the implementation of the text may conform to the intentions of the negotiators. It may happen that the execution of the convention requires the carrying out of conditions independent of the negotiated texts. It also happens that information, references and definitions, rather than being included in the text, are frequently annexed to the principal agreement. Finally

certain transitional measures may be agreed upon. The negotiators have at their disposal certain apparatus from the diplomatic storehouse for concluding – without incorporating them in the text of the principal agreement – various complementary agreements which are required to clarify the text, are usually attached to the convention, and are not necessarily signed and ratified at the same time.

TREATIES AND CONVENTIONS

857. The terms ‘treaty’ and ‘convention’ cover agreements between states concluded in traditional form. The title generally indicates the purpose of the treaty. The preamble mentions the names and qualities of the heads of state on behalf of whom the treaty is concluded (para. 859). It cannot be used in agreements concluded between governments, notably for agreements concluded by governments belonging to the Commonwealth or of which several of these governments are a party because, as the sovereign of Great Britain is also sovereign of certain of these territories (Australia, Canada, New Zealand, etc.) it would not be possible for her name to be mentioned several times in the preamble. In this case, one of the forms shown below is used.

858. A much less formal procedure is often used, when details of no longer any apparent significance may be omitted. They are called inter-government agreements.

Basic treaty

859. The treaty document covers the following parts:

- (i) The *preamble* containing:
 - (a) a list of the heads of state in whose names the treaty is concluded;
 - (b) a list of plenipotentiaries;
 - (c) usually a statement of the purposes and objectives of the treaty, sometimes accompanied by a recital of principles and circumstances;
 - (d) a declaration that the plenipotentiaries have the necessary powers.

(ii) The *text* generally containing, in the form of numbered articles, the respective agreements of the signatories. It also indicates:

- (a) the requirements for bringing the convention into force;
- (b) its duration;
- (c) the place where the exchange of ratifications will take place.

(iii) The *final clauses*, specifying that the plenipotentiaries have signed the convention and have affixed their seals thereto, and including information on:

- (a) the number of signed copies;
- (b) if in more than one language, the languages used, and that each is equally authentic;
- (c) the place and date of the signature.

860. According to the importance of the treaty, the preamble can be more or less enlarged. The statements in the final clauses are, on the contrary, usually identical.

Additional protocols

861. If, after the conclusion of the negotiation and before the treaty is signed, the high contracting parties desire to add new stipulations, the form of an 'additional protocol' may be used. This is then signed on the same day and in the same form as the principal text. Additional protocols are, however, sometimes signed and ratified on later dates.

Additional articles

862. If, in the end, it seems necessary to amend or complete a treaty, this can be done by an additional article or articles presented in the same form as the basic text, or in the form of a protocol and, if necessary, ratified as the said text.

Final signature protocol

863. Very often, temporary clauses or reservations are expressed in a separate document which is signed at the same time as a treaty and expressly refers to it. If it contains clauses which are additional to the execution of the principal convention or reservations of funda-

mental importance which change the nature or the meaning of a clause, it should be ratified in the same manner as the convention itself and at the same time. If the document confines itself to the certification of the fact that the signatures were affixed, or to setting forth unilateral declarations or reservations not touching the fundamentals of the convention, it may not need to be submitted to ratification.

864. The form of this final signature protocol (*protocole de signature*) is usually the same as for the additional protocol (para. 861).

Interpretative notes

865. If the negotiators deem it useful to specify in detail certain rules set out in general terms in the principal treaty or convention, they may request that this detailed information, in order not to burden the text, appear in an exchange of notes – usually identical – signed at the same time as the agreement.

Appendices

866. Finally, there are cases where the negotiation of a treaty involves the drawing up of a list of particular rules or other details. These elements are not usually included in the text proper of the convention and may appear as an appendix with a reference to the article of the agreement which provides for them. These appendices are sometimes authenticated by signatures or by initials.

867. All documents signed at the same time as an agreement or which are annexed thereto form a part of the official text.

INTER-GOVERNMENT AGREEMENTS

868. This category includes various forms of international agreements. Their main characteristic is that they are signed at the end of the negotiation which led to their conclusion and have not to be ratified. They can, however, by reason of their contents (see para. 916) be required to be submitted to parliament. Generally, they come into force immediately or after a short delay.

869. This method of concluding international agreements is more and more employed. It is consistent with the general relaxation of

diplomatic formality due as much to the fact that governments are pressed for time as to the fact that many arrangements are of a technical or administrative character that do not justify the more formal procedure.

870. Agreements of this type can, like treaties and conventions, be accompanied by a final protocol, or exchange of interpretative letters, or carry appendices (see paras 863–6).

AGREEMENTS BY EXCHANGE OF NOTES OR LETTERS

871. Agreements are very frequently concluded by exchange of notes, sometimes referred to as 'letters'. In such cases, the representative of one government sends the representative of another government a note setting forth the arrangements proposed or to be agreed upon. The reply agrees to and frequently repeats the terms of the first note.

872. Some minor arrangements are concluded by the exchange of third-person notes between the Ministry for Foreign Affairs and the interested diplomatic mission. These notes are usually merely initialled, but are sometimes signed. This is a type of *chancellery agreement*. These notes are generally drafted in identical terms.

TECHNICAL CONFERENCE PROTOCOLS

873. This term designates a category of diplomatic instruments whose object is to express, in formal legal terms, the agreements reached at the conclusion of technical conferences (see paras 878 and 879). Additional protocols can also be signed at the same time as a convention. There is evidence that the protocol form is used for a variety of purposes.

874. A copy is prepared for each of the governments concerned and signed by the heads of the delegations. The alternat is respected (see paras 901–5).

DECLARATIONS OR COMMUNIQUÉS: 'GENTLEMEN'S AGREEMENTS'

875. A more summary form of international agreements is the Declaration or *Communiqué*.

876. Ministers for Foreign Affairs, even heads of governments or

heads of state, now frequently meet for a few days, even for a few hours, to discuss policies and problems of common interest to their countries. These meetings lead to what is sometimes known under the traditional term of 'Declaration', 'Communiqué', or 'Gentleman's Agreement'.

877. The results of such conferences are usually, for lack of time, not set out in formal treaties signed in the traditional manner. Furthermore, the members of the executive authority do not usually need special powers. Very often, the participants confine themselves to the drawing up of a common statement which is handed out during a Press conference. Such documents, which can have an outstanding importance and political influence and be binding upon the participating governments (for example, the Atlantic Charter) may have none of the classic character of international agreements. Legal experts are concerned over the obligatory value of these 'declarations of intention', the juridical character of which must still be defined. Normally, because of their designation of 'declaration' or 'communiqué', they are assumed to constitute statements of intention or policy rather than to constitute international commitments such as are normally embodied in the customary form of an international agreement.

INTER-AGENCY AGREEMENTS

878. Conventions are sometimes planned so as to allow for matters of detail, which the conference plenipotentiaries were unable to solve during the meetings, to be settled by an administrative commission which will draw up suitable regulations. In technical matters the possibility of direct arrangements between the interested administrations is also provided for.

879. The negotiators may decide that methods and measures of implementation of an agreement can be arranged between the heads of the departments concerned in the respective governments. This type of agreement is called an inter-agency agreement and is a very flexible administrative arrangement. It has the advantage of allowing responsible administrations to give close attention to the evolution of minor problems, but the disadvantage is that the agreements are not always drawn up with the foresight necessary in the conclusion of an international contract. They are not normally thought of in terms of international agreements but rather as inter-agency working agreements.

ADMINISTRATIVE COMMISSION AGREEMENTS

880. Arrangements are sometimes made for setting up a permanent or periodic administrative commission charged with watching over the application of an agreement, interpreting its basic terms and eventually drafting the modifications that the changes in the situation seem to require. These commissions draw up 'agreed minutes', 'memoranda' or 'understandings', and similar documents. They record the outcome of their efforts.

DRAWING UP OF AGREEMENTS

Preparation and presentation of text

881. When a conference leads to the signing of an agreement, this document is generally prepared by working commissions which compare rough drafts, embody them in a compromise proposal and submit it to a plenary meeting. They are responsible for it until the negotiators come to an agreement.

882. The days when treaties were transcribed on parchment by skilled specialists are no longer. Special care is nevertheless lavished on the appearance of the documents, in order to enhance their importance, guarantee their accuracy and ensure their preservation. The text is normally printed or typewritten on excellent quality paper; each sheet is usually encircled by a coloured or gilt-edged border; and the pages are joined together by silk ribbon of the national colours of the signatory states, to which are affixed wax seals bearing the imprint of the personal seal of each plenipotentiary.

883. Inasmuch as each state has the right to receive an original or true copy of the treaty, as many copies as there are signatory states are prepared. Each copy is signed and bear the seals of all plenipotentiaries listed in the preamble. Where, however, more than two states will sign, it is customary to sign only one original and to provide for the supplying of certified copies to each of the signatory states.

Languages

884. The negotiation may result in the drafting of a text which is considered to be satisfactory by the interested parties.

885. When negotiations have been concluded between two states, the text is sometimes initialled either in the working language of the conference, or in the language of the two countries. This procedure is rarely followed by the United States. When the conference is multi-lateral it can lead to the drafting of the text in several languages, all in principle identical.

886. This is an important matter: texts should be clear enough to make interpretation unnecessary. The long work of preparation and negotiation must result in a clear and undisputable document which can be easily understood and which will provide an authoritative text for the few specialists in each state responsible for the application of international agreements.

887. Until the middle of the seventeenth century all international agreements were drafted in Latin. This practice was gradually abandoned. At the end of the eighteenth century treaties were, as a rule, drafted in French. This was the case with the Treaty of Vienna in 1815. When several languages were employed, the French text was admitted to be the authentic text. The governments had at their disposal a single document which reduced to a minimum the risk of misunderstanding or misinterpretation.

888. For the last half-century, considerations of pride have led to abandonment of this age-old practice. The inconveniences and the dangers which result from the multiplicity of languages used in negotiations (see paras 716–18) are also to be found in the drafting of treaties.

889. For complicated texts which lay down complicated procedures it is practically impossible to give identical versions for the lack, at times, of essential wording. The need for a reference text therefore arises. It is not generally diplomatic experts who battle to have a convention signed in several languages with equal authenticity, since they are well aware of the difficulties they will face when they are obliged to interpret a text whose translations are not comparable.

890. As a practical matter, English-speaking people will not normally agree to French prevailing over English, nor will the French usually agree to English prevailing when two texts are used.

891. When agreements are drawn up in two languages it is customary for the two versions to appear in parallel vertical columns on the same page, or one on the left page and one on the right page, in order that

their comparison may be possible and convenient. The alternat (see paras 901–5) is respected, that is, the version in the language of the country for which the copy is destined is placed in the column or on the page to the left.

892. It has happened that two powers whose languages differ considerably conclude a convention in a third language as well as their own two languages and provide that in case of disagreement the third language will prevail.

Signature and seals

893. Once the text of an agreement has been completed it is sometimes the custom, if the plenipotentiaries do not proceed at once to the signature, for the leaders of the delegations to place their initials or abbreviated signature *ne varietur* on each page. In this way they mark that negotiations are closed. The agreement is afterwards put in definite form to be signed.

894. The signature of a convention generally takes place with a certain ceremonial, unless it is a deferred signature or one of accession. The copies of the document to be signed are placed on a table in a reception room where all the delegations which participated in the negotiations are assembled.

895. For a bilateral agreement the plenipotentiaries of both nations sign successively or together two originals of the treaty. They may also sign or initial the appended documents. In the case of multilateral agreements the delegations are usually arranged in the same positions as during the deliberations. The plenipotentiaries, called in the alphabetical order adopted for the treaty, come forth and sign in rotation.

896. In the most solemn conventions it is the custom for each plenipotentiary to affix, by the side of his signature, a wax wafer bearing the impression of a personal seal (crest, intaglio or initials). This practice is very old and its purpose is to attest by a permanent unique sign the plenipotentiary's signature. The seals are affixed at the left of the plenipotentiary's signature. The wax seal covers the ribbon which holds the document together, thus precluding any substitution of page.

897. Generally, the official seal of a government or a diplomatic mission cannot replace the personal seals of the plenipotentiaries.

Signature ad referendum

898. Originally, the practice of the signature *ad referendum* was admitted to permit a plenipotentiary who had doubts about acceptance by his government of certain clauses of an agreement to postpone the signing formality long enough to permit him to receive the necessary approval. The *ad referendum* practice is rarely followed today.

Deferred signature

899. It is more and more common, in the case of multilateral agreements, for the plenipotentiaries to sign the approved text separately. Usually, a relatively large number sign the convention on the day it is opened for signature. Thereafter, it remains open for a certain time to permit the governments concerned to study the text and to adopt it according to their special rules.

900. Finally, certain multilateral conventions remain open permanently to permit all states which may desire to do so to comply voluntarily with the rules which are laid down. (We shall have more to say on this point under paras 980-2.)

The alternat

901. International courtesy has established a custom called 'rotation in precedence' (*l'alternat*) which confers on each state the right to occupy, in rotation, the place of honour in signing international acts in which it participates. This means that, when the final documents are drawn up, first place in the list of the participating powers is given successively to each of the signatory states. Its plenipotentiary moves to the head of the list and signs at the place of honour, that is to say, at the left if the names of the signatories are placed side by side, or at the top if they are disposed vertically. Each state receives the signed original of the convention where its name appears first. This procedure is not normally followed in the signature of multilateral acts, because it is now customary to sign only one original of such documents.

902. The other plenipotentiaries then sign in the order previously agreed upon. This manner of presentation must be exactly respected in the instruments of ratification, in the official reports of the exchange

of instruments of ratification and at the time of the official publication of the texts.

903. It should be noted that, according to the language employed for the drafting of a convention, the alphabetic order of the states can vary appreciably. This is why, in French, the United States have at different periods been listed under the letter 'E' for *États-Unis* or 'A' for *Amérique*, while in English they have been listed under 'U' for United States, along with Great Britain (United Kingdom) and the U.S.S.R. Sometimes the order of naming the states has been determined by lot. The latest refinement is the arrangement in alphabetical order of the names of the countries as they are spelled in their own language (European Communities).

904. The rule of international organisations generally mentions the language following which the countries are classified in alphabetical order.

905. The forms employed in the simultaneous use of several languages are also adopted (see para. 884).

FULL POWERS

906. As we have already mentioned, under para. 849, the plenipotentiaries called on for formal signature of a treaty should also be formally vested with authority by their head of state or, if their government practice permits, by the prime minister or foreign minister. Treaties are generally subject to ratification and the signatures in such cases impose no legal obligation.

907. In the majority of cases, treaties are prepared by technical conferences at the end of which a text may be initialled. The date of signature is then decided upon and full powers are delivered by each government to the person who will sign the treaty.

908. The form of these documents depends on internal constitutional rules.

909. The document usually mentions:

- (i) the name of the authority issuing the document;
- (ii) the nature and subject matter of the negotiation;
- (iii) the name of the plenipotentiary;
- (iv) a statement to the effect that he is authorised to engage the government of his country.

910. Very often, the text reserves the right of ratification to the head of state. In the United States ratification by the President with the consent of the Senate is usually specifically mentioned.

911. If a government decides to designate several plenipotentiaries, it can either invest each of them with full powers or mention all the names in a single document authorising them jointly.

912. When a text requiring no ratification has to be signed, the heads of diplomatic missions, if they lead the delegation, are normally considered as having full capacity to sign owing to the fact that they are already in possession of credentials, unless the international agreement itself provides that special evidence of authority is required (see paras 651–5). The practice varies, furthermore, according to time and place, and diplomatic treatises include examples of every type.

913. When neither powers nor the text of the treaty contain any clause providing for ratification or other approval, which is very rare, the plenipotentiary's signature may definitely commit his state. If, on the contrary, the reservation of ratification appears in one or other of these documents, the signature is normally considered to be in substance *ad referendum*.

914. It can happen that, at the moment agreed upon for the signature of a treaty, powers for the plenipotentiaries have not arrived. It is generally admitted in this case that they can be replaced by a note from the diplomatic mission or a telegram from the Ministry for Foreign Affairs indicating that the documents are in preparation and will be forthcoming at an early date.

915. All diplomatic treatises comment on the contradiction that exists in the traditional term, 'full powers'. On one side, the head of state delegates to the negotiator all authority to enter into negotiation on behalf of the state and formally promises to execute what his plenipotentiary has signed; in the following sentence, he expressly reserves his right to ratification. This apparent contradiction should be resolved by some new formula.

RATIFICATION

916. Ratification is the act by which the head of state, who has, by granting full powers, authorised a negotiator to conclude an international agreement, agrees to be formally bound, in accordance with

constitutional process, by the agreements the negotiator has signed. This is especially true when the treaty requires a modification of internal legislation or concerns matters which, according to the constitution, must be submitted to parliament.

917. In giving legal sanction to the agreement signed in his name, and with his authority, the head of state confers upon it its true international validity.

918. By publication it acquires internally, on the national level, the force of law, thereby enabling the government, the courts and the administration to compel the nation's respect for it.

919. Sometimes, regularly signed treaties are not ratified. No head of state is legally obliged to ratify agreements signed in his name. It happens, infrequently, that negotiators exceed their instructions. More often, political developments make it undesirable, even prejudicial, to put a convention into force. There have been recent examples of this.

920. Many authors consider it a debatable point whether or not states are bound as soon as an agreement is signed, or only after its ratification. In practice, diplomatic missions, like consular posts, apply international agreements only after they have been brought into force by the exchange of ratifications. They are advised either by the instructions which they receive from their governments or by the official publication of the text.

921. The official and formal record in which the head of state declares the ratification, confirms the terms of a treaty signed by his representative, and guarantees its application is a procedural document which bears his signature, the signature of the Prime Minister or the Minister for Foreign Affairs, and the state seal. In some instances, however, the instrument of ratification is executed by the Prime Minister or the Minister for Foreign Affairs alone.

922. For the ratification of bilateral treaties the instrument of ratification is drawn up in two originals, one destined for the other party, the other for retention in connection with its subsequent proclamation. Formerly, in the case of multilateral treaties, as many originals as there were signatures were drawn up. At present, when the text of a treaty provides for a signatory government or an international institution to be the depositary, one original is drawn up and signed.

923. It has occurred in the past that, because of the time needed for signing the instrument of ratification and for its dispatch, the ratifica-

tion itself, as soon as it was decided upon, was notified by telegraph to distant countries. Rapid means of communication have rendered this practice less necessary. It can nevertheless be useful to have recourse to it in urgent cases.

924. A certain ceremonial generally accompanies the exchange of documents attesting ratification of an international agreement. In the case of bilateral agreements, the exchange of instruments of ratification usually takes place in the capital where the convention was not signed. Multilateral agreements generally designate the capital where the ratification will take place, which is that of the state which will be the depositary of the document. An official certificate of exchange is drawn up for bilateral agreements, and sometimes for multilateral ones also.

ENTRY INTO FORCE: PUBLICATION

925. The notification of ratifications is usually the last act before international agreements become law. After ratification, they apply under the conditions stipulated in the text. Very often this is immediately, but frequently the date of entry into force may be thirty, sixty or ninety days later, and is sometimes a year or more. The agreements should then be incorporated in the internal legislation of the signatory state, so that the public can be aware of them as of other laws of the state, failing which it would not be possible to enforce them on individuals. Ratifications must therefore be followed within a brief period by the publication of the texts in the official government publication available to the public. It must be noted that in the United Kingdom publication precedes the exchange of ratifications.

926. The Peace Conference of 1919 attempted to impose the publication of all international acts by the League of Nations and to disclaim value to treaties which were not published in such manner. This requirement could not be enforced. In practice, however, the League of Nations published all the international treaties concluded during its existence, and this collection of texts is very valuable.

927. The United Nations studied the same problem and organised a system of registration and publication of treaties. To induce the states to publish all their international agreements, the Charter laid down (art. 102) that no parties to a non-registered treaty could invoke the same treaty or agreement before an organ of the United Nations.

928. The negotiators of international understandings sometimes decide that the agreement which they have reached will not be made public. It is said to be 'secret' if it is known only to a restricted number of persons, who should make no reference to it in their official correspondence; it is said to be 'confidential' if it is known in a general way to the administration, but must not be made public.

929. The agreements which fall into these two categories, even if they are signed at the same time as a public convention, do not appear in the list of appended documents.

APPLICATION

930. An international convention puts into concrete form the agreement which has been reached between two or more governments on a determined point. Certain conventions continue to be applied over a long period because the original principles and their practical solutions remain up-to-date. But changes in international as well as national situations sometimes render other texts inapplicable and it becomes necessary to revise, even to cancel them.

931. By means of negotiation and diplomacy, the conventions in force between two or more states can be easily amended. Reciprocal good faith and goodwill of the parties constitute the essential basis and the best guarantees of the application of international agreements. Mutual self-interest may also play a large part.

932. The heads of diplomatic missions and the consuls are the guardians of the proper execution of treaties. The first are called upon to follow closely the working out of political, economic and social conventions; they should also see that the agreements affecting the status of their nationals are correctly applied. It is their duty to report the circumstances in which the violation of any such agreements takes place and to ascertain whether it is a chance occurrence, or if the agreement is no longer adapted to current circumstances. They must also determine, should the occasion arise, if the conduct of the responsible foreign authorities results from misinterpretation of the agreement or from deliberate unwillingness to respect it. In the latter case, it is for them to decide if this situation arose from individual or general unfriendliness. Their attitude to the local authorities in this situation should always be restrained: an investigation made by higher authorities

will perhaps reveal facts which were ignored or badly interpreted by those immediately responsible for daily application of the treaty. On their side, consuls should be motivated, in their conduct, by the idea that it is their responsibility to settle individual cases unofficially. The diplomatic missions, in bringing the facts to the attention of the Foreign Ministry of their country of residence should not lose sight of the fact that the interpretation of treaties rests finally within the responsibilities of their own Ministry for Foreign Affairs, and ultimately the courts. In such circumstances, prudence and moderation are the rule in the conduct of agents as well as in that of the foreign authorities with whom they have to deal.

933. Finally, it is for the government which believes that it has a complaint to make regarding the wrong application of a convention to decide if it should be interpreted in a manner different to the one applied or whether it is desirable to amend the text or to denounce it. Diplomatic missions must suggest the solution. It is therefore necessary for them to know the general rules concerning the modification and the execution of treaties.

934. We believe that between governments of equal good faith it is always possible — without having recourse to a unilateral gesture which legally constitutes a taking of the law into one's own hand (*une voie de fait*) to negotiate the adaptation of a treaty to new conditions. That is, strictly, the work of professional diplomats. Sometimes, however, they cannot settle their honest differences except by arbitration.

935. When drawing up international texts that are likely to remain in force for a long period, it is important to foresee the methods by which they will be applied and may be amended according to the change of circumstances. Diplomatic missions can, of course, improve the application of an agreement, since they receive the complaints concerning its implementation from the administrations or from individuals, but they do not generally have at their disposal the expert help necessary for a quick settlement of the difficulties that may arise, and considerable time is often lost when files are circulated between the various officials concerned. When it is a question of important conventions involving numerous and varied private interests, it is wise to foresee, in addition to the routine daily action exercised by diplomatic missions, the possibility of setting up mixed commissions. These would be composed of the same elements which negotiated the agreement

and would be expected, in periodic conferences held alternately in the interested countries, to watch over the manner of implementation of the terms of the treaty, to compare the views of the governments of the signatory countries, and to seek improvements which could be made either on a practical level or, if necessary, by a modification of the text of the agreement.

936. It is often advantageous, to facilitate the implementing of technical conventions, to arrange for working arrangements to be arrived at in the form of inter-agency agreements (see paras 878 and 879). Such agreements, concluded in simplified form between the interested governmental departments of both countries, can easily be modified according to the needs of the moment without requiring a long and complex procedure. Such adaptations can be negotiated in the course of the periodic administrative conferences. They strengthen the understanding and friendly co-operation between the government departments concerned and represent one of the procedural methods which contribute to the successful implementation of treaties.

TERMINATION

937. The causes for termination of treaties are multiple, but they can be said to fall roughly into two categories: they can result either from the desire of one or more of the signatories to end up the matter or from unforeseen circumstances.

938. The first category includes treaties which contain fixed terms or denunciation clauses according to which the will of one of the signatories is sufficient to end them. The second includes, among unforeseen circumstances, the disappearance of the original purpose of a treaty or its obsolescence, whether it be established by the signatories or as the result of a major political event (war, disappearance of a state) leading to the cancellation of all the treaties binding the state in question with the rest of the international community. Moreover, a revolution affecting the form of a government can lead to the cancellation of previous treaties: the Russian Revolution of 1917 cancelled all previous treaties. Finally, it can also happen that an agreement simply falls into disuse. Although disuse does not necessarily terminate a treaty, this happens more often than is generally supposed.

939. We shall examine briefly these various eventualities.

Automatic expiration of fixed-term treaties

940. The termination of a treaty can result from the stipulations of the convention itself. There are numerous agreements destined to resolve problems that negotiators consider to be of a temporary character. They introduce in the text a clause limiting the duration of the convention. In the case of economic agreements, the duration is at times very brief (one year). For situations whose evolution is less rapid, the term of five years is frequent. At the appointed date, the convention automatically comes to an end.

941. Negotiators frequently foresee that situations which are expected to be settled in a limited time could actually extend beyond the original date envisaged. In such a case, the convention is provided with an extension clause. This clause can require that the extension be requested by one of the signatories a certain time before the expiration of the engagement, but it is in fact more often effected by tacit agreement (*par tacite reconduction*), which means that the convention is automatically extended, generally from year to year (except in case of denunciation, which must then be notified within a certain time-limit before the anniversary of the original term).

Unilateral termination (denunciation)

942. When the methods of bringing a treaty to an end are not stipulated in the text of the agreement, that does not mean that it is to be eternal. It simply signifies that the contracting parties have left open, by common consent, the time for terminating the agreement.

943. This can take effect by the joint wish of the parties expressed on a separate occasion, or on the occasion of signing another agreement. In the case of international organisations, a majority decision must be taken by member states in conformity with their statutes which specify quorum conditions and the majority required.

944. A possible extension of time is often written into the text of conventions to permit the contracting parties to adapt their legislation and their regulations to the conditions which will result at the end of the agreement. It may also happen that a government, in denouncing an agreement, proposes the negotiation of another on the same matter and suggests the calling of a conference for that purpose.

945. The denunciation of a treaty must be done in the same form and with the methods used for its signing. Only the executive power, qualified by national law to contract international agreements, can denounce treaties.

946. Treaties can be abrogated only in the form of regular denunciation notified through diplomatic channels. For this procedure to be legally valid it is essential that this formality be effected in accordance with the required rules.

Desuetude

947. It is generally admitted that treaties which consolidate friendly relations and accord with a settled state of equilibrium can be suddenly nullified if a major political event occurs between the two countries concerned or between two groups of countries. Revolutions have been seen to overthrow an entire treaty system. States have been seen to disappear totally by absorption in other states. Treaties frequently lapse on such occasions.

State of war

948. A situation which has frequently arisen is the state of war. As soon as war is declared, all conventions concluded between the belligerents become inoperative, as their application is incompatible with the new situation. Conventions for protection of wounded, of prisoners and for the civil population necessarily remain applicable in their entirety in keeping their purposes.

949. In peace settlements, the governments usually stipulate which agreements will remain in force or be revised. Those which have not expressly been continued or revised are to be considered as having definitely come to an end.

950. The breaking off of diplomatic relations, if not followed by a declaration of war, does not terminate treaties and conventions existing between the states concerned.

Rebus sic stantibus

951. A very controversial cause of lapsing (nullity) is that covered by the clause *rebus sic stantibus*. This abbreviated Latin expression that

authors called doctrine, theory, principle, rule or clause (this latter word being the more often used), is drawn from the following terms: *Conventio omnis intelligitur rebus sic stantibus*. It represents, wrote Professor Rousseau, 'a theory according to which an eventual change in factual circumstances in view or in consideration of which a treaty was concluded may lead to the desuetude of the treaty, or at least affect its obligatory force'. This theory, which applies a rule of private law to public international law, is very much disputed by jurists. After having seen in it a tacit clause, which is a fiction, they veer towards the application of the theory of lack of foresight. A very complete and subtle analysis is found in the report by Sir Gerald Fitzmaurice submitted to the International Law Commission of the United Nations (Doc. A/CN.4/107: 15 Mar 1957).

952. The clause *rebus sic stantibus* is the juridical screen utilised by states which wish to denounce unilaterally an awkward or out-of-date treaty and do not find in its text the means of doing so. Neither the International Court of Justice nor any other international tribunal appears to have ever held that a treaty outmoded by events but not having been made the object of a denunciation can be considered null. In practice, therefore, it is wise to consider that all treaties not denounced or otherwise terminated in legal form are in force.

International versus internal law

953. More controversial is the problem of the interdependence of international conventions and internal legislation. The primacy of international law over internal legislation is now generally admitted.

954. It is suggested that the solution of this problem be sought in treatises of international law. On the practical side, it seems to us that when the development of a state puts its internal laws in contradiction with the terms of an international agreement and menaces the latter with nullity – an event which never occurs in an abrupt or unforeseen manner – it is preferable to negotiate the adaptation of the agreement to the new conditions.

955. In doing so, both powers have equal interest. The state which sees another state oppose the modification of its internal law can consider itself wronged, since it loses without compensation an advantage which it has accorded only on a reciprocal basis, with the result that

the general equilibrium of the agreement may be partly destroyed. Conversely, the power which takes advantage of the modification of its internal law to dissociate itself from such contractual international obligations must realise that thereafter it will find more difficulty in obtaining by negotiation advantages that its partners may justifiably consider likely to be taken away from them at any moment. Such a state will pay more dearly for the advantages that it may obtain; and gain nothing in return.

SPECIAL FEATURES OF MULTILATERAL AGREEMENTS

956. In the past, major political events have been sanctioned by formal documents bearing the signatures of the plenipotentiaries of numerous states. The treaties of Westphalia (1648), of Vienna (1815), of Berlin (1878) and of Versailles (1919), which remodelled Europe, are among the most famous. Following the last two World Wars, international associations of states have set up world-wide or regional political organisations of continually growing importance. Furthermore, in the course of the nineteenth century, the multiplication and complexity of social, cultural and economic relations caused states to devise procedures for solving problems which became more and more varied and complicated. All existing states have come to be included in a wide range of multilateral agreements which often resulted in the creation of permanent international institutions. Finally, numerous conventions have been concluded during technical conferences established under the care of major world or regional organisations.

957. The conclusion and development of multilateral agreements present peculiarities which we will now examine.

958. When multilateral agreements are the result of an important political conference, their negotiation, since special delegations are charged with the entire question, does not directly interest diplomatic missions. On the other hand, many multilateral agreements of a regional or technical character are concluded in various capitals, and embassies are frequently associated with the discussion. Their preparation and their form differ on certain points from those of bilateral agreements. We therefore feel that it would be helpful to assemble useful observations in that connection in a special section.

Location and convocation of meeting

959. Conferences called for the purpose of concluding multilateral agreements are held on the initiative either of a government or of an international organisation. In the first case, they are generally held in the capital of the state which proposed them; in the second case, they can be held at the headquarters of the organisation or at any particular place considered more suitable for the purpose. The programme of the meeting and the date are fixed at the time of the preparatory exchange of views. The state or the organisation which takes the initiative convokes the conference.

Delegations

960. The choice of delegates is the right of each government. A conference dealing with technical questions frequently involves several ministries concerned and the delegation includes at least one representative of each of them. The chairmanship of the delegation goes, in principle, to the representative of the Ministry for Foreign Affairs. This latter department holds, it must be remembered, governmental responsibility for international negotiations. The nomination of delegates, the signing of instructions and the conclusion of all acts binding the interested government are entirely its concern. It receives the reports made by the delegations, the official report sent out by the organisation after the session, and in general all correspondence addressed by the latter to the government; it also makes whatever arrangements it considers necessary to circulate these documents.

961. If for any reason the chairmanship of the delegation has to be entrusted to an important person from another ministry, the second place belongs by right to the representative of the Ministry for Foreign Affairs.

962. Even if the delegation is composed entirely of technical representatives of ministries, it is considered to be acting formally for the Ministry for Foreign Affairs, as provided in the instructions which have been given it on that occasion.

963. A representative of the diplomatic mission, if the conference is convoked by a state, or a representative of the permanent delegation,

if the conference is convoked by an international organisation, is a member of the delegation and assures liaison with the ministry.

Powers

964. As conventions are negotiated without the signing being immediately envisaged, the powers of the delegates, which are powers for negotiation only, are delivered by the Ministry for Foreign Affairs. They are generally included in the letter from the ministry sending the list of the delegation and naming its president. On occasion, a special letter entrusted to the leader of the delegation confers the powers given. This is the case for United Nations. Generally, a credentials commission examines the powers and makes its report to the plenary conference. Sometimes the Secretariat of the organisation reports to the conference.

965. When negotiations are opened under the aegis of an international organisation, the permanent representatives of the member states are held to possess all the powers necessary to participate in the negotiation.

966. The delegates take part in the discussion and in voting. The final vote adopts the convention. However, as the delegates have no capacity to bind their government irrevocably, this vote is only given *ad referendum*.

Text of agreement reached

967. As the purpose of the conference is the negotiation of a convention it generally leads to the adoption of a text which will necessarily be the result of transactions between the governments associated in the discussions. The adoption is usually the result of a vote. The document to which the conference gives form is not always destined to be signed on the spot, but may be submitted to the interested governments. If not signed, it has the character of a draft document. The represented states can accept it as such, request modifications, make reservations or abstain temporarily or definitely from adhering to it. The adopted text can in case of need be revised, taken up again, or corrected at a new meeting.

968. A single original is prepared of which the depositary govern-

ment or the international organisation will deliver a certified copy to each state after its signature is affixed.

969. The preamble can be drawn up in conformity with tradition. The participating states are enumerated in alphabetic order in one of the languages in which the original text has been drafted. The alternat is not practised.

970. In recent treaties, instead of enumerating the signatory powers, simplified forms such as the following are used:

(i) *Treaty of Brussels – 17 March 1948*

The heads of state participating

Having resolved . . .

Desirous of concluding to that effect a treaty regulating their collaboration . . .

Have designated as their plenipotentiaries . . .

Who . . .

Have agreed upon the following dispositions. . . .

(ii) *North Atlantic Treaty – 4 April 1949*

The states parties to the present treaty . . .

Reaffirm their belief . . .

Having reached an agreement on the present North Atlantic Treaty. . . .

971. We cannot say that these forms, too short and lacking solemnity, constitute progress in relation to the traditional preamble indicated above (see para. 859 (i)). They are, however, unavoidable when the treaty associates several members of the Commonwealth (see para. 857).

972. When there is a final protocol, it too is drawn up in a specific manner when only one copy of the convention is signed.

973. The text must specify quite clearly who is obligated and towards whom the obligation exists. In drafts of agreements that they prepare or that are submitted to them, diplomatic missions should observe carefully the following points:

(i) territorial extension of the agreement. It is well to specify the exact geographic area affected;

(ii) the duration;

- (iii) the means of denunciation, if the term does not appear;
- (iv) the date prior to which the denunciation is not permitted and the period during which it can be effected;
- (v) the date of entry into force;
- (vi) ratification, if necessary;
- (vii) the statutory language;
- (viii) the procedure to follow in case of differences concerning the interpretation of the agreement.

Reservations

974. A reservation is a condition or exception made by a contracting party for the purpose of avoiding the execution of a clause of a treaty or of limiting its scope. It is one of the peculiarities of multilateral conventions. In a bilateral convention it would lead to the complete failure of the treaty, unless accepted by the other state concerned.

975. Although delegations express their objections in the course of negotiations, if they develop in a sense contrary to their instructions, their reservations are made either when the convention is signed or when it is ratified.

976. The first case occurs when a delegation receives strict instructions from its government not to accept a specific clause; the second arises when grave objections are raised against certain particular terms of the convention in the course of the ratification procedure.

977. The framing of reservations is not absolutely free. It is admitted, as a general rule, that the reservation must be compatible with the purpose of the convention. The constitution of the organisation sometimes indicates the points on which reservations cannot be made. These generally concern the fundamental condition which cannot be modified without risk of destroying the aim of the convention itself. It is advisable, in addition, to avoid disfiguring a text by an accumulation of reservations. The time during which reservations can be formulated does not generally exceed, for each signatory, the date of ratification. After this interlude reservations, to be acceptable, may require the declared agreement of all signatories.

978. Reservations can be withdrawn at any moment. They can be invoked by the interested state in opposition to all the parties and, conversely, by all the parties against it. They have no effect upon the

relations between the parties other than the authors of the reservations themselves.

979. Reservations formulated at the time multilateral conventions are signed often appear in a final protocol (see para. 982) or are written in the instrument of signature. Those formulated at the time of ratification are mentioned in the instrument of ratification and in the ratification protocol, if any (see para. 994).

Signature and seals

980. The deferred signature has become in practice the manner of signature of all multilateral conventions (see para. 899). The conference determines the place where the text will be signed and the date as of which the signatures can be affixed. It also names the depositary state or international organisation responsible for notifying all interested governments of the signing by the states, the ratifications which have been delivered, the eventual accession of other states, the reservations, the withdrawals, the denunciations and, generally speaking, everything that concerns the field of action, the validity and the duration of the convention.

981. The states which participated in the negotiations and have approved the text designate a plenipotentiary to whom they confer the necessary powers to sign the convention.

982. The *procès-verbal* of signature, if any, established on the occasion of the signing of the convention, can include reservations (see para. 979).

983. The protocol service of the state on whose territory the convention is signed is responsible for the material preparation of the texts and the organisation of the ceremonies which accompany the signature. They are assisted by members of the delegations charged with the secretariat of the conference. They should, in particular, be careful to see that the various points which must appear in the agreement (see para. 973) are included. The texts must be carefully compared when they are typed. If printed, the proofs should be re-read at least twice. The Secretariat should particularly watch over the arrangements concerning the alternat (see para. 969) to see that they are properly respected (see paras 901–95) and, finally, make sure that the original destined for each government is presented as it should be.

This original should, in each case, be the one in which the name of the plenipotentiary representing that particular government is cited first. His signature is affixed at the bottom of the text on the left or in the leading position.

984. In general, only the principal text is signed and sealed. This is likewise the case for additional articles when they are presented in a separate document (see para. 862). Appended letters are always signed by their author. Appended documents may or may not be signed or initialled. The alternat must be respected and the plenipotentiary of the country receiving the document should sign or initial on the left. No signature or initialling of appendices of a bilateral nature is necessary when they are tied together with the principal document and sealed in the same binding.

985. In order to facilitate the signature of conventions with many appendices, it is recommended that marks be made with a specially coloured pencil to show each plenipotentiary the place where he should sign. In this way, confusion may be avoided.

986. If they have not been bound before signing, the documents are bound together, after the signing, by the protocol service which affixes the seals of the plenipotentiaries. The ends of the ribbon are sealed with the wax seal of each plenipotentiary concerned (see paras 896 and 897). It is recalled that the personal seals only of the plenipotentiaries can be employed for this purpose.

987. The seal, if used, is affixed at the left of each signature. It is not affixed to appended documents, but it may, by holding the ends of the ribbons binding such documents, serve to prevent any tampering with them.

988. If a reception takes place on the occasion of the signing of a convention, delegations and the senior officers of the Ministry for Foreign Affairs and of interested technical ministries should be invited.

Accession

989. When a government which has participated in the negotiations of an international agreement decides, only after the period allowed for signing has elapsed, to associate itself with it, it can do so through the procedure of accession. This procedure also permits states which had not participated in the negotiations to submit to the general rules

adopted and to accede to the agreement. The text of conventions provides for the arrangements to be followed in such cases.

990. It is sometimes foreseen that countries may request permission to join states already associated. In this case, the convention is said to be open. The constitution or the internal regulations of the organisation determine the formalities to be completed.

991. In other cases, provision is made for member states to be able to invite another state to adhere to the convention. In this case, the constitution determines the rules (unanimity, statutory majority) which regulate the appeal, which always results in discussions between the states already associated and the possible adherent.

992. In general, the new adherent is admitted on an equal footing with other member states, whether or not it participated in the debates which created the organisation.

Headquarters

993. It is now current practice to deposit the original text of multilateral conventions concluded under the aegis of major international organisations (United Nations, Council of Europe, etc.) at the headquarters of these organisations. These latter then assume, with regard to the member states, the obligations of headquarters or depositary state.

Ratification

994. The ratification of multilateral conventions is performed in the same manner as that of bilateral conventions. The instrument of ratification, made out in constitutional form, is entrusted to the headquarters state or organisation and its deposition recorded in the customary way. Member states are informed of the ratification by the authority which received it.

Entry into force

995. It is usual for the approved text to make provision for the convention to take effect either at a day stated in advance, or as soon as it has received a previously determined number of ratifications, or from a combination of these two factors.

996. A convention could thus take effect before all its signatories have ratified it. The problem then arises of whether or not ratification is retroactive to the date of the approval of the text. This is important, as much with regard to the payment of contributions as to voting rights of the delegations and the validity of decisions adopted concerning states which have not yet ratified the convention. In the absence of any provision to the contrary, the present practice is to consider the convention to take effect for each state only as from the date of the deposit of its ratification.

Application

997. Among the matters on which the executive assemblies of international organisations can take decisions are a number which are adopted by a majority vote. These resolutions which have obtained the proportion of favourable votes required by statute are binding on all member states, even those which have voted against them.

998. This situation, although legally correct, runs the risk of provoking grave difficulties because a majority vote, taken, for example on budgetary matters, where simple majority vote is the rule, can affect the amount of the member states' contribution which is generally made on a percentage basis, against the wish of a particular member. The trend of the organisation can thus be modified indirectly. If a delegation has definite instructions on the matter, it may always express its reservations in due form (see paras 974-9).

999. In large organisations, certain constitutions or regulations provide for a delay to allow member states to make known their reservations. If no protests have been submitted within the time-limit specified, all members are assumed to be in agreement. The head of the delegation must, in his final report, mention not only the decisions adopted but also the time-limits within which it is possible to make reservations on, or raise opposition to, these decisions.

1000. The risk is particularly great in organisations covering a wide geographic area and grouping together states in very different political, economic or social circumstances. Certain of them, numerically in the majority, but not always taking a corresponding share of the costs of the organisation, can impose expenditure from which they alone will benefit. Others, on the contrary, can steer the organisation in a direction that

less developed states cannot follow because they have no corresponding internal administration. This is a stumbling block in all international organisations, and an adequate remedy cannot always be found. Consequently, all too often, the resolutions adopted by these organisations are insufficiently and ineffectively followed. Numerous examples are given by Madame Labeyrie-Menahem.*

Withdrawals

1001. In most cases conventions make provision for member states to quit an organisation with which they are associated. The text of the convention or the constitution of the organisation determine the conditions of withdrawal as also the regulations for joining. As a rule, it is stipulated that the government that wishes to withdraw should announce its intention to do so a certain time in advance and be up-to-date with its contributions. The withdrawal should be carried out according to each state's regular procedure.

1002. Another way for a state to show that it dissociates itself from the activities of an international organisation is by not paying its contribution.

1003. Conventions generally allow for the removal of a state from the list of members after a reasonable delay and several reminders. However, members of international organisations are reluctant to take such a step which is as lacking in courtesy as a defaulting debtor is lacking in good faith. A temporary solution, provided for by certain constitutions, is to refuse the vote to a state whose unpaid dues have reached a certain number of instalments. This has the merit of allowing the penitents to clear off the arrears, should their treasuries cease to be over-burdened.

Expulsion

1004. Conventions or constitutions sometimes provide for the expulsion of a member state if it has acted in violation of basic principles. Such effrontery is not rare. However, it must be admitted that international organisations generally lack the authority, character and moral force to take such decisions.

*C. Labeyrie-Menahem, *Des Institutions Spécialistes*, Paris, Pedone, 1953.

Termination

1005. Because of the conditions under which they are concluded and applied, multilateral conventions can come to an end in circumstances different from those which are responsible for the dissolution of bilateral agreements. For example, a multilateral convention can end:

(i) If it has attained its statutory term; this would apply in the case of a fixed-term convention.

(ii) If the withdrawal of member states reduces the number below the minimum figure fixed by the constitution.

(iii) If, by a vote taken with a majority predetermined by the terms of the constitution, the winding up of the organisation is pronounced; the disposal of the property of the organisation, if it is not provided for in the constitution, is then in danger of becoming a difficult problem.

(iv) If, in time of war, belligerent member states cease to apply their engagements between themselves, unless they have been concluded in view of such event; in such case, relations between such belligerent governments are usually effected through a neutral government. The rupture of diplomatic relations between member governments has no influence on the working of multilateral agreements.

4

International Organisations and International Officials

In the first three parts of this work we examined the role of protocol in traditional diplomatic activities. Since the middle of this century international organisations have played an increasing role in international relations. The rules of their internal protocol have now taken root. Owing to the fact that these organisations are still evolving, the information which we have gathered together here does not yet have such a definite character as diplomatic status. It is, nevertheless, based on sufficiently confirmed practice to make it possible to distinguish the basis of these rules and to deduce the consequences thereof.

CHAPTER FOURTEEN

INTERNATIONAL ORGANISATIONS

World organisation—Regional organisations—General character of international organisations—Inter-governmental organisations—Non-governmental (autonomous) organisations—Precedence among international organisations—Internal precedence of individual organisations



INTRODUCTORY REMARKS

1006. While aspirations towards a universal peace guaranteed by some form of association of states have existed for a long time, the creation of international organisations with political attributes is very recent. After the Treaty of Vienna (1815) the prime ministers of the five major European powers formed the habit of meeting about once each year to proceed to what we now call a general survey (*un tour d'horizon*). But this practice did not develop into an institution because the political evolution of Europe did not permit of its consolidation. The 'European concert' rendered, for a time, the same services. After the First World War the Peace Treaty of Versailles brought into existence the first of the permanent political organisations—the League of Nations. At the close of the Second World War the United Nations took its place and now groups under its aegis numerous international organisations responsible for the most varied tasks.

1007. International institutions and international organisms, which developed greatly during the twentieth century, were not too apparent until fairly late in diplomatic life. The International Commissions of the Rhine (1815) and the Danube (1859) were the first to come into existence. Then came the International Telegraphic Union (1865), followed by the Universal Postal Union, which took its name and actual form in 1874.

1008. As a result of the success of those organisations, governments recognised the advantage of entrusting to adequate international

organisms the responsibility for problems of a general administrative, social or connected character which had not hitherto required permanent diplomatic intervention. In this way a large number of international organisations without political objective sprang up. They cover bodies of wide complexity and diversity. Created empirically to treat a particular problem, they develop and disappear as much by reason of the utility of their purpose as by their capacity to adapt to the evolution of circumstances.

1009. When the United Nations Organisation was constituted it was thought that all existing international activities, and those which might develop in the future, could and would develop around it. The Economic and Social Council was conceived to control and direct all international non-political activities, such as economic, social, cultural and public health matters and other problems connected therewith. Certain existing international institutions, i.e. the Universal Postal Union, the Universal Telegraphic Union, and the International Labour Office, then became attached to the United Nations. Others, such as the World Health Organisation or the International Civil Aviation Organisation, resulted from the fusion of former existing groups. Certain others again, such as the United Nations Children's Fund (UNICEF) or the international financial organisations, were the outcome of the war.

1010. This development was interrupted when the split between the Eastern and Western blocs brought home to international organisations the risks they ran of seeing their work compromised if they were involved, even indirectly, in the political struggle tearing at the United Nations. Numerous new organisations thus arose or developed outside the United Nations. In the present state of evolution the sum total of all these international organisations can be divided into six major groupings, one world-wide and five regional.

WORLD ORGANISATION

1011. The world system is the United Nations (U.N.) which includes, in addition to the Secretariat and the organisations directly attached to it, Specialised Agencies – which are international organisations bound by special agreements to the United Nations – and numerous other organisations with world or regional competence and endowed with a variety of attributions.

REGIONAL ORGANISATIONS

1012. The regional organisations may be divided into five main regional groups.

The organisation of American States

1013. This organisation received its charter at the Conference of Bogotá on 30 April 1948, and includes the following permanent organisms:

- (i) *The Inter-American Economic and Social Council.*
- (ii) *The Inter-American Council of Jurists.*
- (iii) *The Inter-American Cultural Council.* (See para. 1311.)

'Western organisations'

1014. Various nations belonging to the 'Western' world have created among themselves a large number of organisations with the aim of strengthening their political, military and economic bonds. Chief among these are the following:

(i) *The Council of Europe* is a political organism with sixteen adherents. It possesses a Committee of Ministers and a consultative assembly composed of members of parliament of its members.

(ii) *The North Atlantic Treaty Organisation* (NATO) is a military alliance consisting of fifteen member states, thirteen of which are European and two American.

(iii) *The Western European Union* (W.E.U.) groups in a political, military, economic and administrative association Great Britain and six states of Western Continental Europe. These six states (Belgium, Federal Republic of Germany, France, Italy, Luxemburg and the Netherlands) have tightened their economic bonds by the creation of three distinct organisations:

- (a) *The European Coal and Steel Community* (E.C.S.C.).
- (b) *The European Economic Community* (E.E.C.): usually referred to as the 'Common Market'.
- (c) *The European Atomic Energy Community* (EURATOM).

These three communities have common institutions, such as an assembly, court of justice, etc.

(iv) *The Organisation for Economic Co-operation and Development* (O.E.C.D.). This was the original seventeen-nation Organisation for European Economic Co-operation (O.E.E.C.) founded in 1948 to distribute Marshall Aid among European nations. The organisation later applied itself to co-ordinating the economic and financial policies of its associates. Having reached the end of its mission, it was transformed into the O.E.C.D., of which the United States and Canada became members.

'Eastern' organisations

1015. These organisations are headed by the Union of Soviet Socialist Republics and, here again, have been formed to strengthen both military and economic bonds. Chief among them are:

(i) *The Warsaw Pact* is a military alliance which unites, militarily, the Union of Soviet Socialist Republics and the Communist European states. It corresponds to the Western NATO alliance.

(ii) *The Economic Council of Mutual Assistance* (KOMEKON) groups the Communist countries of Europe and Asia. This organisation constituted a counter-balance to the Organisation for European Economic Co-operation (O.E.E.C.).

Other regional groupings created on an agreement basis

1016. Various regional groups have been formed on an agreement basis and pursue political and economic action among their members. Typical of these are:

(i) *The Organisation of African Unity*, whose aim was to offer to independent African states the facilities which are found on a world level at the United Nations; a place to meet, where they can discuss their common problems and interests; a supra-national authority qualified to arbitrate litigation between states; co-ordination of national economies, social politics, etc. Belonging to this organisation does not exclude its members from special alliances based on ethnic, religious or linguistic affinities (the Arab League, Commonwealth), nor the formation of regional economic groups (Committee of the Senegal River and for countries bordering Lake Chad).

(ii) *The Arab League* consists of the Arab countries of Africa and the Near East.

(iii) *The Central Treaty Organisation* (CENTO) was formerly the Baghdad Pact and groups various Asiatic states and Great Britain. The United States is progressively associating with CENTO.

(iv) *The South-east Asia Collective Defence Treaty Organisation* (SEATO) groups ten Western Asiatic and Western Pacific states having common interests to defend in that part of the world.

The British Commonwealth of Nations

1017. The British Commonwealth of Nations – the Commonwealth, as it is generally referred to – is an international organisation of a particular type. It associates the United Kingdom of Great Britain and Northern Ireland with the governments of most of the territories which had been part of the British Empire and, after becoming independent, either kept the same sovereign or became a monarchy or a republic. Eire is not a part of the Commonwealth, but its nationals are treated in the United Kingdom as British nationals. The Union of South Africa, being in disaccord on internal politics, left the Commonwealth on 1 June 1961, but kept its economic and financial obligations.

1018. Members of the Commonwealth, who describe themselves as being 'United as free and equal members of the Commonwealth of Nations, freely co-operating in the pursuit of peace, liberty and progress', recognise the sovereign of Great Britain as Head of the Commonwealth. They are, with regard to Great Britain, on a variable footing. The territories administered directly by the Crown are represented by the British government. The Queen of England is also queen of several Commonwealth countries, e.g. of Australia, of Canada and of New Zealand. The relations of these independent territories with the United Kingdom are those of a personal union. For this reason the Queen performs certain sovereign acts, either directly (signature of credentials, *exequatur* of consuls) or indirectly through the Governor-General who represents her in each state of which she is the sovereign.

1019. India, Pakistan, Ghana, Nigeria and other independent republics remain voluntarily associated within the Commonwealth with the former dominions of the British Empire. It is the same for the Federation of Malaysia, which has become an elected monarchy.

This association is marked by a very complete system for the exchange of political and economic information, membership of the Sterling area and participation in the advantages of Imperial Preference. The Commonwealth, like other international organisations, has a common permanent secretariat called the Commonwealth Secretariat. The Prime Ministers of the Commonwealth meet when necessary, usually once or twice a year. Other ministers also meet in the same manner. In the meantime, the relations between member states are effected through the intermediary of a particular diplomatic body, the High Commissioners (see paras 55–61), and a special government office, which in Great Britain is the Commonwealth Office, and in the other Commonwealth territories, the Ministry for Foreign Affairs.

1020. The Commonwealth states are masters over their international relations. They are individually members of the United Nations and of numerous international organisations. They exchange High Commissioners with the other states of the Commonwealth and exercise through ambassadors, with all foreign countries and in all matters, their international activity in complete independence. The situation of those states of the former dominions which remained in personal union with the Crown in Great Britain leads, however, to certain complications in matters of international treaties (see para. 857). It has been agreed that the treaties concluded between the members of the Commonwealth should be notified for publication to the United Nations (see para. 927).

GENERAL CHARACTER OF INTERNATIONAL ORGANISATIONS

1021. In order to give a solid basis to the classification of international organisations it is advisable to seek the common character that they present and to grade the organisations following the criteria which can generally be accepted. In this connection authors do not seem to be in agreement and have not, as yet, reached definite conclusions on all points. It is nevertheless possible at this stage to make two quite clear distinctions. The first is between international organisations as such, and other types of association. The former, with very rare exceptions (see para. 1019), satisfy the following three conditions:

(i) *Organisation* – there must be an organisation, i.e. a permanent element. Such an organisation must possess a directive element and a permanent secretariat. It must have at its command the funds required for its normal work. It must have juridical status.

(ii) *International character* – the organisation must be of an international character, i.e. composed of independent states or territories or national associations qualified to associate with others for the pursuit of an objective of common character.

(iii) *International objective* – it must have an international objective, i.e. an objective of common general interest to a number of states or territories.

1022. The second distinction is between the two categories into which international organisations fall, that is, inter-governmental organisations on the one hand and autonomous or non-governmental organisations on the other. Briefly, these two categories can be described as follows:

(i) *Inter-governmental organisations* result from the conclusion of an international agreement negotiated, signed and ratified in conditions which are described in paras 956–1005.

(ii) *Non-governmental (autonomous) organisations*, according to the definition given in 1950 by the Institute of International Law, are groups of persons or communities freely created by private initiative and exercising, without hope of gain, an international activity of general interest without prejudice to exclusive national interests. To this definition is added the obligation to have, as an executive force, a permanent institution. These organisations are never created by an international agreement concluded between governments or official organisms (see para. 1022 (i)). It is on this very flexible basis that the Union of International Associations admits groups which claim this title.

INTER-GOVERNMENTAL ORGANISATIONS

General remarks

1023. There were 199 inter-governmental organisations in 1967. To be entitled to that name they must have been created by an international convention concluded exclusively between states or state

organisms, and have for their object the management of a public service or an international public interest. They should also have at their disposal a permanent office as well as a budget supported by the subsidies of member states or official organisms of member states, and pursue tasks of administrative, technical or scientific co-ordination.

1024. In addition to the necessity of having been created by an international convention, inter-governmental organisations must, as explained more briefly in para. 1021, satisfy the following criteria;

1025. First of all, there must be an organisation. That is, the organisation must possess a permanent element comprising an instrument of direction and an instrument of execution. The organisation must pursue a permanent objective of general interest, which distinguishes it from political or military alliances which are temporary coalitions of state interests. It must have a status which gives it the necessary authority and the means to enable it to carry out its mission independently, that is, a status which expresses and establishes a permanent delegation of powers emanating from the founding states, authorising it to act spontaneously, and independently of their diplomats. It must be endowed by its founders with adequate resources. The organisation possesses, in this way, an international personality and individuality distinct from those of its members. These attributes cannot, under any circumstances, authorise the organisation to claim a right to sovereignty and independence.

1026. The international character of an inter-governmental organisation results from the fact that the organisation has been constituted by the will of either:

- independent states;
 - territories having the capacity to associate in the desired objective with governments or foreign territories;
 - national organisations competent to that end;
- or
- two or three of these elements at the same time.

1027. Finally, the organisation must pursue an international objective which, limited as it may be in the general field of human activity, must be of lasting interest to several states.

1028. The convention creating an international organisation should determine the privileges, prerogatives and immunities which will be

recognised for its premises, its directors, its staff and the external delegations which come to participate in its work, the financial facilities which will be granted to it for the management and disposition of its funds, and the rules for recruitment of its staff, etc. These questions will be examined in more detail in paras 1044–75, in Chapter 15.

1029. It can be seen from the above that the basic texts of a major inter-governmental organisation must, of necessity, be numerous. The following list is only an indication:

- (i) the convention (also called the 'constitution');
- (ii) the internal regulations of directing organs (assembly, council, budget and financial committee);
- (iii) the financial regulations;
- (iv) the status of staff;
- (v) the agreement on privileges and immunities; and
- (vi) the headquarters agreement.

1030. To the above must be added, for the Specialised Agencies of the United Nations:

- (i) a special agreement with the United Nations;
- (ii) a collaborating agreement with the other Specialised Agencies.

The constitution

1031. The distinctive character of inter-governmental organisations is found in the convention which constituted them, which is commonly called the 'constitution' (*acte constitutif*). This basic document, drawn up in the course of an international conference by official delegates specially appointed by founding states, and signed in accordance with the special rules practised in such matters, is submitted to the governments which ratify it according to their internal rules. The constitution contains all fundamental rules for the working of the organisation and of its permanent administration.

1032. Two different elements are found in inter-governmental organisations: an element of direction emanating from member governments, and a permanent administration.

1033. The power of decision rests with the representatives of member states meeting in general assembly according to the pre-

scriptions of the constitution and internal regulations. It may happen that the choice of these representatives is not made exclusively by the governments themselves. Sometimes other elements may influence their designation, for example, trade union groups in the case of the International Labour Office. The debates are directed by an elected board of officials. The constitution and the internal regulations determine the rules by which the board is composed and elected, and sometimes even the method of appointment and the powers of the body called on to watch over the working of the organisation between sessions of the general assembly and to take the necessary decisions, should the occasion arise. It is more and more the practice of governments to attach to major organisations permanent delegations charged with following, in the interval between sessions, the affairs of interest to them.

1034. The preparation, formalisation and execution of decisions are the responsibility of the permanent secretariat, which also handles all research and studies within the scope of the organisation.

Resolutions and international regulations

1035. Assemblies, conferences, councils and all other authorities deliberate in a form similar to parliamentary or administrative organisms of the same type. The constitution and internal regulations determine the rules regarding majority and specify the cases in which a resolution, to be compulsory, must have been adopted either unanimously (as in diplomatic conferences), by a statutory majority (usually two-thirds), or by a simple majority. European communities have a very complex voting system, thoroughly regulated by treaties, varying according to the nature of the questions under discussion. In general, the constitutions and basic regulations require unanimity of decision by their executive organs. Such is the case of the North Atlantic Treaty Organisation (NATO), the Organisation for Economic Co-operation and Development (O.E.C.D.), the Western European Union (W.E.U.) and, for decisions of a particular order, the Council of Europe.

1036. Within the limits of powers which are recognised for it by its constitution, each organisation orients its activity, receives and delegates missions, receives contributions from its members and spends its funds according to the rules laid down by the constitution and the

financial regulations. Budgetary decisions are generally adopted by a simple majority so that the organisation can, within the limits in which its statutory assemblies or its qualified organisms have the right to decide, extend its activities beyond the boundaries originally fixed. In consequence, certain governments can find themselves involved beyond their original intentions. The constitution determines the conditions under which the rule of the majority can be imposed. As for fundamental problems, member states should find in the statutes either the possibility of requiring a new study of the disputed question or the facility to limit their engagements by reservations made during the debates or at a later stage of the proceedings.

1037. The interests of member states are obviously the determining element since, in the final analysis, it is the common international aim which must be taken into account.

1038. It is clear that the compulsory force of decisions is stronger when the member states are closer – geographically as well as from the point of view of their internal evolution – and firmly disposed towards international co-operation.

1039. The motions adopted by international organisations carry various names according to the terms of the constitution. If classified according to their compulsory force, we find:

(i) *notices* which express the more or less complete agreement of members of a conference or of an organisation, but which are not binding;

(ii) *directives and recommendations*, whose compulsory character varies according to the constitution;

(iii) *decisions*, which are compulsory in all their elements;

(iv) *regulations*, which have a general bearing. These are compulsory in all respects and are generally applied in all member states. They express general rules of international law or procedure. This term is usually reserved for resolutions adopted by a statutory majority. Each organisation determines, either in its constitution or by its internal regulations, the assemblies qualified to adopt such resolutions, the majority required for such a resolution to become compulsory and, finally, the minimum number of states which should sanction it for it to be implemented. It is indispensable to refer to the basic text in each case.

1040. The convention resulting from the debates of an organisation is a diplomatic act whose terms are adopted unanimously and which is subject, in its negotiation, its conclusion and its ratification, to the rules defined in Chapters Eleven and Thirteen above.

1041. In order for decisions and regulations of an international organisation to become binding, it is necessary for member states to assure their publication in constitutional form. It is to be noted that this operation is often performed in a defective manner. It is seldom that the deliberations of international organisations carrying the approbation of a decision or of an international regulation are transmitted to governments in a document signed by a qualified authority who guarantees the authenticity of the text which can be deposited in the treaty archives.

1042. The drafting, presentation, communication, deposit and registration of these documents do not always receive sufficient care and there are, therefore, few states which can guarantee that they are aware of all the engagements assumed in their name. This is certainly one of the most frequent causes for the non-execution of international agreements concluded in over-simplified form.

1043. While it is possible for each state, by calling for a detailed report from its chief of delegation, to obtain full details of the engagements to which it has subscribed, international information is not assured by existing procedures. It would therefore be useful for an arrangement to be made which would permit the grouping, in a single publication, of all decisions and conventions adopted, at least by inter-governmental organisations. This information should be prepared in such a form as to reveal immediately the majority obtained by each item, the states which adopted it, those which rejected it and, possibly, the reservations made and conditions in which it was put into execution. Publication by each organisation of an official bulletin such as that issued by the European Coal and Steel Community would be valuable in that respect.

Privileges and immunities

General considerations

1044. Until 1919 the question of privileges and immunities presented no problems as international organisations were very few.

Moreover, none of them possessed large resources. These organisations generally comprised limited staffs recruited on the spot and the transfer of funds presented no difficulties. International organisations increased unexpectedly after the creation of the League of Nations and of the International Labour Office, which brought about the institution in Switzerland of particularly advantageous conditions for international organisations. The scope of the problem was considerably extended by the creation of the United Nations and the multiplication of rich, powerful and ramified organisations.

1045. The movement tending to favour international organisations with a wide range of privileges and immunities was started by the United Nations which voted, on 13 February 1946, a resolution concerning the privileges and immunities of its organisation, and granting to it, as well as to its officials, a status close to that of career diplomats and diplomatic missions. Most of the member governments adhered to this convention.

1046. An agreement was also concluded between the United Nations and the American and Swiss governments for the headquarters of the United Nations at New York and at Geneva, Switzerland.

1047. Specialised Agencies succeeded in getting the General Assembly of the United Nations to adopt a settlement project granting them the same advantages. The ratification of the convention in favour of Specialised Agencies by member states proved to be more difficult because it multiplied the number of beneficiaries, while the immunities that it granted were less justified as they were requested by non-political organisations having apparently no need for such extended guarantees.

1048. Existing organisations naturally endeavoured on their part to obtain the same advantages as the institutions attached to the United Nations.

1049. The problems thus raised are of importance as much for the interested states as for the organisations. First, there was an important juridical problem. The basis of privileges and immunities granted to diplomatic missions is the necessity of guaranteeing their liberty of action, which is indispensable for the unhindered fulfilment of their mission. These privileges are granted by the law of nations. Their exercise can be easily controlled because the number of beneficiaries is limited. The governments have the right to control their exercise and,

as they are based on reciprocity, can curb any abuse – if need be, limit their extension.

1050. Such is not the case with international organisations. They do not possess sovereignty and are not protected by the law of nations. The privileges conceded call for no reciprocity and the number of beneficiaries reduces the possibility of strict control. The juridical origin of their immunities differs from that from which diplomatic missions benefit. If member governments desire that, to fulfil their aims without hindrance, an organisation, its staff and its mission benefit from certain privileges and immunities, they should expressly agree to that effect, either in the constitution itself or in a special agreement. These advantages can only be granted on the territory of member states and only specified advantages are due.

1051. The privileges and immunities of international organisations and of their officials, as generally specified in international acts, are attached to the function. That means that agents must be able to act with complete freedom and independence in order to permit the continuous and effective functioning of the organisation to which they belong.

1052. As the installation of an international organisation on the territory of a state undoubtedly brings various advantages, a certain rivalry exists between the better situated countries. International organisations generally obtain advantages which cover all the points enumerated above, or at least most of them.

1053. Some countries have adopted a general rule in such matters. Great Britain (Act of Parliament, 12 July 1950) and Switzerland (Federal Act, 1955) are examples. In France each organisation negotiates with the administration to determine its status as well as the exercise of privileges and immunities which it requires. We shall examine in Chapter Sixteen, in some detail, the status of a few organisations and the general or particular solutions which have prevailed in these various cases.

1054. The privileges and immunities which are required by inter-governmental organisations must be adapted to each particular case. They raise many theoretical and practical difficulties.

1055. In order to study this question in greater detail it is first necessary to distinguish between the general immunities conceded to the organisation as such by all its member states, and those which are

specifically granted to the administrative services of the organisation by the state on whose territory it has its headquarters. The first are found in the constitution or in a special agreement; the second are often the object of what is called the headquarters agreement (see paras 1065–78), which is concluded between the administration of the organisation and the government of the territory on which it has set up its offices.

1056. In most cases the agreements on privileges and immunities are concluded in the same form as the constitution and submitted, like it, to ratification since they include obligations on the part of member states. These agreements determine the privileges and immunities recognised for the directors of the organisation and its staff on the territory of member states, the privileges which the headquarters and the delegations sent to the assemblies will enjoy, the financial and Customs facilities which will be granted to the central administration and to its staff, etc. If the conventions are well drafted, there need be no difficulty in their application.

General privileges and immunities

1057. Member states must grant the organisation the attributes which condition its independent existence: its international juridical personality, its capacity to go to law and its right to acquire and administer the goods and property necessary to the execution of its tasks. Its international status must be guaranteed in the first place by immunity which exempts it from the jurisdiction of the courts without its express agreement. On the other hand, as the organisation cannot escape responsibility for its acts, a means of redress should be provided or the necessary machinery created to settle legal disputes in which the organisation may find itself engaged.

1058. The inviolability of the premises and the archives constitutes the second indispensable guarantee of international organisations. It does not appear, however, that their premises can serve as asylum, because the exercise of this very special right (see para. 173) constitutes an attribute of sovereignty which international organisations do not possess.

1059. The international organisation whose budget is supplied by funds from member states must be able to hold these funds, exchange them and transfer freely all monies. The local authority has the right to control the regularity of these operations.

1060. International organisations are exempt from all taxes, direct or indirect, except taxes or service charges representing services rendered. As concerns indirect taxes, which are included in the price of everyday purchases of goods, the organisations agree, in practice, to limit their exemption to important purchases. Goods imported or exported by the organisation for official use must be exempt from Customs duties as well as from all restrictions and prohibitions. The same favours must be granted for the publications of the organisations.

1061. The fullest means of communication must be available to the organisation.

1062. In order that organisations may fulfil their international mission they must be free to receive the delegations of member countries and these delegates must benefit from extended jurisdictional immunities and freedom of movement in such manner as to be able to express freely the opinion of their respective governments. Entitlement to such benefits ceases when an individual's membership of a delegation is terminated by his government.

1063. The organisations must likewise be able to call experts together and send them out on missions.

1064. It is generally conceded that these immunities do not cover members of the delegations with respect to their own governments, under whose authority they remain.

Headquarters privileges and immunities

1065. The agreement on privileges and immunities should, in principle, be sufficient to regulate the status of the administration of the organisation when it is established on the territory of a member state. The terms of such agreement may have to be completed; for instance, the status of headquarters is often the subject of a headquarters agreement between the organisation and the state in which the headquarters is established. This task is easy when the headquarters, as is generally the case, is established on the territory of a member state. As the government of that state has already recognised the organisation's existence it associates itself with the general aims of the organisation and is bound to support its activities. It acknowledges the clauses of the constitution giving the organisation its international status, appointing its directorate and its secretariat, settling the details of its finances and the funds that it can expect from other member

governments, and setting out the privileges and immunities agreed upon.

1066. It remains for the authorities of the host country to guarantee the smooth running of the organisation, and for that purpose a headquarters agreement generally contains provisions covering the main points developed below.

1067. Such an agreement is indispensable when the headquarters is established on the territory of a non-member state (Switzerland, for example, in the case of the Geneva office of the United Nations) or of a member state which has not ratified the convention on privileges and immunities (the United States, for example, in the case of the United Nations headquarters).

1068. Guarantees are given safeguarding the international character of the organisation, and assuring its freedom of action and that of its administrative and executive organs by the inviolability of its headquarters, correspondence and archives and by its right to correspond freely (if need be, in cipher) through the postal, telephone and telegraph services in all matters relating to the business of the organisation. Jurisdictional immunities are sometimes also granted. International organisations consider these immunities as guaranteeing their international character. These favours must formally exclude the right of asylum (see paras 173 and 1058).

1069. The agreement recognises the right of the administration of the organisation to convoke freely all assemblies, all sessions of the board of directors and all meetings of commissions or of experts deemed necessary for the smooth functioning of the organisation and the furtherance of its aims. The members of delegations coming from other countries for the occasion will be guaranteed the right to enter and to leave the territory freely. The documents that they carry will pass without restriction. They are usually granted jurisdictional immunities covering the opinions they may be called on to express within the limits of their mission – both verbally and in writing. These immunities do not normally cover the delegates, experts and officials who are nationals of the headquarters state, who remain its responsibility and subject to its authority.

1070. Such immunities cover only the members of the delegations and the staffs accompanying them. They cannot be claimed by representatives of information agencies or newspaper correspondents attending an international meeting. Such representatives only have a right

to the facilities necessary for the normal exercise of their profession, that is, access to assembly halls, Press conferences and public meetings, and suitable facilities for the use of telephone and telegraph services.

1071. The right to recruit qualified directing and executive staff freely, either externally or locally, is necessary for the smooth running of organisations. Free admission to and exit from the territory must be guaranteed to non-residents. The status of such staff must follow local legislation in such matters. Any exceptions that occur will be specified by the organisation and accepted by the headquarters state.

1072. The provision, in agreement with the headquarters state and other member states, for each organisation to issue to its permanent officials a travel document (*laissez-passer*), will permit these officials to justify their occupation and travel without formality *vis-à-vis* the services of the country in which they will have a recognised official position.

1073. The organisation functions with the funds it receives from abroad. The headquarters agreement must therefore determine the conditions under which it can receive those funds, change them into local currency for the salaries of its staff and the settlement of other expenses and transfer them externally for its needs or for those of its agents authorised to transfer their savings. The adaptation of exchange regulations, if they exist, should be effected at this time.

1074. International organisations should enjoy freedom from Customs duties in order to be able to receive from abroad, without expense and without hindrance, the various books, magazines, documents and specialised material necessary for the furtherance of their particular objectives. They must likewise be able to print and distribute freely all their publications, both in the territory of the headquarters state and abroad.

1075. It is generally admitted that the headquarters state should not, in principle, materially benefit at the expense of other member states of the organisation. International organisations do sometimes claim extended fiscal exemptions. There is no difficulty in recognising for them, in a general way, exemption from direct taxes on their income and premises. For these, reservation is generally made for taxes covering services rendered. The waiving of fees and taxes on the purchase and renting of premises required by the organisation is also normally

granted. The question of indirect taxes is more complex because these are included in everyday expenses. The principle is willingly agreed upon, but the administration of the host country is often non-committal about putting it into practice. The United Nations has agreed not to request refund of such indirect taxes except for important purchases. This example is generally followed and the headquarters agreement usually contains the obligation of the headquarters state to make, when possible, appropriate arrangements for remitting or reimbursing indirect or sales taxes on the costs of furniture and premises. The organisations also claim exemption from income tax on the allowances or salaries of their staff paid from their funds. Revenue authorities are sometimes evasive on this subject in cases where nationals of the headquarters state are involved.

1076. Governments generally grant jurisdictional immunity to administrative staff for acts performed in the exercise of their functions. Exemption from arrest, especially in the case of those caught in the act (*en flagrant délit*) is, however, only granted in exceptional cases.

1077. Governments also generally grant Customs-free entry without difficulty to foreign officials of international organisations when they arrive for the first time to take up their post. These facilities cover furniture, automobiles, radios, television sets and household appliances. To directors they concede more extended immunities, usually equivalent to those of the heads of diplomatic missions.

1078. The preferential treatment granted under these immunities or special facilities must not injure or prejudice in any way the country in which the organisation is located. The latter should therefore be able to control the exercise of the privileges and immunities it grants and if necessary punish their abuse. The chief administrative authority of each organisation has the power to lift the immunities should they hinder the course of justice, on condition that the smooth running of the organisation is not impaired.

NON-GOVERNMENTAL (AUTONOMOUS) ORGANISATIONS

General remarks

1079. Non-governmental organisations pursue a variety of objectives. The most powerful organisations of this type are the major Trade Union Federations (T.U.F.); the World Federation of Trade Unions

(W.F.T.U.); the International Confederation of Free Trade Unions (I.C.F.T.U.) and the International Federation of Christian Trade Unions (I.F.C.T.U.). Organisations of this category generally have their head offices in the countries in which they were founded. In 1967 there were approximately 2135 non-governmental organisations and associations, of which 483 had their headquarters in France, 366 in the United Kingdom, 385 in Switzerland, 318 in Belgium and 264 in the United States.

1080. The tendency towards world extension and international co-operation has already led a number of these European-based organisations to open offices or to create sections outside Europe. Moreover, the rapid expansion of these organisations throughout the world raises delicate problems. The personality and dynamic character of many of their leaders, as well as the evolution of the problems involved has either strongly influenced the growth of the institution or led to its decline. Duplication of activity is often revealed, involving unnecessary and costly competition. An important effort at classification, co-ordination, concentration and rationalisation is still necessary to ensure effective international co-operation. A multiplicity of conflicting interests renders any standardisation, which has scarcely begun, very difficult.

Privileges and immunities

1081. Non-governmental organisations clearly cannot claim the privileges and immunities which inter-governmental organisations enjoy. However, the states which grant them hospitality should also grant them the security necessary to enable them to operate in a normal way. If no formal headquarters agreement has been concluded, as is generally the case, the organisation, after due negotiation with the qualified authorities, will find in the general legislation of the country of residence the necessary safeguards applicable to international or foreign associations, supplemented, if need be, by preferential treatment from the authorities.

PRECEDENCE AMONG INTERNATIONAL ORGANISATIONS

1082. Precedence among international organisations is sometimes delicate to establish as certain of them lay claim, for local reasons, to a

particular rank by virtue of the importance of the role they play or of their relative seniority.

1083. The criteria for classification are numerous. Organisations can be graded according to the formality of their charters as well as the number of their members. It is also possible to distinguish them according to the qualifications of their founders: governments, administrations or private groups. These criteria, which are easily found within the constitution, may appear an easy means of differentiation, but there are non-governmental organisations whose international influence is very considerable. Such is the case of the Interparliamentary Union; also of the International Chamber of Commerce and the major trade unions. There are also many mixed organisations.

1084. An effort has been made to classify international organisations more or less generally according to their aims. On this basis, inter-governmental political or military organisations take precedence over the others. In each category, precedence is usually given to those which cover, geographically, a greater area.

1085. A further classification of organisations can be made according to their influence. Some, which are created purely for information purposes, bear the title of 'consultative organisations'. Their power of decision is limited to their budget. Others have more extended influence, depending on whether they deal with administrative or political matters. Others again even have power of coercion, such as the United Nations through its Security Council.

1086. International organisations can also be classified according to their financial resources. This classification reveals the interest which member governments attach to the organisation. The organisations can be divided between those which exist on state subsidies, those which have at their disposal resources granted or authorised by member states and those which live only on funds emanating from private groups or private persons.

1087. In practice, the following general order of classification has been agreed:

- (i) major international organisations: the United Nations, which has a general character and field of world action, naturally heads the list;
- (ii) regional organisations of a political and military character;
- (iii) major international organisations of an administrative,

economic, social or cultural character: first among these come the Specialised Agencies of the United Nations, arranged in the chronological order of their adherence to that organisation (see para. 1180);

(iv) major non-military organisations of a regional character;

(v) inter-governmental administrative organisations with world or regional competence;

(vi) international, non-governmental (autonomous) organisations.

1088. The Economic and Social Council, required by the United Nations to divide the latter according to their importance, established two lists. On the first (List A) appear ten organisations which have fundamental interests in most of the activities of the Council and are closely involved in the economic and social life of the sectors they represent. They are entitled to be represented at meetings of the Council by observers, to submit written declarations, to be heard by the Council on matters within their scope and to register questions on the agenda of the Council's meetings. These organisations are listed as:

International Chamber of Commerce

International Confederation of Free Trade Unions

International Co-operative Alliance

International Federation of Agricultural Producers

International Federation of Christian Trade Unions

International Organisation of Employers

Interparliamentary Union

World Federation of Trade Unions

World Federation of Associations for the United Nations

World Federation of Ex-Servicemen

Other organisations only interact with the Economic and Social Council through the Non-Governmental Organisation Committee.

1089. The second list (List B) includes 112 organisations whose particular competence is recognised. There are 176 others, considered capable of rendering valuable aid, who are 'inscribed on the registry'. Although the influence of these associations in the Council is very small, they receive information on the activities of the United Nations. Other associations also receive this information. Thus the correspondents of the Non-governmental Organisation Committees include 439 international and 4000 national organisations. In each category the groups are arranged in chronological order.

1090. The following basic list must be related to the rules of protocol which prevail in each country:

(i) The first place is always given to organisations of categories (i) and (ii) of para. 1087 whose headquarters are established on the territory of the host country.

(ii) Local representatives of international organisations in Lists A and B have precedence over the representatives of organisations in the other categories having their head office in the country (see paras 1088 and 1089).

(iii) Representatives of international organisations whose headquarters are in the country have precedence over representatives of the headquarters state accredited to international organisations which do not have their headquarters in the country.

(iv) Taking into account the priorities shown in (i) and (ii) above, the representatives accredited to international organisations are divided according to the category of the organisation to which they are accredited and, among themselves, according to the date of their appointment. Titles of nobility or honorary distinctions may modify this basic order (see para. 515). The authorities of each state have their own particular policy and grant at times exceptional precedence to certain groups. Local tradition or the circumstances of the moment can also impose certain modifications to these rules.

INTERNAL PRECEDENCE OF INDIVIDUAL ORGANISATIONS

1091. As indicated above, there are two distinct elements in international organisations, a directorate representing member governments, and a permanent administration.

1092. In the councils and committees which constitute the directorate, member governments have equal rights. The delegations are accordingly arranged in the alphabetical order determined by the constitution and the internal regulations of the organisation (see paras 693–700). Alphabetical order is also used when seating the representatives of states on the occasion of official ceremonies.

1093. Debates are directed by a board. The constitution and the basic texts always indicate the rules following which the board is

composed and elected. They determine the method of appointment and the powers of the permanent body called upon to direct, between sessions, the work of the organisation and to take, should the occasion arise, the necessary decisions. In the course of the session, special precedence is given to members of the elected board of the assembly. This precedence has no effect on the protocolar position of the delegations, who remain equal among themselves.

1094. However, the existence of an increasing number of permanent representatives poses certain problems. During the sessions, permanent representatives merge with their national delegations, and their heads take precedence according to whether or not they lead their country's delegation. Their assistants rank according to their functions and their grade. Outside of sessions they constitute a sort of diplomatic corps with special rules.

1095. Among permanent representatives the question of classifying the heads of diplomatic missions (see paras 51-3) does not arise. In many cases the heads of permanent delegations are not in possession of credentials and are not called on to present them in accordance with the normal procedure. An exchange of notes suffices to make known their appointment and that of their successor.

1096. Individually, the heads of permanent delegations, when they are considered *às-qualité*, take rank in the chronological order of notification of their appointment. The heads of permanent delegations have, in official ceremonies, precedence over all the other members of delegations, whatever their personal status may be.

1097. The other members of the delegations take rank among themselves according to their grade or the diplomatic position which has been given them in the official document announcing their appointment. All those with the rank of ambassador pass before ministers plenipotentiary, etc. They are arranged according to the date of their appointment to the grade they hold.

1098. In large organisations special regulations determine internal precedence. Such is the case of the United Nations (see paras 1210-30). When no regulation exists, those taking part in public ceremonies can be graded as follows :

(i) *As a body (corps)*

(a) the Chairman of the Assembly of the Council;

(b) the permanent head of the organisation (Secretary-General or Director-General);

(c) the Vice-Presidents and other members of the elected board;

(d) the President and, on occasion, the governing body of the Permanent Council of the organisation, if the Council is composed exclusively of government representatives;

(e) the heads of the delegations not forming part of the elected board, in the alphabetic order of states, each one accompanied, when necessary, by members of their delegations duly convoked;

(f) the heads of departments of the organisation and the members of their staff duly convoked.

(ii) *Individually*

At official receptions, like table invitations, individual precedence among heads of delegation is based on personal rank (members of the government, ambassadors and those ranked with them, ministers plenipotentiary and those ranked with them, and directors of ministries); in the absence of special rules, seniority of employment (political post) or grade (officials) can determine precedence in each category. Titles of nobility and honorary distinctions can also modify this classification (see para. 518). Other members rank according to the rules set out in para. 1094. If of equal grade members of delegations always take precedence over agents of organisations.

CHAPTER FIFTEEN

INTERNATIONAL OFFICIALS

Specific character of international public functions – Status of international officials – Privileges and immunities – Precedence



1099. The widening scope of international organisations in the course of these last few years has brought about a proliferation of their staff, who now perform countless acts to further international co-operation. As institutions evolve, new problems continually come to light. Certain controversies have not yet been completely resolved. In our attempt to clarify the present situation, to set forth certain principles and to indicate general rules, we have no delusions about the conclusiveness of the solutions.

SPECIFIC CHARACTER OF INTERNATIONAL PUBLIC FUNCTIONS

1100. We believe it is of interest, even essential, to call to the attention of international officials and of experts fulfilling a mission on foreign territory the following points:

(i) The international official who fulfils his mission on a given territory acts in international interests. The task entrusted to him by the organisation to which he belongs is carried out in the interest of the country where he is working. He should, therefore, be able to count on its helpfulness and goodwill.

(ii) When the privileges and immunities which he can claim do not result expressly from the regulations of the organisation by which he is employed, such concessions should be considered as marks of courtesy. At all events, their being granted will depend to an appreciable degree on the goodwill of local authorities. The official therefore has certain courtesy duties to perform.

(iii) Whether his mission be of study, research, technical assistance or of a humanitarian order, the international official should

not allow himself to exercise premature, sharp or severe judgements. Everything that existed before he arrived has a reason, good or bad, and its explanation does not usually correspond to conditions in the traveller's own country. There are always social or historical causes which he should seek. Criticism, if it comes from his mission, can come only afterwards. It will be accepted only if it is formulated in acceptable terms. Reforms will not be put into practice except to the extent that they can be adapted to local conditions and if presented in such a manner as not to provoke or hurt local feelings of pride.

(iv) The international official must also remember that, although he is in the service of an international organisation, he preserves his original nationality in the eyes of the authorities and the population of the country where he is. If his conduct causes the international organisation which employs him to be unfavourably judged, he runs the risk of his mission being a failure. But he will also do injustice to his own country, which is always judged abroad according to the behaviour of its nationals. This is a point to which the attention of governments as well as of international organisations should be specifically drawn when choosing their envoys.

These various considerations pose problems as yet unresolved in the selection and training of the staff of international institutions, and it is probable that it will yet be a long time before their solution is found.

1101. Three categories of persons participate, in various capacities, in the working of an international organisation:

(i) The first category consists of all those who have the responsibility of deciding and formulating the policy of the organisation; secretary-general or director-general, directors and heads of departments down to the officials in charge of the editing of documents.

(ii) The second category comprises all the staff who assist them in this task; interpreters and translators, clerical staff, bilingual stenographers and typists, etc.

(iii) The third category consists of domestic staff: janitors, drivers, etc. The authors consider that only some of these categories are entitled to be called 'international officials'.

1102. The following definition, given by Mlle S. Basdevant in her masterful study of the question, has become a classic: International officials are those individuals who are appointed by representatives

of several states, or by an institution created by an inter-state agreement and acting in their name, and, under the supervision of the one or the other, serve continuously and exclusively the collective interest of these states.*

From this definition the following rules have been deduced and are generally admitted:

(i) International officials belong only to inter-governmental organisations.

(ii) They must hold an office and not be professionals, thus excluding all executive and service staff.

(iii) They must, as individuals, dedicate all their time to the organisation which recruits them, whether as permanent officials or in a temporary mission when they are only required to fulfil a task limited as much in its extent as its duration. In the latter case, during his period of service for an international organisation the official must not work for his usual employer.

(iv) They must in no way belong to a state administration; this excludes any individual participating, as a representative of his country, in any assembly, conference or committee.

1103. Experience revealed that these principles required some limitation.

The total separation of officials from their home governments is not possible in all cases. Undoubtedly any official recruited by an international organisation should in normal practice cease to receive orders or any pay from his home government, but when an organisation is created it must recruit qualified staff able to carry out its plans without undue delay. Such staff can, in many cases, only be found among the administrations of member states. The organisation can only offer uncertain prospects for the future of its staff (career, retirement pension) when compared with what officials find in their own administrations. If a complete severance of ties with their original administrations was insisted on, most officials, and especially the best ones, would hesitate and the organisations would be deprived of the chance of recruiting indispensable and particularly qualified staff.

It is also in the interest of international co-operation that officials should be able to transfer between national administrations and inter-

* S. Basdevant, *Les Fonctionnaires Internationaux*, Paris, Sirey, 1931.

national organisations. Fully trained officials are often necessary, at least for a time, to international organisations, while civil servants could undoubtedly receive fuller professional training and experience if seconded outside their administrations. In fact, staff seconded from the administrations of member states are found in all inter-governmental organisations, although the seconding procedure does not work very easily in some states.

At the same time, international organisations themselves have taken on a different character. While the United Nations, the Specialised Agencies and the organisations which belong to it has retained a universal outlook, an increasing number of organisations have been created which are either regional or founded for a specific political task. Their officials have obligations and burdens of another type.

1104. The rules set forth above are also subject to some adaptation when they are applied to international officials belonging to or attached to organisations pursuing a specific policy, such as the North Atlantic Treaty Organisation (NATO), or whose activity is limited to a precise geographical zone. To work effectively, their officials are obliged to remain in contact with their national authorities, who can provide them with their own sources of information. Governments should, for their part, ensure that these officials accomplish their work satisfactorily and with a proper spirit. Thus, in such organisations, relations between such officials and their own governments do not break down.

STATUS OF INTERNATIONAL OFFICIALS

Recruitment

1105. In state administrations all officials are selected for specific duties, according to approved rules which require ability and probity. Before granting permanent status the administration tests their capabilities which justifies some period of training and trial. When the candidate has shown his abilities the administration recruits him permanently and guarantees him, from that moment, a career; his salary will be progressively increased; on attaining a certain age he will be entitled to a retirement pension; the administration cannot withhold his salary or dismiss him. On the other hand, staff members must obey all instructions from higher authorities and behave with due consideration towards them and the public. The status of civil servants guarantees

them against abuse of power and punishes all laxity in respect of the regulations.

1106. The position of international officials is different. Each organisation recruits its staff according to the particular needs and conditions at the moment. This makes it difficult for dedicated young men to consider such a career because information is generally lacking or incomplete, and posts open for competition and particulars concerning them are not always easy to find. These international organisations should publicise their recruitment and employment standards and determine a common level of university education for the benefit of candidates.

Special qualifications

1107. The specialised work of international officials demands certain additional qualifications, principally in the matter of languages, as many organisations practise at least two working languages.

Added to this, their work differs from that undertaken by a national administration. In such an administration an official has to deal with his own law and with his own countrymen. He has to solve individual cases which depend on a single set of laws and which concern people whose thought processes are much the same as his. The international official's task is to contribute to promoting agreements between a number of states where legislation and traditions usually differ greatly, and his work is more of co-ordination and of a diplomatic rather than an administrative character. It requires the special personal qualities and temperament specified for diplomats in Chapter One (see paras 23-6).

In one way [writes A. Loveday*] it is more difficult to learn the diplomacy required of an international official than that required of a diplomat accredited to a foreign government, for a diplomat has to interpret the policies and hopes of a country in which he is resident. He lives in and breathes the atmosphere. An international official may at best hope to make occasional brief visits to the country he has to understand; he must learn as best he can and

* A. Loveday, *Reflections on International Administration*, p. 24. This book is full of wise observations on this subject.

he must, in carrying out his daily duty of trying to promote understanding, approach the limitations, and at the highest political level they are real hindrances, to his own competence. Only by respecting differences in national manners, forms of address and common courtesies can the international official hope to penetrate below the surface and understand and interpret the man. The official, moreover, must not only himself understand, but must assist others to do so.

This special training must teach them how to distinguish in the course of their work the circumstances and situations favourable to the organisation and give them precedence over the interests of their own country.

This is one aspect of the international outlook with which all international officials must be endowed.

1108. The international official, and in fact everyone employed in any international organisation, must believe that his work is particularly important and that he has special responsibilities. He must, therefore, be loyal to the organisation which he serves. He must also show evidence of international goodwill in the accomplishment of his daily tasks.

1109. Finally, the international official must have some sort of dedication to this special work, the complication of which is such that it might discourage those without deep faith in the necessity for international co-operation, and also the feeling that their work will help to extend peace and happiness in the world.

International oath, loyalty and behaviour

1110. All officials appointed to the United Nations, Specialised Agencies and other international organisations with world-wide scope are required to take, generally in written form, the international oath of allegiance, which is drawn up in the following terms:

I solemnly undertake to exercise in all loyalty, discretion and conscience the functions entrusted to me as a member of the staff of (organisation); to discharge these functions and regulate my conduct with the interests of the (organisation) only in view and not to seek

or accept instructions in regard to the performance of my duties from any government or other authority external to the Organisation.

This pledge of loyalty illustrates an essential element of the duties of the international official.

1111. In organisations where this oath is not required, the letter of appointment generally refers to that part of the constitution or the staff regulations which details the obligations of the member of the staff. These obligations have been expressed in staff regulations adopted by member governments which are bound by them. No member government should consider as responsible to it an international official of its nationality. In the case of an international official belonging to an organisation of which his country is not a member, he ceases to be subject, in the exercise of his functions, to his own government.

1112. Staff regulations, an example of which is the United Nations' regulations adopted by the General Assembly on 2 February 1952, contain, generally in the same form, similar clauses.

First of all, it is generally declared that international officials depend exclusively on the head of the organisation which employs them; request for or acceptance of instructions from any external authority is prohibited. The conduct of international officials is described in some detail: prohibition against resorting to any activity incompatible with the exercise of their functions; obligation to abstain from all acts or declarations of a nature to discredit international public functions or incompatible with the integrity, the independence and the impartiality that their situation requires; reserve and tact in all questions where their national sentiments or other political or religious convictions could be involved. The regulations remind them of the need for discretion on questions with which they deal officially, even after they have terminated their services. They are forbidden during the period of their engagement, and generally on retirement, to receive from any individual government any honorary distinction and any form of favour, gift or gratuity, except for war services. The British government is particularly strict in this matter. They must not indulge in any political activity incompatible with the independence and the impartiality which their situation requires. They are reminded that the privileges and immunities which they enjoy do not excuse them from respecting the police laws and regulations in force.

Rights

1113. As international officials belong to an organisation instituted by the collective will of a number of states with joint control over its working, they necessarily act, and the organisation itself also acts, in the interest of all the member states. The responsibilities the officials assume and the decisions they are called on to make should not be affected by any nationalistic sentiment.

Their conduct should not be judged according to national criteria but in relation to the manner in which they fulfil their duties. Friction may result between member states, especially when a decision adopted only by a majority has to be executed by all of them. The organisation, to be sure of the loyalty of its officials, must protect them against the discontent that their acts, accomplished in conformity with the collective interest they serve, might provoke among the authorities of the headquarters state or of some other member state. Furthermore, international officials, deprived as they are of the protection of any national authority, must be guaranteed unhindered action by virtue of their position. Officials must also be protected from political intervention by their own national authorities. It has happened that a member state, dissatisfied on political grounds with the presence of one of its nationals in an international organisation, has tried to cause his dismissal.

These rights are also expressed in the constitution or in the staff regulations of all organisations.

1114. International officials attached to the Secretariat General of the United Nations can defend their rights before an administrative tribunal of that organ. Those who belong to Specialised Agencies have access to the administrative tribunal of the International Labour Organisation, which has already on several occasions rendered judgements correcting an abuse of power.

Career guarantees

1115. As a result of this solemn pledge, the international official is entitled to particular guarantees which are generally set out in the letter of engagement. This document specifies the permanent or temporary character of the employment, its duration, the advance

notice required for its termination should the occasion arise, and the period of probation. It also indicates the salary structure. Finally, it mentions whether the official is bound by the general statutes of the organisation or by special rules. These terms must be set out explicitly.

1116. Organisations usually make arrangements which will allow their staff, during their period of employment, to accumulate a pension or some other retirement fund; the official as well as the organisation contribute to it.

1117. Finally, an official must receive, during the period of his employment, salary increases corresponding to the greater value of his services and to the authority that his seniority must have brought him.

1118. Besides these material pledges, the organisation has other obligations towards its staff. Rules and regulations must guarantee, in a general way, the security without which an organisation cannot expect its staff to devote themselves completely to its interests.

1119. Problems of promotion frequently arise in connection with the equitable geographical distribution of employees from member states. The need for an organisation to employ officials from all member states is unquestionable, as is the right of each state to have, permanently by rotation, officials of its nationality in principal administrative positions. But this practice must not be followed to the point of obliging an organisation to appoint to some special post an agent who is less qualified than some other, simply because one nationality is insufficiently represented.

There are, furthermore, cases where the practice of geographic distribution cannot be envisaged. Language qualifications alone must dictate the choice of interpreters, translators and secretarial staff, while most minor posts, notably in domestic service and maintenance, can only go to nationals of the host country.

These details show that international officials are entitled to special protection from the organisation which employs them.

1120. The newness and sometimes the relative insecurity of international organisations have not so far permitted all of them to give their staff the same guarantees as state administrations, but those which have functioned for a number of years are already getting closer to doing so. This is especially so in the case of the International Labour Organisation, one of the oldest of the great international organisations, which has built up a reliable recruiting system through competition.

Officials also benefit from internal promotion and can pursue their career up to the highest grades. This organisation is a prototype of a stabilised international organisation and might offer a good model for all international organisations.

PRIVILEGES AND IMMUNITIES

General conditions

1121. The conventions creating international organisations always presuppose a special agreement granting privileges and immunities to the organisation, to headquarters staff and to missions from other countries and to those who go abroad and participate in its work. These privileges and immunities are usually granted by reference to those of diplomats. The chiefs of the organisations and their immediate deputies receive those of a head of diplomatic mission; the highest officials receive those of diplomats with corresponding rank.

This procedure seems convenient because national administrations are accustomed to dealing with diplomats and it avoids hurting pride when the officials concerned are career diplomats, but it nevertheless results in giving international officials certain privileges and immunities which do not always correspond exactly to what they need.

1122. The immunities necessary for international officials are different from those of diplomats and the terms generally employed in the agreement clearly mark this condition.

Diplomatic immunities are granted to the person and are guaranteed by the law of nations. Their purpose is to safeguard diplomats as completely as possible on the territory where they operate, in order to give them complete freedom of action. Jurisdictional immunity, which exempts them from the competence of the courts of the country; personal immunity, which prevents their arrest; Customs privileges, which permit them to bring with them and to import later whatever may be necessary for the maintenance of their households and for entertaining, etc.; fiscal privileges which exempt them from all control regarding their resources – these have no other purpose than to guarantee this liberty with respect to the host country. But diplomats remain under the jurisdiction of the country which sends them; the courts of that country are competent to judge punishable offences where the

local courts cannot act. It is thus possible for proceedings to be taken in both civil and criminal cases. The revenue authorities generally tax the salaries of diplomats stationed abroad, so that the fiscal diplomatic immunity which they enjoy in the country where they reside is only relative. The only real benefits are the Customs advantages which are granted them. But as all these arrangements are part of a world-wide system of reciprocity, the privileges granted by one country to foreign diplomats are thus enjoyed by diplomats in all other countries.

1123. The situation for international officials is very different, at least for those at headquarters or at offices enjoying the same status. The statutes of organisations generally specify that the immunities are granted in the interest of the function, i.e. the organisation's work. As the country where the officials reside has agreed to their presence its authorities are unlikely to hinder their work, which is in the interests of that country. But at the same time these officials must not act against the law while engaged in their duties.

But the unusual features of these privileges is that the immunities that cover the international official are total, so that international officials who enjoy full jurisdictional immunity cannot be judged by any country's courts, while those immunities which protect the diplomat represent only a transfer of competence, since diplomats remain under the jurisdiction of their own courts. Inasmuch as agreements on privileges and immunities always specify that these are granted in the interest of the function and not in the interest of the individual, the qualified authorities of these organisations can withdraw them. But that is a facility, not a legal obligation. It would seem desirable, therefore, to set up some sort of international jurisdiction competent to judge all cases which do not come under national jurisdiction.

Specific situations

1124. Privileges and immunities of international officials may be considered according to which of the four following categories is applicable:

- (i) at headquarters or in a permanent office of the organisation;
- (ii) on official mission on the territory of a member state of the organisation;

- (iii) on official mission on the territory of a state not a member of the organisation;
- (iv) in transit through the territory of a state where there is no official mission.

At headquarters or in permanent offices

1125. International officials are not in the same situation as diplomats. As international officials have administrative duties for the benefit of a community of states, the state on whose territory they live or work being interested in the success of their task, a solution to these problems must be sought relative to the status of officials of member states.

1126. State officials are not personally responsible for acts committed in the exercise of their duties. The administration which employs them bears the responsibility. If their acts have led to damages to third parties, it is incumbent upon the administration to compensate the victims. It is thus necessary to give the same jurisdictional immunity to international officials on behalf of their organisation. The benefit of jurisdictional immunity is generally extended to acts carried out in the performance of their duties by all permanent officials of international organisations who also benefit from most of the fiscal privileges. But as there is no national tribunal competent in cases where the organisation or its officials are involved, the organisations are obliged to institute some sort of proceedings to judge such cases.

1127. Usually certain facilities are granted to officials paid in foreign currency. They should also be exempt from police regulations concerning immigration and foreign workers, and have the right to import their household furniture and furnishings and their automobiles free of Customs duties.

1128. The problem of tax privileges for international officials is more complex. When the League of Nations was founded, the granting of fiscal immunity to officials of that organisation by the headquarters state was accepted easily enough because the number of persons concerned was limited and the principle was that international officials should be independent of the host state, as are diplomats. Later on, tax authorities became less lenient, in view of the proliferation of international organisations and of persons claiming the benefits of tax privileges.

It is not practicable for international officials to be subject to the tax laws of their native country, as is usual in the case of diplomats, as this would be contrary to the international character of the organisations, and result in serious disparities in the net remuneration of officials of the same rank but of different nationality.

1129. For various reasons certain organisations (the United Nations, the Western European Union, the European Communities) instituted an internal tax on the salaries of their officials. As the amount is finally distributed between member states, whose assessments are thus correspondingly reduced, this tax would appear to be a kind of book-keeping artifice.

The levying on the salaries of international officials of a tax earmarked for general international administrative expenses is not yet in sight, and at the moment most international officials do not pay taxes on the salaries they receive from the organisations to which they belong.

1130. In organisations of a political character whose staff needs extended protection, the immunities granted are generally the following:

- (i) personal immunity from arrest, except if 'caught in the act' (*en flagrant délit*);
- (ii) jurisdictional immunity for acts performed in the exercise of their international functions;
- (iii) fiscal immunity for salaries paid from the funds of the organisations;
- (iv) customs privileges; these, which include facilities granted to foreign agents for the purchase of automobiles, electric appliances and radio sets, can be revoked at any time by the host country;
- (v) exemption from police and immigration formalities for officials and their families;
- (vi) guarantee of departure in the event of international tension.

1131. Some additional benefits are often granted by the headquarters state to directors of international organisations by ranking them among heads of diplomatic missions. This usually includes extended jurisdictional immunity in civil and criminal matters and Customs facilities similar to those granted to heads of diplomatic missions. These benefits are, however, of a courtesy nature. Similar immunities may eventually be given, by special agreement, to international officials

working in an office opened in a country other than that of the headquarters of the organism.

1132. The dispensations vary very little. Officials of Specialised Agencies of the United Nations enjoy in the headquarters country the same privileges and immunities as officials of the United Nations itself. Officials of inter-governmental organisations not belonging to the United Nations benefit, in general, from privileges and immunities very similar to those of the United Nations, and it is only in slight details that they differ from one state to the other.

1133. Agreements always anticipate conditions in which these immunities may be waived, if need be, in order that justice may prevail.

Official mission on territory of member state

1134. The same benefits must be granted to anyone on detached service (experts), and in general to all persons employed by an international organisation and working outside its headquarters, either while carrying out a technical aid mission or in any other of the activities of the organisation. This mission must have been announced in advance by the organisation and approved by the government of the territory concerned. It then takes on an official character and guarantees to its members the protection of, and a special welcome by, the state. Similarly, for the success of the mission, its members must enjoy freedom of movement about the country and the opportunity to make any investigations they judge useful without being obstructed. They must be able to bring with them all necessary staff, and this staff should enjoy the same immunities and facilities as themselves. It is for this reason that, when immunities are anticipated in the constitution or basic regulations of international organisations, they can be more extensive for the staff of missions than for those of the headquarters or of permanent external offices.

1135. The International Court of Justice ruled that members of missions sent to foreign countries by the United Nations are under the protection of, and the responsibility of, the state on whose territory they are working, even if that state is not a member of the organisation. International jurisprudence thus gives valid protection to members of official missions.

1136. When agents of an organisation travel on official business from the headquarters of the organisation to its premises in another

country, these journeys do not constitute missions, but an ordinary visit to member states of the organisation. The qualified organisation provides these agents with a service order or a travel document, while their security is guaranteed by the application of the clauses on privileges and immunities of the headquarters agreement.

Official mission on territory of non-member state

1137. When a mission intends to operate on the territory of a state which is not a member of the organisation which sends it, the immunities which it can claim should be negotiated in advance. It is a real advantage for the mission, which is most often of a technical nature, to have everything settled before its arrival, so that it can begin its work immediately.

In fact, it is only if the mission is announced in advance and if the receiving state has given its approval, that the mission can claim the protection of the authorities and the special administrative facilities that it may need.

A notable judgement by the International Court of Justice has set out that United Nations missions while on a state's territory, even if that state is not a member of the organisation, are entitled to its protection, and that it is the responsibility of the receiving state if an incident occurs either by its fault or by its neglect and leads to damages.

Officials in transit through the territory of a state where there is no official mission

1138. International missions and their baggage and effects are not entitled, when in transit, to any special facilities for unlimited travel.

If missions need special facilities for storing or transporting baggage and effects, these must be requested in advance. The possession of a special *travel document*, if the organisation is authorised to issue one, will also simplify such arrangements.

PRECEDENCE

1139. We have set forth in the preceding chapter the basis for precedence among international organisations. Precedence among their officials, especially when the circumstances require mixing them with diplomats, is also complex.

Precedence among international officials

1140. As set forth above (see para. 1102), the term 'international official' covers only:

- (i) permanent administrative agents of an organisation;
- (ii) persons entrusted by the organisation, under its direction and control, with a temporary mission.

Precedence among international officials is decided according to the following principles:

(i) *Internal hierarchy* – each organisation establishes its own internal hierarchy. In each category, permanent officials have precedence over persons of the same rank on temporary duty.

(ii) *At official receptions* – officials are grouped by organisation following the order of internal precedence. Organisations are set out according to the order indicated in paras 1087–90.

(iii) *At table receptions* – international officials are seated according to their personal status. Their international office certainly constitutes the dominant element, but other administrative titles, honorary distinctions or titles of nobility can alter the order of precedence (see para. 515).

Precedence of international officials with respect to diplomats

1141. With respect to the diplomatic corps, heads of diplomatic missions, by the fact that they represent their state, have precedence in the country of residence over all international officials.

The application of this general rule with respect to the secretaries-general of major political organisations (the United Nations, NATO, Council of Europe, etc.), is particularly delicate because these high international officials have, in meetings of their own organisations, precedence over all heads of delegation, even if the latter are heads of government in their own countries.

This question is examined in more detail in Chapter Sixteen.

In applying the rules of protocol to diplomats not occupying a post of head of delegation but ranking high in the hierarchy, the Under-Secretaries of the United Nations, who are generally former

ambassadors, pass after ambassadors and other heads of diplomatic missions. The same applies by correlation of rank and as a courtesy, to directors-general or secretaries-general of Specialised Agencies or large international organisations.

Other international officials and career diplomats are seated according to their rank. (For the general rules practised in the United Nations, see paras 1210-30). Those on detached service (*chargé de mission*) are seated according to their status in their own countries. If, in their country, they have a public office or honorary distinction which gives them a certain precedence, it is a gesture of courtesy to give them the corresponding rank. When in doubt, the head of a mission can be ranked with a counsellor of embassy and the other members of his mission with secretaries.

It is well to remember the general rule of courtesy which, except with respect to the heads of diplomatic missions in their country of residence, gives precedence to all persons coming from abroad over nationals of the same rank.

Nationals of any country entrusted with an international mission are treated in their own country as foreigners to the extent that they take precedence over their fellow-countrymen of equal rank. It is likewise the case, when they are received abroad at their own embassy or consulate.

Finally, it is acknowledged that a special guest can be given the place of honour at table without other guests being offended. In such case, however, it is advisable, in order to avoid possible incidents, not to invite other diplomats and international officials to the same function until after a detailed study has been made of their respective places. When a guest of honour is invited it is recommended that mention be made on the invitation that the dinner is in honour of such a person, whose name and qualifications are given.

No distinction is made between men and women, each being seated according to rank. Diplomatic custom that requires that the wives of diplomats be placed in the same order as their husbands applies also to the wives of international officials when they are received together.

International officials, in principle, take precedence over consuls.

To avoid inevitable protocol disparity, heads of diplomatic missions and directors of international organisations are not invited to the same seated events.

Precedence of international officials with respect to permanent state representatives

1142. The problem of precedence among international officials and permanent state delegates attached to organisations is particularly delicate. There are no official rules in such matters, but the practice is as follows:

(i) In meetings attended by delegations from abroad and which are generally presided over by high-ranking personalities, heads of permanent delegations take part in a subordinate position and are seated according to the rank given them by the official document showing the composition of the delegation.

(ii) Between the sessions of the General Assembly, the heads of permanent missions and their staff constitute a sort of diplomatic corps accredited to the organisation and are subject to rules similar to those of ordinary diplomatic missions in relation to governments. Normally, therefore, the heads of permanent missions pass after the directorate of the organisation, that is the president of the permanent body elected by the assembly or the council, if there is one, and the director-general or the secretary-general of the organisation.

(iii) As the delegates do not represent, as diplomats do, their head of state, the hierarchical rules laid down by the Vienna Convention are not applicable. The permanent representatives are arranged, at receptions which they attend, in alphabetical order of the states they represent in the order adopted by the organisation. Among themselves, they rank in chronological order of the date of taking office.

1143. In following the foregoing principles, individual order appears as follows:

(i) Heads of permanent missions are classified in the order adopted by the organisation or in chronological order of presenting their credentials.

(ii) The other members of permanent missions are classified according to the title given in the document notifying their appointment (ambassador, minister-plenipotentiary, counsellor, etc.); they rank with one another, in each grade, in chronological order of the date of taking office, according to the rule applied in the diplomatic corps (see paras 349–51).

1144. It is only at table and at private receptions that the personal status of the heads of permanent missions should be taken into consideration. They have, in any event, precedence over all subordinate members of missions, regardless of their grade. Officials of international organisations and members of delegations follow according to the rules set out in para. 1098.

Precedence of international officials with respect to local officials

1145. Local circumstances vary in these matters. Consequently, it is impossible to lay down general rules.

Precedence is regulated by the principle that foreign officials in transit or resident in the country always take precedence over local officials of the same rank. That is a courtesy obligation. The same principle applies to the head of a special mission, as well as to the members of the mission, who are treated as distinguished foreign guests.

Precedence of international officials belonging to non-governmental organisations

1146. With respect to officials belonging to international, non-governmental organisations, official protocol is more summary. In the majority of cases, only the director-general or secretary-general can be ranked as an international official.

Normally he is seated among his colleagues, according to the date of foundation of the organisation which he directs. However, if he occupies a high administrative position in his own country or if he has received an honorary distinction which gives him a special rank, it is usual to attribute to him, by courtesy, corresponding precedence.

In such an unpredictable matter it is advisable to know the position of these organisations according to local rules of protocol and essential to know of the immunities provided for their staff.

CHAPTER SIXTEEN

LEGISLATIVE STATUS OF INTERNATIONAL ORGANISATIONS IN CERTAIN COUNTRIES: INTERNAL STRUCTURE OF SPECIFIC ORGANISATIONS

United States of America – United Kingdom – France –
Switzerland – United Nations – North Atlantic Treaty
Organisation – Council of Europe – European Communities –
Organisation of American States



1147. Readers will find below an outline of the rules and regulations concerning the status of international organisations in certain states where many such international organisations have their headquarters. They will also find information concerning the rules and practices of some typical organisations in matters of protocol and precedence.

UNITED STATES OF AMERICA

1148. The law of 29 December 1945 authorises the President of the United States to grant privileges and immunities to international organisations established on United States territory.

The benefit of this legislation has been granted to a number of organisations which are enumerated in a list which includes the United Nations, its Specialised Agencies and various inter-American agencies or organisations.

Privileges, exemptions and immunities of international organisations

Competency

1149. International organisations, to the extent consistent with the instrument creating them, are competent to:

- (i) enter into contracts;
- (ii) acquire and dispose of real and personal property;
- (iii) institute legal proceedings.

Jurisdictional immunities

1150. International organisations, their property and their assets, wherever located and by whomsoever held, enjoy the same immunity from lawsuits and every form of judicial process as is enjoyed by foreign governments, except to the extent that such organisations may expressly waive their immunity for the purpose of any proceedings or by the terms of any contract.

Inviolability

1151. The property and assets of international organisations are immune from search, unless such immunity be expressly waived, and from confiscation. The archives of international organisations are inviolable.

Customs duties, taxation, registration of foreign agents, communications, etc.

1152. As regards Customs duties and internal revenue taxes imposed upon or by reason of importation and the procedures connected therewith, the registration of foreign agents and the handling of official communications, the privileges, exemptions and immunities to which international organisations are entitled are those granted under similar circumstances to foreign governments.

Waiving of immunities

1153. The President of the United States, if it appears that there has been any abuse by an organisation, its officers or its employees, of the privileges, exemptions and immunities granted them, or for any other reason, may decide that the organisation in question shall cease to be classed as an international organisation entitled to such privileges, exemptions and immunities.

Privileges and immunities of international officials

1154. These privileges and immunities are granted only to persons who:

(i) have been duly notified to and accepted by the Secretary of State, as government representatives to, or officer or employee of, an international organisation;

(ii) have been designated by the Secretary of State, prior to formal notification and acceptance, as prospective government representative to, or officer or employee of, an international organisation;

(iii) are members of the family, suite or domestic staff of government representatives to, or officers or employees of, an international organisation.

Details of these immunities follow.

Personal jurisdictional immunity

1155. Representatives of foreign governments in or to international organisations, and officers and employees of such organisations, shall be immune from suit and legal process relating to acts performed by them in their official capacity and falling within their functions, except in so far as such immunity may be waived by the foreign government or international organisation concerned.

Administrative facilities

1156. Representatives of foreign governments in or to international organisations, and the officers and employees of such organisations and members of their immediate families residing with them, other than nationals of the United States, are, in so far as concerns laws regulating entry into and departure from the United States, alien registration, finger-printing and the registration of foreign agents, entitled to the same privileges, exemptions and immunities as are accorded to foreign diplomats and their families.

Customs courtesies

1157. The baggage and effects of alien officers and employees of international organisations, or of aliens designated by foreign governments to serve as their representatives in or to such organisations, or of their families, suites and servants, are admitted, when imported in connection with the arrival of the owner, free of Customs duties and free of internal revenue taxes imposed upon or by reason of importation.

Limitations to these privileges

1158. The following three limitations to these privileges are applied:

(i) No person can be considered as receiving diplomatic status or any privileges other than such as are specifically set forth.

(ii) Should it appear that the continued presence in the United States of any person entitled to the above-mentioned benefits is not desirable, the Secretary of State may inform the foreign government or international organisation concerned and, after the person in question shall have had a reasonable length of time to depart from the United States, he shall cease to be entitled to such benefits.

(iii) No American citizen employed in any international organisation in the United States may benefit from Customs or fiscal privileges.

Precedence

1159. The names of heads of international organisations whose headquarters are established in the United States are found in a special section of the diplomatic list, which is drawn up in the alphabetic order of the organisations. Individually, they rank either:

(i) as heads of diplomatic missions, in the order of seniority of their arrival;

(ii) according to the chronological order of the creation of the organisations;

(iii) according to the alphabetic order of the organisations.

1160. The general rules of precedence mentioned in paras 1140-4 are applied in ceremonies to which international officials are invited. Rules concerning especially the United Nations (paras 1210-30) or the representatives of the North Atlantic Treaty Organisation (paras 1253-62) are, of course, applied in the meetings of those organisations.

UNITED KINGDOM

1161. An act of 12 July 1950 makes general provision for privileges and immunities in favour of the staff of international organisations. In order that such organisations may benefit from this status an Order

in Council is necessary in each case, and it is adopted only after parliamentary consent. Organisations receive the privileges and immunities corresponding to their situation and their needs. Such arrangements have been approved in favour of the United Nations, most of the Specialised Agencies, the major European organisations, the North Atlantic Treaty Organisation and the Western European Union.

1162. The privileges and immunities granted to delegates and members of commissions of these organisations and to high officials and those on detached service (*chargé de mission*) are: jurisdictional immunity, inviolability of their residences and the same exemption from taxes that heads of diplomatic missions enjoy. Other officials and employees benefit from jurisdictional immunity for faults committed in the exercise of their official functions, and from tax exemption on the salaries received from the organisation. Members of their families, including children up to twenty-one years of age, benefit from the same immunities.

1163. Owing to the fact that heads or representatives of international organisations are not accredited to the sovereign, they have no place in official court protocol. They are considered as visitors and treated according to their personal rank.

1164. Only the delegation of the European Coal and Steel Community, the Intergovernmental Maritime Consultative Organisation (I.M.C.O.) and high officials of the Western European Union appear on the diplomatic list. They are arranged in the alphabetical order of the organisations.

FRANCE

1165. There is no general legislation in France concerning privileges and immunities from which international organisations can benefit. However, the French government ratified the Convention of 13 February 1946, on Privileges and Immunities of the United Nations, and is in the course of ratifying the Convention on the Privileges and Immunities of Specialised Agencies.

1166. The French government has concluded Conventions on Privileges and Immunities with the major organisations whose headquarters or certain services are established in France (e.g. O.E.C.D., the Council of Europe and the Western European Union).

1167. Each of the agreements specifically determines the privileges granted. Officials are treated according to their rank. Secretaries-general, assistant secretaries-general or deputies are treated as heads of diplomatic missions. Foreigners in the posts of director, head of department, counsellor and secretary in charge of administrative functions are treated as members of the diplomatic corps and receive an orange identity card entitling them to all privileges and immunities granted to diplomats. Assistants in charge of the execution of general directives, or of technical work requiring specific qualifications or experience are assimilated to consuls and receive a green or blue identity card entitling them to the same immunities as are granted to career consuls.

1168. Minor employees (office staff, typists, etc.) and foreign service staff are treated as subordinate diplomatic and consular staff and receive a grey identity card. They are exempt from taxes on their salaries paid by the organisation but not from the personal tax on living quarters. A status for inter-governmental administrative organisations, such as the Universal Postal Union, is still in course of discussion.

1169. As regards precedence among international organisations, the rules mentioned in paras 1087 and 1090 are generally applied.

SWITZERLAND

1170. Since the office of the League of Nations was opened on its territory, Switzerland has seen the establishment of numerous important international organisations. The European headquarters of the United Nations opened an office there, although the Swiss Confederation does not belong to the organisation. A convention dated 19 August 1946 regulates the privileges and immunities of the European headquarters of the United Nations at Geneva. Special agreements were concluded with each of the Specialised Agencies.

1171. As a result of the constant increase in the number of international organisations of all kinds which have established themselves in Switzerland, the federal government decided to regulate the situation in detail.

Accordingly, in a special message dated 28 July 1955, the federal Council submitted to the federal Assembly two federal laws approving

the status previously granted to the United Nations, to certain of its Specialised Agencies, as well as to the European Organisation for Nuclear Research, and the Inter-governmental Committee for European Migration. Moreover, a Customs regulation of 23 April 1952 had already settled in detail matters concerning the United Nations, Specialised Agencies and various other organisations.

1172. These regulations consolidated in Switzerland the privileges and immunities specified in the basic agreements adopted by the United Nations, to which Switzerland is not a party. Customs regulations are, on certain points, more generous than those of other states.

1173. A very complete status was thus granted in Switzerland to international organisations and to their officials, as well as to delegations and permanent missions of member states. Furthermore, the Swiss government grants identical privileges and immunities to foreign delegations which come to its territory to participate in international meetings convened by the United Nations or Specialised Agencies.

1174. The Swiss government considers that the generosity shown to international organisations and officials is an advantage to its country.

UNITED NATIONS

1175. The United Nations is an international complex of great importance, whose ramifications affect international affairs as well as those of individual states, in particular because of the importance which attaches to protocol problems of the organisation and of its staff.

1176. We shall deal later with the general character of the United Nations Organisation, the institutions dependent upon it, the privileges and immunities of the various organisations and permanent missions sent to it.

General character

1177. The United Nations Organisation, whose general mission is to maintain peace and international security, to develop friendly relations between states, and to endeavour to settle all kinds of problems which are of interest to humanity, consists of the following organs:

- (i) The General Assembly, with its commissions, committees and subsidiary organs
- (ii) The Security Council

- (iii) The Economic and Social Council
- (iv) The Trusteeship Council
- (v) The International Court of Justice
- (vi) The Secretariat.

1178. To define the essential character of this vast organisation we believe that we can do no better than to reproduce extracts of a report of the Secretary-General, submitted on 30 January 1953, on staff administration (document A/2304, appendix 3), which read as follows:

The Organization of the United Nations, does not constitute a 'super-state'. It does not enjoy sovereignty. . . . It constitutes a separate and distinct entity of member states. It possesses its own directing organs. . . . It has its judicial organ. . . . It has its administrative organisation, which is the Secretariat, whose Secretary-General is the Chief. He is the principal administrative official and the Chief Executive of the United Nations, and, in this capacity, bears heavy responsibilities and is endowed with wide independence and certain initiative powers. . . . The Organisation of the United Nations is not made to follow the instructions of a determined state, but to execute the decisions taken in common by all member states, within the framework of the statutes of its organs.

The Secretariat

1179. As will be seen, the Secretariat is the working hub of the United Nations Organisation. The Secretary-General is established in New York, at the Organisation's head office. Important organs are attached to the Secretariat, such as: (i) the United Nations Development Programme; (ii) the United Nations Children's Fund; (iii) the United Nations Relief and Works Agency for Palestine Refugees; (iv) the United Nations High Commission for Refugees. The heads of these organs hold the rank of Under-Secretary.

Various services of the Secretariat are established in Geneva, Switzerland, under the name of the United Nations Office at Geneva. They are divided into three organisms: the United Nations Office proper; the Economic Commission for Europe; and the High Commission for Refugees. The United Nations Office is, in a way, the seat of the United Nations in Europe. It is headed by a Director-General who

represents the Secretary-General. He has, in addition to his duties of representation and liaison, many tasks which range from the secretaryship for conferences held in Europe by the United Nations to various functions in matters of information and social affairs. The Economic Commission for Europe and the High Commission for Refugees are directly attached to New York. The General Agreement on Tariffs and Trade (G.A.T.T.) also maintains relations with the United Nations Organisation.

1180. Around this nucleus gravitate the Specialised Agencies and other international organisations which are linked to the United Nations by special co-operative agreements. The names of these organisations, in chronological order, with the date of the convention binding them to the United Nations, and the headquarters location, follow:

- (i) The International Labour Organisation (I.L.O.), 14 December 1946, with headquarters at Geneva
- (ii) The Food and Agricultural Organisation of the United Nations (F.A.O.), 14 December 1946, with headquarters in Rome
- (iii) The United Nations Educational, Scientific and Cultural Organisation (UNESCO), 14 December 1946, with headquarters in Paris
- (iv) The International Civil Aviation Organisation (I.C.A.O.), 13 May 1947, with headquarters in Montreal
- (v) The International Bank for Reconstruction and Development (I.B.R.D.), 15 December 1947, with headquarters in Washington, D.C.
- (vi) The International Monetary Fund (I.M.F.), 15 November 1947, with headquarters in Washington, D.C.
- (vii) The Universal Postal Union (U.P.U.), 1 July 1948, with headquarters in Berne
- (viii) The World Health Organisation (W.H.O.), 10 July 1948, with headquarters in Geneva
- (ix) The International Telecommunication Union (I.T.U.), 1 January 1949, with headquarters in Geneva
- (x) The World Meteorological Organisation (W.M.O.), 20 December 1951, with headquarters in Geneva

- (xi) The Inter-governmental Maritime Consultative Organisation (I.M.C.O.), 17 March 1958, with headquarters in London.

1181. Among the international organisations bound to the United Nations Organisation is the International Atomic Energy Agency (I.A.E.A.).

1182. The privileges and immunities of the United Nations Organisation were made the subject of a general convention approved by the General Assembly on 13 February 1946, while headquarters agreements were concluded with the United States of America and the Swiss governments, covering the functioning of the headquarters at New York on 26 June 1947, and at Geneva on 19 August 1946.

Permanent representations

1183. Owing to the increased importance of the United Nations and the Specialised Agencies attached to it, member states have established the custom of entrusting the representation of their interests to permanent missions, completely distinct from the diplomatic missions which they maintain in the host states.

1184. There are at present 126 permanent missions in New York, most of which are headed by ambassadors. At Geneva, sixty-nine missions are installed, including six observers. Thirty-seven are headed by ambassadors and ten by ministers.

The status of permanent missions was made the subject of resolution No. 257 (III), adopted by the General Assembly on 3 December 1948, as follows:

(1) The powers of permanent representatives must emanate from the head of state, the head of the government or the Minister for Foreign Affairs. These powers must specify the organ of the United Nations to which the representatives are accredited. Permanent representatives are always provided with credentials accrediting them to the United Nations, which they present to the Secretary-General according to a ceremonial and special protocol. It should be noted that, at the United Nations, seniority of heads of mission or permanent representatives in their employment never determines precedence.

(2) Appointments and the transfer of members of permanent

missions must be communicated to the Secretary-General by the head of mission.

(3) In case of temporary absence, the head of mission must notify the Secretary-General in writing of the name of the member of the delegation who will exercise the functions of head of mission.

1185. The growing number of permanent, as distinct from diplomatic, missions accredited to the United Nations, and the growth of their staff which led to the creation of a truly diplomatic corps *sui generis*, raised numerous problems which have not, as yet, been fully solved.

Privileges and immunities

1186. The Convention on Privileges and Immunities of the United Nations, approved by the General Assembly, 13 February 1946, determined the privileges and immunities of that Organisation. The resolution was submitted to member states and ninety-eight have already adhered to it, some with reservations. It should be noted that the resolution has not been ratified by the government of the United States.

1187. Article 1 recognises the status and powers of the Organisation. Article 2 enumerates its immunities (jurisdiction, inviolability of premises and archives, free movement of funds and fiscal exemptions). Article 3 guarantees the freedom of postal, telegraph and telephone communications. Article 4 indicates the immunities of representatives of member states. Article 5 establishes the status of officials, while article 7 authorises the Secretary-General to issue travel documents (*laissez-passer*) to personnel travelling on official business for the United Nations. These travel documents are recognised by member states, and their holders enjoy certain facilities with respect to obtaining visas and to frontier crossings. Article 8 includes a pledge by the Organisation to set up the necessary authority for the settlement of disputes in which it can become involved, and which, by reason of the jurisdictional immunity which it enjoys, cannot be brought before the courts of member states.

1188. *Flag*. On 20 October 1947 the General Assembly voted a resolution creating a special flag, its use determined by the code and regulations dated 19 December 1947, amended 11 November 1952,

and again in January 1967. It is flown on all buildings and offices of the United Nations. It cannot be flown during military operations without express authorisation. When it is flown with other flags, no one among the latter can take precedence over it. Detailed regulations provide for the arrangement or placing of flags of member states. The rule of alphabetical order, in English, is required even in the host country, except in special circumstances.

1189. Specialised Agencies obtained the vote of the General Assembly, 21 November 1947, of a convention on privileges and immunities favourable to them, as distinct from those of the United Nations. The ratification of this agreement by member states is not, however, very far advanced.

Permanent and temporary missions

1190. The personal immunities of representatives of member states, set forth in article 4 of the agreement, are very extensive. Section Sixteen specifies that the term 'representative' covers permanent representatives, deputy representatives, technical experts and secretaries.

These immunities are as follows:

- (i) immunity from personal arrest or detention and from the seizure of baggage; jurisdictional immunity from all acts performed in their official capacity;
- (ii) inviolability of all papers and documents;
- (iii) the right to receive and transmit all correspondence, including the use of codes and sealed pouches;
- (iv) exemption for themselves and for their wives from all restrictive immigration measures and from all registration formalities as foreigners, etc.;
- (v) exchange facilities similar to those granted to diplomats on temporary official mission;
- (vi) personal baggage facilities similar to those granted to diplomats of comparable rank;
- (vii) all other privileges granted to diplomats.

1191. These privileges and immunities can be withdrawn by member states, without prejudice to the purpose for which they are granted, in order that justice may take its course.

Immunities of United Nations Organisation officials

1192. Article 5 of the Convention on Privileges and Immunities of the United Nations Organisation, adopted 13 February 1946 by the General Assembly, to which ninety-eight member states have already adhered, fixes the status of officials of the Organisation. The Secretary-General and the Under-Secretaries, as well as their families enjoy to a certain extent, and as a courtesy by the government of the United States, privileges, immunities, exemptions and facilities granted to diplomatic envoys and their families. Other personnel enjoy the following immunities (Sec. XVIII):

- (i) jurisdictional immunity from all acts performed by them in their official capacity;
- (ii) exemption from all taxes on their salaries and emoluments paid by the Organisation;
- (iii) exemption from all national service;
- (iv) exemption from all formalities relating to the sojourn of foreigners;
- (v) the same exchange facilities as are granted diplomatic officials of comparable rank;
- (vi) the same facilities for repatriation, in case of international crisis, as are granted diplomats;
- (vii) the right to import, free from Customs duties, their household furniture and furnishings on their first arrival to take up service in the said country.

1193. The Secretary-General is qualified to waive the immunities granted to an official of the United Nations if, in his opinion, these immunities hinder the course of justice and can be waived without prejudice to the interests of the Organisation.

1194. Article 6, Section twenty-two, provides special immunities for persons temporarily employed by the United Nations as experts. They comprise:

- (i) immunity from personal arrest and detention and from the seizure of personal baggage;
- (ii) jurisdictional immunity for all acts accomplished or fulfilled during the period of their mission, including written or spoken

words. This immunity continues after the termination of their mission;

- (iii) inviolability of parcels and documents;
- (iv) right to the use of codes, couriers and sealed pouches in their relations with the United Nations;
- (v) the same facilities in monetary and exchange matters as are granted foreign representatives on temporary official mission;
- (vi) the same immunities and facilities for personal baggage as those granted diplomatic agents.

1195. The Secretary-General is qualified, should the occasion arise, to withdraw all immunity under the same conditions as for officials.

1196. Officials of the United Nations Secretariat on duty at United Nations Headquarters at New York do not receive diplomatic identity cards from the government of the United States; at the United Nations Office at Geneva they receive such cards from the Swiss government.

United Nations officials travelling on official missions receive a travel document (*laissez-passer*) issued by the Organisation. This document is recognised as valid for travel in all the states which have adhered to the General Convention on Privileges and Immunities of the United Nations. Officials of Specialised Agencies are provided by their organisations with a travel document (*laissez-passer*) or they can, by special arrangement, receive the United Nations card.

1197. It is often contended by various fiscal administrations that nationals of the host country can enjoy exemption from direct taxation. However, the United States government does not grant tax exemption to its nationals.

1198. The Convention on Privileges and Immunities of the United Nations and the headquarters agreements determine the procedures by which juridical difficulties can be resolved.

Headquarters agreement

1199. *The United States.* The agreement between the government of the United States and the United Nations, which also covers Specialised Agencies, deals in article 2 with the immunities granted to the Headquarters of the United Nations, in what is referred to as the administrative district, while article 3 determines the law in force and the competent authorities in the district.

1200. Article 4 specifies the right to travel of representatives of member states of the Organisation, of experts and representatives of information agencies, of representatives of non-governmental organisations and of all visitors to Headquarters. It is specified that these are granted regardless of the state of relations existing between the government of the United States and the states of those concerned. However, precautionary measures are taken for the protection of the United States against foreign nationals covered by these immunities who might abuse them. The American administration has established very detailed police measures to cope with these contingencies.

1201. Article 5 of the headquarters agreement with the government of the United States is very explicit. It distinguishes between principal permanent representatives attached to the United Nations or to Specialised Agencies, holding the rank of ambassador or minister plenipotentiary, who enjoy unrestrictedly the immunities granted by the United States to heads of diplomatic missions accredited at Washington, and other permanent members of the personnel of the representations who, in order to enjoy diplomatic immunities, must be designated following an arrangement between the Secretary-General, the government of the United States and the government concerned. The United States government thus reserves the right to determine certain qualifications and restrictions concerning the eligibility for diplomatic privileges and immunities of certain persons. On these conditions they are entitled to the same privileges and immunities as diplomatic personnel accredited to the government of the United States.

1202. This particular form of agreement with the host government should be noted.

1203. Article 5 grants the privileges and immunities of diplomatic agents accredited to the American government, with some reservations, to the representatives of states not represented in the United States, as follows:

- (i) to all principal permanent representatives holding the rank of ambassador or minister plenipotentiary;
- (ii) to permanent members of their personnel registered according to certain form in a special list;
- (iii) to principal permanent representatives or persons permanently

appointed by governments to Specialised Agencies, holding the rank of ambassador or minister plenipotentiary;

(iv) to other permanent representatives of Specialised Agencies or to permanent members of their personnel registered according to certain form on a special list.

1204. Articles 6 and 7 prescribe police measures to assure the protection of Headquarters. Article 8 deals with certain arrangements in case of disagreement between the American government and the Organisation. Article 9 deals especially with problems which would arise in the event of the transfer of United Nations Headquarters. It includes a number of general measures.

1205. Special mention was made in the headquarters agreement with the United States, regarding the representative and the personnel of a mission who belong to a member state not recognised by the American government. In that event, the United States government reserves the right to restrict the privileges which are granted to the boundaries of United Nations Headquarters, to their place of residence and to their office; if they are outside the Headquarters zone, to their movements between that zone, their residence and their office; if they should be in the course of an official mission, to their destination or to their point of departure (art. 5, section XV, 4).

1206. *Switzerland.* The headquarters agreement made with Switzerland is less complex. Since the Confederation, like the City of Geneva, is accustomed to receiving international organisations, political traditions, like administrative practice, are already well established.

1207. The Convention of 19 August 1946, concluded between the Swiss Federal Council and the Secretary-General of the United Nations, was drawn up according to the traditional plan; recognition of the legal status and the jurisdictional immunity of the United Nations Organisation, with various immunities (inviolability of premises and archives, exchange privileges, direct and indirect tax exemptions and communication facilities). The status of representatives of members is similar to that detailed in the headquarters agreement at New York. It is the same in the article concerning travel documents (*laissez-passer*) and for the settlement of disputes.

1208. Agreements, either in special form (agreements, executive arrangements) or by the exchange of letters, were concluded between

the Swiss Federal Council and the Specialised Agencies established at Geneva. They were codified in 1955 by two laws of the Federal Council (see para. 1171). Their advantages, with some exceptions, are also granted to inter-governmental organisations not belonging to the United Nations.

Precedence

1209. Just as each state is master of its internal protocol, so does the United Nations Organisation determine its own rules of protocol, with the one reservation that it does not create unjustifiable differences between member states. As no official order of precedence has been established by any international agreement, the protocol service of the United Nations had, in the light of such conditions, to create and codify a system of its own requiring great flexibility in its application. The present practice is given below.

Internal precedence of the Organisation

1210. Inside the United Nations, a complete hierarchy was established between its various components, the Specialised Agencies and the Secretariat. The order of precedence among the organs of the Secretariat of the United Nations is given in para. 1177. Some change was made at New York in the chronological order given for Specialised Agencies in para. 1180, and the precedence practised is as follows:

- (i) International Labour Organisation (I.L.O.)
- (ii) Food and Agricultural Organisation of the United Nations (F.A.O.)
- (iii) United Nations Educational, Scientific and Cultural Organisation (UNESCO)
- (iv) World Health Organisation (W.H.O.)
- (v) International Bank for Reconstruction and Development – World Bank (I.B.R.D.), also referred to as BANK
- (vi) International Finance Corporation (I.F.C.)
- (vii) International Development Association (I.D.A.)
- (viii) International Monetary Fund (I.M.F.), also referred to as FUND
- (ix) International Civil Aviation Organisation (I.C.A.O.)
- (x) Universal Postal Union (U.P.U.)

- (xi) International Telecommunication Union (I.T.U.)
- (xii) World Meteorological Organisation (W.M.O.)
- (xiii) Inter-governmental Maritime Consultative Organisation (I.M.C.O.)

Secretariat of the United Nations Organisation

1211. As regards the Secretariat, the following rules are practised.

1212. *Precedence of the Secretary-General.* The position in protocol occupied by the Secretary-General of the United Nations deserves careful examination because, owing to the high position and standing of the United Nations in the world, he is entitled to special consideration. He is, therefore, considered a guest of honour outside protocol and no one should feel offended to see him granted exceptional rank.

Vis-à-vis permanent representatives, the pre-eminent position of the Secretary-General cannot be questioned.

As a general rule, the Secretary-General of the United Nations is received with the honours accorded to a Prime Minister. However, some governments extend certain additional honours usually accorded when receiving heads of state.

It is customary for either the Prime Minister, or the Vice-Prime Minister where the head of state also exercises the functions of head of government, the Minister for Foreign Affairs and the chief of protocol of the Ministry for Foreign Affairs, to meet the Secretary-General on his disembarkment from a plane.

Quite often members of the diplomatic corps representing the member states of the Organisation are also present on arrival. Needless to say, in addition to these personages it is also customary for all the high-ranking officials of the United Nations and of Agencies with local offices to be present.

1213. *Officials of the Secretariat.* The following rules are applicable to officials of the Secretariat of the United Nations. After the Secretary-General come the Under-Secretaries and senior members in hierarchical order of precedence. Directors-General and Secretaries-General of Specialised Agencies rank ahead of Under-Secretaries.

Officials of equal rank are, in principle, entitled to the same precedence. Those of the Secretariat, however, have precedence over officials of the same rank in Specialised Agencies.

1214. At receptions where guests are invited in their official capacity,

or where individual rank must be taken into consideration, they rank with one another in the following order:

- (i) the Secretary-General of the United Nations;
- (ii) Directors-General of Specialised Agencies;
- (iii) Under-Secretaries and senior officers of equivalent rank, in alphabetical order of their names;
- (iv) officials of the United Nations and of United Nations bodies or Specialised Agencies, according to their rank.

Precedence among member states

1215. The principle of equality among states is fundamental. When their representatives meet officially and are of equal rank and functions, they are seated in the alphabetical order of the name of their country. This alphabetical order changes each year at the opening of the General Assembly. Mission members rank among themselves in the same alphabetical order. No special precedence is granted to the agent who replaces the head of mission when he is absent or unable to be present, unless he is duly notified as *chargé d'affaires ad interim*.

1216. The work of the United Nations proper is handled by assembly spokesmen, the Council and Commissions. Precedence varies according to whether it concerns an official meeting of the Organisation or the seating of individual members of delegations or of officials of the Secretariat.

1217. In each of these organs, representatives of member states exercising an international mandate are given special treatment. Under para. 1223 will be found the general order of precedence at present being applied; it can be modified according to circumstances.

1218. At seated events or private gatherings, the individual rank of each person, as well as his official position at the United Nations, are taken into account. It should be noted that when representatives or members of delegations of a state are invited at seated receptions at the same time as those of one or several other states, the first representatives are seated in the English alphabetical order of the name of their country valid for the session. It is the same, in the order, for the second representatives, and then the third, etc., in succession.

1219. The personal rank of each person is taken into account, also, depending on his grade.

1220. *Permanent missions.* These missions constitute a special problem. The number and the importance of their staff, which may include several officials with ambassadorial rank, presents problems more complex than those of the accredited diplomatic corps, general rules concerning which will be found in paras 334-43.

1221. Heads of permanent missions form a first category whose members, when they attend official ceremonies as a body, are seated in the English alphabetical order of the states which delegate them. The Under-Secretaries, who rank with ambassadors by United Nations protocol, follow.

1222. Among a rather large number of permanent missions, several ambassadors occupy advisory functions. The Under-Secretaries take precedence over them. Depending on the character of the meeting, heads of delegations who do not hold ambassadorial rank may or may not be seated above the second or third ambassadors of other delegations. It is the responsibility of the host to make all inquiries in advance in order to avoid protocol confusion among diplomats. Because official missions accredited to the Organisation are considered as foreign in their relations with the Organisation, members of these missions have, in accordance with the rules of international courtesy, precedence over Secretariat officials of equal rank. The relative ranks indicated in para. 1223 apply in such cases.

1223. With respect to permanent missions, the position of the Secretary-General is determined by the rules referred to in para. 1212. The remainder of the staff of the Secretariat or different organs of the United Nations as well as Specialised Agencies, can be classified *vis-à-vis* members of the diplomatic corps as follows:

Under-Secretaries	Ambassadors
Director (depending on the nature of his assignment)	Ambassador or Minister plenipotentiary
P. 5,	Counsellor of Embassy
P. 4,	First Secretary of Embassy
P. 3,	Second Secretary of Embassy
P. 2,	Third Secretary of Embassy
P. 1,	Attaché of Embassy.

1224. The general rules of international courtesy give precedence to diplomats, or those corresponding to diplomats of equal rank, over officials of the Secretariat.

General order of precedence

1225. Taking into account the various considerations set out above, in practice the order of individual precedence for the General Assembly of the United Nations Organisation, qualified as indicated in para. 1210, is shown below. It should be remembered that the first letters of alphabetical order is drawn each year before the opening session of the General Assembly and is valid for one year (see para. 1215):

- (i) President of the General Assembly;
- (ii) Secretary-General of the United Nations;
- (iii) Prime Ministers;
- (iv) Vice-Presidents of the General Assembly with the rank of Minister for Foreign Affairs or cabinet members, in the English alphabetical order of the name of their country;
- (v) President of the Security Council;
- (vi) deputy Prime Ministers or Vice-Presidents of the Council;
- (vii) Ministers for Foreign Affairs, in the English alphabetical order of the name of their country;
- (viii) President of the Economic and Social Council, if in session;
- (ix) President of the Trusteeship Council, if in session;
- (x) President of the International Court of Justice;
- (xi) Vice-Presidents of the General Assembly, holding the rank of ambassador or its equivalent, in the English alphabetical order of the name of their country;
- (xii) ministers and cabinet members, in the same order;
- (xiii) presidents of the seven main committees of the General Assembly, according to their diplomatic rank or, if of equal rank, according to the numerical order of their committees;
- (xiv) chairmen of delegations of the General Assembly, with the rank of ambassador, in the English alphabetical order of the name of their country;
- (xv) deputy Ministers for Foreign Affairs and Vice-Presidents of delegations if they rank ahead of permanent representatives;
- (xvi) permanent representatives to the United Nations according to their diplomatic rank or, if of equal rank, in the English alphabetical order of the name of their country;
- (xvii) presidents of the Advisory Committee on Administrative

and Budgetary questions, of the Committee on Contributions, and of the Administrative Tribunal;

(xviii) representatives to the General Assembly, with the rank of ambassador or its equivalent;

(xix) heads of Specialised Agencies and Under-Secretaries of the United Nations;

(xx) representatives to the General Assembly, not holding the rank of ambassador or its equivalent;

(xxi) directors of the United Nations;

(xxii) alternate representatives to the General Assembly, not holding the rank of ambassador or its equivalent.

Precedence in the Security Council

1226. In the Security Council a special protocol order is followed. The presidency is based on the monthly rotation of member states in the alphabetical order of their English names. Among themselves the representatives of equal rank take precedence in the alphabetical order of the names of their countries, beginning with the President.

1227. In Specialised Agencies and organs of the United Nations, the same precedence is followed as in the Security Council.

1228. On the territory of member states, the precedence given in paras 1210 and 1221 should be followed.

International Court of Justice

1229. By the terms of an agreement concluded in 1928 with the Netherlands government, judges of the International Court of Justice and its Clerk, if the latter does not hold Dutch nationality, enjoy the privileges and immunities reserved to heads of diplomatic missions.

1230. Members of the Court claimed precedence over heads of diplomatic missions accredited to The Hague, but the diplomatic corps refused to accept the claim. The Netherlands government agreed to the position taken by the diplomatic corps and, in order to avoid protocol incidents, does not officially entertain members of the Court at the same time as accredited diplomats.

Precedence: final considerations

1231. In addition to the preceding details on protocol practice in the United Nations the following rules are also mentioned as of interest to

our readers. Precedence, with respect to heads of diplomatic missions, is regulated in accordance with the principles set forth in para. 1223. Heads of accredited diplomatic missions take precedence over all international officials. Heads of permanent missions, regardless of their rank, pass after the secretary or director-general of the organisation to which they are accredited. It frequently occurs that, in order to avoid protocol difficulties, heads of mission and directors of international organisations are invited separately.

NORTH ATLANTIC TREATY ORGANISATION

General character

1232. The North Atlantic Treaty, signed in Washington on 4 April 1949, created between the principal European countries and the American countries bordering the Atlantic Ocean a political, economic, social and cultural community, as well as a defensive military alliance. Greece, Turkey, and later the Federal Republic of Germany, became associated with the twelve founder states by the Protocol of Association of London, 22 October 1961.

The Organisation, responsible for implementing the principles laid down in the treaty, comprises:

The North Atlantic Council

1233. The Council's permanent headquarters is in Brussels, Belgium. It is composed of representatives of member states. The Council can meet either on ministerial or permanent representative level. In ministerial meetings the governments are represented by heads of government or by one or several ministers (Foreign Affairs, Defence, Finance or Economic Affairs, etc.), according to the subjects listed on the agenda.

To enable the Council to exercise its functions uninterruptedly, permanent representatives holding the rank of ambassador sit in the intervals between ministerial meetings.

The Council is presided over by the Secretary-General. Ministers for Foreign Affairs assume, by rotation and in English alphabetical order, and for a period of one year, the duties of Honorary President, presiding over the opening and closing sessions.

1234. The North Atlantic Council has the standing of a permanent diplomatic conference; its decisions must be adopted unanimously.

The Secretariat

1235. The Secretary-General, who is also President of the Council, is responsible for the work of the Organisation and for the direction of the international secretariat.

A Deputy Secretary-General assists the Secretary-General in all aspects of his work.

1236. Four Assistant Secretaries head, respectively, the divisions of Economic and Financial Affairs, Political Affairs, Production Logistics and Infrastructure, and Scientific Affairs.

1237. An Executive Secretary is charged with the organisation of the work of the Council and with the implementation of its decisions. He also co-ordinates all activities concerning NATO committees; he is in charge of the Secretariat and supervises the preparation of the minutes of meetings, reports and other indispensable documents required in the work of committees.

1238. *Flag.* NATO is entitled to a flag; a four-pointed star on a blue background. This flag is flown on NATO headquarters buildings, on general military quarters and NATO military establishments.

A similar distinguishing flag is carried on the Secretary's automobile.

1239. Aeroplanes serving with NATO forces carry its flag in a roundel. A warship with mixed crew, placed under the orders of the Supreme Commander in Europe, carries the NATO colours at the bow or the stern. If it receives a visit from the Supreme Commander it hoists the latter's personal flag on the foremast.

Military organisation

1240. The military organisation is headed by the military committee, composed of chiefs of staff of member states or of their representatives. The military committee is assisted by an international military staff.

The strategic area covered by the North Atlantic Treaty is divided into three commands and a regional strategic group. The chiefs of the three commands are responsible for the defence plans of their respective regions, decisions regarding the forces necessary, as well as the deployment and training of the forces under their command.

Privileges and immunities

1241. Member governments were called upon to conclude with the Organisation and its branches, a number of agreements on general questions covering the status of general headquarters, the large military or naval units established on foreign territory, and the installation and the smooth working of numerous technical agencies which were also established. These questions will be dealt with generally.

We note that, while the Organisation and general headquarters have an international character, the armed forces outside national territory are *foreign forces*. That is, they have extraterritorial status.

Status of Organisation

1242. The Ottawa Agreement of 20 September 1951, on the status of the North Atlantic Treaty Organisation, national representatives and international staff, determined in detail the immunities granted to the Organisation and to persons working for it in whatever capacity. The Protocol of Paris, dated 28 August 1952, specified the status of international general military headquarters.

In articles 4-11 of the Ottawa Agreement, jurisdictional immunity, inviolability of premises and of archives and the freedom of monetary transactions are clearly expressed along traditional lines. The exemption from direct taxes is granted under the condition that the Organisation will not claim exemption from taxes which are, in reality, charges for public utility services. Customs-free entry, as well as the freedom to import and to export, are restricted to articles imported for the official use of the Organisation and for its publications. The reimbursement of duties and taxes on the acquisition of premises and for furniture and furnishings is provided in so far as possible. Complete freedom for correspondence is specifically guaranteed. On the other hand, in consideration of these immunities, the Council agrees to take suitable measures which will assure the settlement of litigation in which the Organisation or members of its staff acting in their official capacity, become involved.

1243. As regards persons called on to participate in the work of the Organisation, the agreement distinguishes between three categories: representatives of member states and the staffs of their delegations;

international staff of the Organisation; and experts on special mission. The privileges granted and the equating of ranks are generally by comparison with diplomatic missions and with official personnel with comparable rank.

Representatives of states and their delegations

1244. Representatives of states and members of their delegations enjoy immunity from arrest and from detention, jurisdictional immunity for acts performed in their official capacity, including oral and written statements, inviolability of correspondence, right to the use of codes, to the transmission of diplomatic bags and other sealed packages. Diplomatic staff are exempt, as also their wives, from registration formalities as foreigners and are granted the same facilities as heads of diplomatic missions in matters of exchange, import and re-export of their furniture and their automobiles. They also enjoy certain fiscal exemptions. A number of these concessions (jurisdiction, inviolability of papers, exemption from police measures and Customs formalities, partial fiscal exemptions), are also granted to personnel of the Secretariat (art. 14). It is specified that these immunities must be withdrawn if they hinder the course of justice. It is also specified that the articles do not oblige a state to grant the privileges of its own nationals.

1245. International staff of the Organisation, included by name on a list drawn up by agreement between it and member states, enjoy jurisdictional immunity for acts performed in their official capacity and within the limits of their authority. They also benefit from the rules concerning diplomats as regards police regulations, finance and Customs. The exemption from taxes on salaries and emoluments is also granted. In the event of an international crisis they have the same facilities for repatriation as diplomats.

1246. Finally, experts enjoy immunity from personal arrest, detention and seizure of their baggage; jurisdictional immunity regarding acts performed in the exercise of their duties; the same facilities in matters of monetary regulations, exchange and personal baggage as those granted to officials of foreign governments on temporary mission, and the inviolability of all papers and documents relating to their work for the Organisation.

General headquarters

1247. General headquarters, territorial commands and services dependent on NATO are covered by the privileges and immunities granted by special agreements. The Protocol of Paris, of 28 August 1952, fixed the status of International Military Headquarters. Special agreements between the Supreme Allied Command and the governments of each country regulate the setting up and functioning of General Interallied Headquarters. These texts are rather long but very explicit and determine in detail the rules to be followed in order to avoid all conflict with the territorial authorities.

1248. Immunity in matters of income tax applies only to the remuneration paid by the Organisation. Necessary Customs facilities for the organisations, like those for the armed forces, are specific. Plans for co-operation between the authorities of the host state and the NATO military authorities are also given in detail.

1249. Jurisdictional immunities were granted to military organs of SHAPE.

1250. Bilateral agreements were concluded between SHAPE and various states on whose territory general international military headquarters are located. An agreement of this type is in the course of negotiation between SHAPE and Belgium, where the new headquarters is installed.

1251. *Flag.* The Supreme Headquarters Allied Powers Europe has a green flag bearing a shield with twelve stripes representing the number of signatories to the North Atlantic Treaty, also a sword and an olive branch symbolising the armed forces necessary for the maintenance of peace. This flag flies over general headquarters. Subordinate headquarters each have their own flag.

The Supreme Commander carries the NATO flag on his automobile when travelling officially; on the right the NATO flag, on the left, his personal flag, i.e. the SHAPE flag with the addition of a gold star at each corner.

Foreign armed forces

1252. The London Convention of 19 June 1951 regulates the status of armed forces. This agreement was intended to determine to what

extent military forces are dependent upon their national authorities and the authorities of the country where they are established, especially in questions of prerogatives.

These immunities do not apply to the armed forces of the host state which remain entirely subject to its legislation.

Precedence

The North Atlantic Council

1253. The special position of the Secretary-General, who presides over the Council and directs the Organisation, merits close attention. The fact that he holds precedence, in his organisation, over chiefs of government, entitles him to receive particular honours in member countries of the Atlantic Alliance, where he should be treated very nearly as is the Secretary-General of the United Nations Organisation.

1254. Precedence of the Council is arranged as follows:

As a body:

- (i) the Honorary President of the Atlantic Council;
- (ii) the Secretary-General (President);
- (iii) heads of governments, Council Members, in alphabetical order of states;
- (iv) permanent representatives of member states, in alphabetical order of states, or their deputies, if they replace them;
- (v) the deputy Secretary-General, and the Assistant Secretaries;
- (vi) deputy permanent representatives;
- (vii) the Executive Secretary;
- (viii) delegations, in alphabetical order of states;
- (ix) directors and heads of departments of the Organisation.

Individual precedence:

- (i) the Honorary President;
- (ii) the Secretary-General (President);
- (iii) heads of government, in chronological order of their taking office;
- (iv) Ministers for Foreign Affairs, in the same order;
- (v) other members of government, in the same order;

- (vi) permanent representatives, with the rank of ambassador, following the date of their appointment;
- (vii) the deputy Secretary-General;
- (viii) deputy permanent representatives;
- (ix) Assistant Secretaries, in the order of their appointment, and the Executive Secretary;
- (x) members of permanent representations, with the rank of minister plenipotentiary, in order of seniority;
- (xi) directors and heads of departments, following the date of their appointment;
- (xii) members of permanent representations, in hierarchical order (counsellors, etc., and those of equivalent rank, in order of seniority);
- (xiii) Organisation officials, in hierarchical order.

In mixed civilian and military meetings

- (i) the Secretary-General, President of the Council;
- (ii) heads of government, following the date of their taking office;
- (iii) Ministers for Foreign Affairs, in the same order;
- (iv) other ministers, members of government, in the same order;
- (v) permanent representatives with the rank of ambassador, following the date of their appointment;
- (vi) the deputy Secretary-General;
- (vii) the general officer, presiding over the military committee in chiefs of staff session;
- (viii) the general officer presiding over the military committee in permanent session;
- (ix) the Chiefs of Staff, following the date of their taking office;
- (x) the Supreme Allied Commanders (SACEUR, SACLANT, and CINCHAN) (Commander-in-Chief Channel) according to seniority;
- (xi) generals and admirals (five stars);
- (xii) assistant secretaries, in order of the date of their taking office;
- (xiii) generals of Army Corps and vice-admirals (four stars).

Military organisms

1255. It was deemed necessary to establish special rules of precedence for meetings of military organs belonging to the North Atlantic

Treaty Council. We give below the order adopted for meetings which are held at Supreme Headquarters Allied Powers Europe (SHAPE):

- (i) the Supreme Allied Commander, Europe (SACEUR);
- (ii) the Deputy Supreme Allied Commander, Europe;
- (iii) the deputy air and naval commanders, by seniority;
- (iv) Chief of Staff;
- (v) deputy Chief of Staff, and the Assistant to the Chief of Staff;
- (vi) generals of division and vice-admirals;
- (vii) In alphabetical order:
 - the Scientific Adviser to the Supreme Allied Commander, Europe (civilian);
 - the Chief of the Division of Budget and Finance;
 - the Adviser to the Supreme Allied Commander, Europe, on international affairs (civilian).
- (viii) the Public Relations Adviser to the Supreme Allied Commander, Europe;
- (ix) brigadier-generals and rear-admirals.

1256. National military representatives who participate in meetings in their official capacity as military representatives of their country, have precedence over generals of division on duty at SHAPE; that is, they are seated between items (v) and (vi) above, irrespective of their rank. When they attend meetings in a personal capacity, national military representatives take, among SHAPE officers, the position corresponding to their rank and their seniority.

Allied forces in Europe

1257.

- (a) the Supreme Allied Commander, Europe (SACEUR);
- (b) subordinate commanders (Northern Europe, Central Europe, Southern Europe and the Mediterranean) in order of seniority;
- (c) general officers, in order of seniority.

1258. The armed forces of all countries have their own rules regarding precedence and on the manner of incorporating officers of foreign

nationality with their own nationals. It is necessary, therefore, to refer to those rules in each case.

We note that, in Great Britain, officers are not covered by the rules of official protocol (Appendix II), where only Court appointments, titles of nobility and honorary distinctions are taken into account.

In France, the Decree of 1907 (Appendix III), fixes the relative stature of most civilian and military authorities.

As regards the United States, para. 407 gives the order of precedence for the Federal Army.

COUNCIL OF EUROPE

1259. *General character.* The Council of Europe is quite different from the United Nations or the North Atlantic Treaty Organisation. It was created on 5 May 1949, a month after the Treaty of Washington which instituted the North Atlantic Treaty Organisation. The Council of Europe is composed of a Committee of Ministers, an Assembly and a Secretariat. The Committee of Ministers has the character of a diplomatic assembly. It frames convention projects which are submitted to governments.

1260. The Assembly has a consultative character, but acquired a certain authority by modification in 1951. Its members are elected by each parliament or appointed according to a fixed procedure. It controls its agenda and, in agreement with the Committee of Ministers, can meet in extraordinary session. It can entertain relations with national parliaments; thus, the Assembly, by its origins, its methods and the expression of its opinions, has taken the form of a European parliament.

1261. The European Commission of Human Rights has been established. The Secretariat is charged with the preparation of the deliberations of the Council and the Assembly. It includes, in addition to its clerk, several boards and services and also acts as Secretariat of the European Commission of Human Rights. The Clerk to the European Court of Human Rights is attached to it.

1262. The Council of Europe has a special flag, blue with twelve gold stars. This flag is flown permanently on the Council's premises. A pennant of the same design is carried on the automobile of the Secretary-General and that of the President of the Assembly.

Privileges and immunities

1263. The statute of the Council of Europe, signed in London, on 5 May 1949, specifies certain general principles in matters of privileges and immunities, and refers these questions for inclusion in a general convention to be concluded between member states, as well as in a special agreement for the headquarters in Strasbourg, to be made with the French government.

1264. The general agreement on privileges and immunities was signed in a single copy, 2 September 1949, in Paris, and is deposited in the archives of the Council of Europe. An additional protocol was concluded in Strasbourg, 6 November 1952. There were additional protocols of interest to members of the European Commission of Human Rights, the Resettlement Fund for National Refugees and Over-population, and the European Court of Human Rights.

1265. Part One of the general agreement of 1949, establishes the juridical personality of the Council and gives the Secretary-General the full exercise of power.

1266. Part Two determines the immunities of the Council (jurisdiction, inviolability of premises, exemption from all search measures, requisition, confiscation or expropriation, inviolability of archives and freedom in monetary matters). The Council agrees to take into account, on the latter point, representations which may possibly be made by member governments. Finally, the Council is exempt from all direct taxes. It agrees not to request exemption from taxes or dues which are considered charges for public utility services. It is also exempt from all Customs duties on articles destined for official use and from all duties and restrictions as regards publications.

1267. Part Three guarantees the freedom of official communications of the Committee of Ministers, as well as those of the Secretary-General.

1268. Part Four specifies the immunities of the members of the Committee of Ministers and their delegates; immunity from arrest, jurisdictional immunity covering freedom of speech as well as written communications and acts performed in their official capacity, inviolability of all papers and documents, the right to the use of codes and bags, general facilities granted to diplomats on official travel and,

especially, exemption from immigration regulations and facilities in monetary and exchange matters and for baggage. Juridical immunity in matters of speech and writing continues even after the representative's term of office has ended. However, it is specified that these various immunities do not cover representatives in cases when caught in the act (*en flagrant délit*) or with respect to their own governments. The term 'representative' covers all the staff and members of delegations.

1269. Part Five concerns immunities of regular representatives as well as their substitutes at the Consultative Assembly. Their freedom of movement is guaranteed when travelling to or returning from assembly meetings. This immunity also applies when they participate in meetings of a commission or sub-commission of the assembly. In that event they must be treated by their governments as they are treated by the countries which they pass, i.e., as high officials proceeding temporarily on official mission. Jurisdictional immunity is granted for acts performed in their capacity as representatives. During the session they benefit, in their own country, from immunities recognised for members of parliament and, on the territory of other member states, by immunity from all measures of detention or judicial pursuits. This exemption also covers them during their travels. But it cannot be invoked when 'caught in the act' (*en flagrant délit*). The assembly can withdraw this immunity.

1270. As regards agents of the Council, Part Six recognises for the Secretary-General and the Deputy Secretary-General, as well as their families, the privileges, immunities and facilities granted to diplomatic envoys. Immunities are granted to a number of officials, a list of whom is prepared by the Secretary-General. They benefit from jurisdictional immunity for acts performed by them in their official capacity and within the limits of their prerogatives.

1271. Officials on the list prepared by the Secretary-General are exempt from all taxes on their salaries and emoluments paid by the Council. They enjoy the same facilities as diplomats, for currency exchange, to import and export their furniture and furnishings, and for repatriation in a period of international crisis. The Secretary-General is competent to withdraw the immunities of his agents. Those of the Secretary-General and of the Deputy Secretary-General can only be withdrawn by the Committee of Ministers.

Precedence

1272. The three organs which compose the Council of Europe have their own particular precedence:

Committee of Ministers

- (i) The President of the Committee of Ministers, in the exercise of his duties;
- (ii) the other Ministers for Foreign Affairs, members of the committee, according to seniority of taking office;
- (iii) permanent representatives of the Council, according to the date of taking office.

The Assembly

- (i) The President of the Consultative Assembly;
- (ii) the Vice-Presidents, in the order determined by the number of votes each one received when elected;
- (iii) the Presidents of Commissions, in the established order, giving first place to the Political Commission;
- (iv) other members of the Assembly, according to age.

Secretariat

- (i) The Secretary-General;
- (ii) the deputy Secretary-General;
- (iii) the Clerk to the Assembly;
- (iv) the Clerk to the European Court of Human Rights;
- (v) the directors in the following order: Political; Human Rights; Economic and Social; Education and Cultural and Scientific Affairs; Juridical; Information and the Press; and Administrative Affairs;
- (vi) the heads of departments;
- (vii) the Counsellors, Secretaries, etc., in order of seniority.

Precedence in joint meetings

1273. On the occasion of official meetings of the Council of Europe, the following order is given, with reservations because definite rules have not as yet been established:

(i) *Collective precedence*

The President and members of the Committee of Ministers;

the President and the elected Board of the Consultative Assembly;
the Secretary-General;
the members of the Consultative Assembly;
the permanent representatives;
the deputy Secretary-General;
the Clerk to the Assembly;
the Clerk to the European Court of Human Rights;
the directors and heads of departments.

(ii) *Individual precedence*

The President of the Committee of Ministers;
the President of the Consultative Assembly;
the members of the Committee of Ministers, according to seniority of taking office;
the Secretary-General;
the members of the Consultative Assembly;
the permanent representatives, according to diplomatic title, in alphabetical order in French of their countries;
the deputy Secretary-General;
the Clerk to the Assembly;
the Clerk to the European Court of Human Rights;
the directors and heads of departments;
the members of permanent delegations;
the officials of the Organisation.

The rules stated in paras 514 and 515 on table seating should be observed.

EUROPEAN COMMUNITIES

1274. Since 1951, six states of Western Europe – the Federal Republic of Germany, Belgium, France, Italy, Luxemburg and the Netherlands – have undertaken to draw their countries closer together by creating organisations called on to study and endeavour to solve common economic problems, and have endowed them with important powers. First came the European Coal and Steel Community, founded by the Treaty of Paris, on 18 April 1951, and modified by a convention annexed to the Treaty of Rome, on 25 March 1957. The European

Economic Community and the European Atomic Energy Community were created, both at the same time, by the treaties signed in Rome on 25 March 1957. These three organisations have a common Assembly and a Court of Justice. They are empowered by member states to conclude treaties with governments and organisations interested in the activities of the Community.

1275. The European Coal and Steel Community was endowed with very broad powers. Its budget is financed by a tax levied for its benefit in the six member states and it has authority to contract for loans whose interest and amortisation are covered by its own resources. It can impose financial sanctions and assess fines on private enterprises contravening its regulations.

1276. The decisions of the Court of Justice are enforceable in member states after verification of the authenticity of the judgements.

1277. The six member states decided to proceed to the merger of part of their common institutions. Such was the object of the treaty signed in Brussels on 8 April 1965. This instrument covers the following points:

(i) the establishment of a single Council and a sole Commission which will replace the three Councils and the three Commissions and which will direct the Communities;

(ii) creation of a single administration and a common budget.

1278. The Treaty of Brussels includes:

(i) a protocol on the immunities of European Communities;

(ii) a decision relative to the provisional location of various institutions and of certain services of the Communities;

(iii) an interpretative declaration;

(iv) a declaration by the Federal Government of Germany concerning the application of the treaty to the Western Zone (*Land*) of Berlin.

1279. In the implementation of these agreements, the offices of the European Coal and Steel Community will be established in Brussels. Luxemburg, where the Court of Justice sits, will receive other offices such as the European Investment Bank and the Secretariat-General of the European Parliament. The Parliament will continue, nevertheless, to meet in Strasbourg.

1280. Pending ratification of the treaty, the new Commission's head

office was opened in Brussels on 1 January 1966. The merger of the Executives of the Commissions took place on 1 July 1967.

The Treaty of Brussels and its appendices will serve as a basis for the following summary:

The Council of European Communities

1281. The Council of European Communities is composed of representatives of member states, each government electing its own representatives.

A committee composed of permanent representatives of member states prepares the work of the Council. Representatives of member states are entitled to the privileges and facilities necessary for the exercise of their functions (see para. 1287).

The Commission of the European Communities

1282. The Commission of the European Communities takes the place of the High Authority of the European Coal and Steel Community, of the Commission of the European Economic Community and of the European Atomic Energy Commission from which it receives its powers and competence. It is to be composed of nine members, each state having at least one representative with a maximum of two. The Commission includes a president and three vice-presidents.

1283. Temporarily, and until the date of entry into force of the treaty establishing a single European Community, the Commission is composed of fourteen members, each state being allowed no more than three of its nationals as members.

1284. Provisional measures are being taken regarding the adaptation of the former statutes of the three communities, notably in financial matters. Numerous articles of the statutes of the three communities are abrogated, particularly those which concern immunities and privileges.

1285. Officials of the three communities will belong to a single administration and will receive a new status.

Representation of non-member states of the Communities

1286. Non-member states can accredit diplomatic missions to the Communities. The usual diplomatic immunities and privileges are recognised for these missions.

Immunities and privileges

1287. A Protocol signed at Brussels on 8 April 1965 replaces the former texts. It maintains the basic principle that the Council, the Commission, the Communities and the European Investment Bank enjoy, on the territory of member states, the immunities and privileges necessary for the accomplishment of their mission.

1288. Immunities and privileges, analogous to those of officials of the Communities, are granted to judges, advocates-general, clerks and to officials and employees of the Court of Justice.

Details of the immunities and privileges recognised to the Communities by the Treaty of Brussels will be found below.

Immunities and privileges of the Communities

1289. The Communities, to which the treaties give status, enjoy the immunities necessary to guarantee their international position:

(i) Jurisdictional immunity. This immunity does not exclude the Communities from civil responsibility; they can be sued before the Court of Justice of the Communities.

(ii) Inviolability of premises.

(iii) Exemption of property from all measures of search, requisition, confiscation or expropriation. These properties cannot be made the object of judicial or administrative restraint without authorisation of the Court of Justice of the Communities. The Communities can only be sued before the Court of Justice of the Communities.

(iv) Inviolability of archives.

(v) Exemption from all direct taxes on bank accounts, income and other properties. As for indirect taxes, member states will endeavour to permit remittance or their reimbursement when important purchases are made by the Communities for official use. No exemptions are granted for taxes or payments on public utility services.

(vi) Freedom of communication by all means, and inviolability of correspondence.

(vii) Right to issue travel documents (*laissez-passer*) which are valid on the territory of member states.

(viii) Customs immunities for necessary articles for the official use of the Communities and their publications.

Immunities and privileges of the members of the European Parliament

1290. Members of the European Parliament are entitled to the following:

(i) Complete freedom of movement when travelling to and from Assembly meetings.

(ii) In Customs and exchange control matters, in their own countries, the same immunities as those recognised for high officials on temporary mission and, in member states, the facilities recognised for representatives of foreign governments on temporary official mission.

(iii) Certain jurisdictional immunities: they cannot be prosecuted for opinions or votes expressed in the exercise of their functions; furthermore, during the sessions they benefit in their own country from parliamentary immunities and, in member states, from exemption from all measures of detention and legal action, even if caught in the act (*en flagrant délit*). The European Parliament can waive this immunity.

Immunities and privileges of representatives of member states

1291. Representatives of member states participating in the work of the organs of the Community, their counsellors and their technical experts enjoy the usual privileges and immunities during their stay and their travels.

Privileges and immunities of missions accredited to the High Authority

1292. Article 17 of the Brussels Protocol provides that the headquarters state must grant to official missions accredited to the Communities the usual diplomatic immunities.

1293. On the basis of reciprocity, missions sent by the High Authority receive similar treatment on the territory of non-member states of the Community. Such is the case in London by application of the *European Coal and Steel Community Act* of 28 October 1955.

Immunities and privileges of directing and administrative personnel of the Communities

1294. The Protocol of Brussels recast into a single text the protocols

concerning the immunities and privileges of the directorial and administrative personnel of the Communities. These provisions form Chapter Five of the text and include articles 12–16. Article 18 adds judges, advocates-general and Registrars of the Court of Justice. These immunities are:

- (i) jurisdictional immunity from acts performed in the exercise of their official duties;
- (ii) dispensation from immigration formalities and registration as foreigners;
- (iii) officials will enjoy the usual monetary and exchange facilities recognised for international officials;
- (iv) Customs facilities for the import of their household furniture and furnishings free of duty when taking up their functions;
- (v) national fiscal immunity for salaries and emoluments paid by the Community. In exchange for fiscal immunity in the country of residence, officials will pay to the Community a tax on their salaries and emoluments;
- (vi) officials will be enabled to maintain legal domicile in their country of origin, especially in matters of estate duty and double taxation.

1295. It is specified in article 18 that the privileges and immunities and facilities are granted only in the interests of the Community to which the official belongs. The Community is held responsible for waiving them when not contrary to the interests of the Organisations.

Precedence

Internal precedence of the Communities

1296. The statutes of the three Communities do not define their institutions in the same order. The European Coal and Steel Community, in particular, gives first or prior rank to the High Authority, followed by the Assembly and the Council of Ministers, while the other Communities enumerate, successively, the Assembly, the Council and then the Commission. The Protocol of Brussels put an end to the individual statutes of the European Coal and Steel Community.

1297. With the reservation that the situation, which is still fluid,

may change, we consider that the general order of precedence is now as follows:

- (i) the European Parliament;
- (ii) the Council;
- (iii) the Commission;
- (iv) the Court of Justice;
- (v) the European Investment Bank.

Precedence of the European Parliament

1298. The precedence of the members of the European Parliament is laid down as follows:

- (i) the President;
- (ii) the eight vice-presidents, in the order in which they are elected each year at the time of the election of the Board;
- (iii) the presidents of the political groups, according to the numerical importance of the groups and, if of equal number, according to their age;
- (iv) presidents of Commissions, according to their age;
- (v) vice-presidents of Commissions, according to their age;
- (vi) members, according to their age.

Precedence of the Council

1299. The representatives of member states take precedence according to the alphabetical order of their name in their own national language. The chairman changes by rotation every six months, according to this order, so that each representative occupies, in succession, each position around the table.

Precedence of the Commission

1300.

The President.

The vice-presidents, by age at the time of their appointment; then by rotation with a change every eight months.

The members, by age at the time of the constitution of the Commission. Subsequently, members who are appointed to vacancies take rank in order of appointment.

Precedence of the Court of Justice

1301.

- (i) The President.
- (ii) The President of the first Chamber.
- (iii) The President of the second Chamber.
- (iv) Judges, according to seniority; judges having the same seniority in function take rank according to their age. Retiring judges who are reappointed preserve their rank.
- (v) Advocates-general, following the same rules.
- (vi) The Registrar.

Precedence of government representatives

1302. Permanent representatives of governments of member states take precedence in rotation according to the internal rules of the Council. Heads of mission of non-member states and representatives of states associated with the Community form a separate diplomatic corps within which rank is considered according to the date of taking office (delivery of credentials or notification).

General order of precedence

1303. In practice, the general order of precedence results as follows:

- (i) President of the European Parliament;
- (ii) President of the Council;
- (iii) President of the Commission;
- (iv) President of the Court of Justice of the European Communities;
- (v) members of the Council (if they are Ministers for Foreign Affairs);
- (vi) vice-presidents of the Commission;
- (vii) members of the Council (if they are not Ministers for Foreign Affairs);
- (viii) members of the Commission;
- (ix) heads of diplomatic missions and permanent representatives attached to the Community;
- (x) vice-presidents of the European Parliament;
- (xi) judges and advocates-general attached to the Court of Justice of the European Communities;

- (xii) President of the European Investment Bank;
- (xiii) President of the Economic and Social Committee;
- (xiv) vice-presidents of the European Investment Bank;
- (xv) members of the European Parliament;
- (xvi) members of the Economic and Social Committee;
- (xvii) clerks and general secretaries of the organs of the Community;
- (xviii) *chargés d'affaires*, accredited to the Community;
- (xix) directors-general and other European officials of the same grade;
- (xx) directors and other European officials of the same grade;
- (xxi) deputy heads of diplomatic missions or minister-counsellors attached to diplomatic missions;
- (xxii) heads of division or other European officials of the same grade;
- (xxiii) counsellors of embassy and of legation;
- (xxiv) principal administrators and other European officials of the same grade;
- (xxv) secretaries of embassy and of legation;
- (xxvi) administrators and other European officials of the same grade;
- (xxvii) *attachés* of embassy and of legation.

ORGANISATION OF AMERICAN STATES

1304. The Organisation of American States is the world's oldest regional international organisation. In 1826, after liberating half of South America, Bolivar convoked a Conference of the American Republics in Panama City. Although the Conference, created by the Congress of Panama, never came into existence, the basic idea continued on its way.

In 1890 the First International Conference of American States, held in Washington, created the International Union of the American Republics and, as its central office, a Commercial Bureau. This Bureau was renamed the Pan American Union in 1910, following which its activities increased. In 1948 the Ninth International Conference of American States, held in Bogotá, adopted a charter giving the inter-American system its present juridical form and structure. It changed

the name of the Union of the American Republics into that of the Organisation of the American States and designated the Pan American Union as its general Secretariat. The 'American Declaration of the Rights and Duties of Man' was also adopted by that Conference.

In February 1967 the Third Special Inter-American Conference met at Buenos Aires and adopted a new O.A.S. Charter, which is now in the process of ratification by O.A.S. member countries (see para. 1316 below).

1305. Article 1 of the Charter states that: 'Within the United Nations, the Organisation of American States is a regional Agency', although the Organisation operates with complete independence. Members of the Organisation include twenty-two independent and sovereign nations of the western hemisphere. The present government of Cuba was excluded from participation in the inter-American system because its form of government is incompatible with the principles and objectives of the inter-American system.

1306. The aims of the Organisation are to strengthen the peace and security of the continent; to ensure the pacific settlement of any dispute that may arise among member states; to provide common action in the event of aggression; to seek a solution to political, juridical and economic problems that may arise among them, and to promote by co-operative action, their economic, social and cultural development (art. 4 of the Charter).

The expenses of the O.A.S. are shared by all member states through quotas assigned to each government which are in the same relative proportion as their contributions of the United Nations.

1307. The main organs of the O.A.S. are as follows:

- (i) The Inter-American Conference;
- (ii) The Meeting of Consultation of Ministers for Foreign Affairs;
- (iii) The Council;
- (iv) The Pan American Union;
- (v) The Specialised Conferences;
- (vi) The Specialised Organisations.

1308. The Inter-American Conference is the supreme organ of the Organisation. It meets every five years in one of the member states. Each member state has only one voice. In special circumstances, special Inter-American Conferences may be held between regular meetings.

The Conference decides the general action and policy of the Organisation, determines the structure and functions of its organs and has the authority to consider any matter relating to friendly relations among the American states.

1309. The Meeting of Consultation of Ministers for Foreign Affairs is held to consider problems of an urgent nature and of common interest and to act as an organ of consultation in cases of armed attack and threats to peace.

1310. The Council of the O.A.S. is a permanent organ that carries out a wide range of responsibilities. It is composed of one representative of each member state, especially appointed by the respective government, with the rank of ambassador.

The Chairman and Vice-Chairman of the Council are elected annually. The Council meets normally every two weeks and frequently holds special sessions. Its numerous functions and responsibilities are carried out through the various committees which meet daily.

1311. The Council of the O.A.S. has three organs:

- (i) The Inter-American Economic and Social Council;
- (ii) The Inter-American Council of Jurists;
- (iii) The Inter-American Cultural Council.

These three organs have technical autonomy in their respective spheres of action. They are composed of representatives of member states.

The organs of the Council of the Organisation render technical services to the governments, advise the Council on matters of their jurisdiction and carry out numerous activities in their respective fields. The Inter-American Economic and Social Council carries out also the important programme of the Alliance for Progress.

1312. The Pan American Union is the central and permanent organ of the O.A.S. and its General Secretariat. The Secretary-General and the Assistant Secretary-General are elected for a term of ten years. The first directs the General Secretariat and is the legal representative thereof while the second acts also as Secretary of the Council of the Organisation.

The Pan American Union, through its technical and information offices, promotes economic, social, juridical and cultural relations among all the member states.

1313. The Specialised Organisations are established by multilateral

agreements and have specific functions with respect to technical matters of common interest to member states. At present there are six Specialised Organisations:

- (i) Pan American Health Organisation;
- (ii) Pan American Institute of Geography and History;
- (iii) Inter-American Institute of Agricultural Sciences;
- (iv) Inter-American Children's Institute;
- (v) Inter-American Commission of Women;
- (vi) Inter-American Indian Institute.

1314. In addition to the above, there are a number of special agencies and commissions that carry out special objectives within established fields of common interest. Among these are the following:

- (i) Inter-American Defense Board;
- (ii) Inter-American Statistical Institute;
- (iii) Inter-American Commission of Human Rights;
- (iv) Inter-American Peace Committee;
- (v) Inter-American Nuclear Energy Commission;
- (vi) Special Consultative Committee on Security.

1315. The specialised conferences are held to deal with technical matters or to develop specific aspects of inter-American co-operation.

1316. In 1967, the Charter of the Organisation of American States was amended by a protocol which will enter into force when two-thirds of the signatory states have ratified it. When this takes place, among other things, the Inter-American Conferences will be replaced by a General Assembly which will meet every year. The Council of the Organisation will become the Permanent Council, and the Inter-American Economic and Social Council and the Inter-American Cultural Council will acquire a new status within the Organisation, the latter under the new name of Inter-American Council for Education, Science and Culture. The Inter-American Council of Jurists will be replaced by an Inter-American Juridical Committee with similar functions.

Privileges and immunities

1317. The Charter of the Organisation of American States, signed at Bogotá, enumerates in general terms, in articles 102–8, the privileges

and immunities which the Organisation, the representatives of member states and the Secretariat-General of the Organisation, entrusted to the Pan American Union, enjoy on the territory of member states.

1318. A multilateral convention on the Privileges and Immunities of the Organisation, of Representatives and of the Secretariat, and a bilateral agreement between the Organisation and the American Government have been approved by the Council of the Organisation. The convention was opened for signature on 15 May 1949, whereas the bilateral agreement was signed at Washington on 22 July 1952.

1319. The multilateral convention, like the bilateral agreement, were intentionally drafted in the same terms as the texts having the same object adopted by the United Nations, so that the privileges and immunities granted in member states of the Organisation of American States to the Organisation itself, as well as to representatives of member states and the Secretariat are practically the same as those which were recognised for the United Nations, members of permanent representations attached to the United Nations, and to its Secretariat. We do not give details of these privileges and immunities here, as readers can refer to the rules and practices shown in paras 1186–1208.

These rules should, in practice, be completed by special arrangements adopted in each member state on certain points of detail.

1320. Numerous conventions have granted immunities and privileges to certain organisms mentioned in paras 1311, 1313 and 1314, or to their offices situated on the territory of a particular state, details of which we are unable to give here. However, the common basis is the recognition of the juridical personality, the free disposition of property and funds, freedom of action and communication and personal immunities necessary for the free movement and activities of representatives of member governments, experts, and of the staff of each organisation. It is provided that these privileges are granted only for the exercise of regular activities and can be withdrawn in the interest of justice.

Precedence

1321. *Internal precedence of the Organisation.* Article 32 of the Charter of the Organisation establishes a hierarchy between its various organs as follows:

- (i) the Inter-American Conference;

- (ii) the Meeting of Consultation of Ministers for Foreign Affairs;
- (iii) the Council;
- (iv) the Pan American Union;
- (v) the Specialised Conferences:
 - (a) Inter-American Economic and Social Council associated with:
 - (1) the Inter-American Committee on the Alliance for Progress;
 - (2) the Organisation of American States (O.A.S.); Inter-American Defence Board (I.D.B.); the Economic Commission for Latin-America (E.C.L.A.); and the Committee of Co-ordination (C.C.);
 - (3) the panel of experts;
 - (b) the Inter-American Council for Jurists;
 - (c) the Inter-American Cultural Council;
- (vi) the Specialised Organisations listed in para. 1313;
- (vii) the Special Agencies and Commissions listed in para. 1314.

Meetings of the Council

(i) *Inter-American Conference Meetings.* The precedence for delegates at these meetings is established by drawing each of the names of countries of the delegates. Each delegation occupies the place drawn during the conference.

Precedence is given to observers over special guests.

(ii) *At regular meetings,* which are normally held twice each month, the system of rotation is observed. The representative of each country advances one seat from where he sat at the previous meeting.

(iii) *Protocolary meetings* are held when a head of state or a Minister is received, or when an important event is observed. These meetings may be termed ceremonial meetings when speeches are made but no legislation enacted. Precedence at such meetings is by date of appointment.

APPENDIX I

THE UNITED STATES OF AMERICA

There exists no officially established listing of protocol order or precedence in the United States. (See paragraphs 398, 399 and 410.)

APPENDIX II

PROTOCOL PRECEDENCE IN ENGLAND

(Men)

1. The SOVEREIGN
 2. The Heir Apparent*
 3. The Sovereign's Younger Sons
 4. The Sovereign's Grandsons
 5. The Sovereign's Brothers
 6. The Sovereign's Uncles
 7. The Sovereign's Nephews
 8. The Sovereign's Great-uncles
 9. The Archbishop of Canterbury
 10. The Lord High Chancellor
 11. The Archbishop of York
 12. The Prime Minister
 13. The Lord High Treasurer (when existing)
 14. The Lord President of the Council
 15. The Speaker of the House of Commons
 16. The Lord Privy Seal
 17. The Ambassadors and High Commissioners
 18. The Lord Great Chamberlain†
 19. The Lord High Constable (when existing)
 20. The Earl Marshal
 21. The Lord Steward of the Household
 22. The Lord Chamberlain of the Household
 23. The Master of the Horse
 24. The Dukes of England
 25. The Dukes of Scotland
 26. The Dukes of Great Britain
 27. The Dukes of Ireland
- } Above all Peers
of their own
degree

* By Royal Warrant dated 18 September 1952, it was declared that H.R.H. the Duke of Edinburgh was henceforth to have Precedence next to H.M. the Queen, thus having place before the Heir Apparent.

† When in actual performance of official duty.

28. The Dukes of the United Kingdom, and of Ireland, created since the Union
29. The Eldest Sons of Dukes of the Blood Royal
30. The Marquesses of England
31. The Marquesses of Scotland
32. The Marquesses of Great Britain
33. The Marquesses of Ireland
34. The Marquesses of the United Kingdom, and of Ireland, created since the Union
35. The Eldest Sons of Dukes
36. The Earls of England
37. The Earls of Scotland
38. The Earls of Great Britain
39. The Earls of Ireland
40. The Earls of the United Kingdom, and of Ireland, created since the Union
41. The Younger Sons of Dukes of the Blood Royal
42. The Marquesses' Eldest Sons
43. The Dukes' Younger Sons
44. The Viscounts of England
45. The Viscounts of Scotland
46. The Viscounts of Great Britain
47. The Viscounts of Ireland
48. The Viscounts of the United Kingdom, and of Ireland, created since the Union
49. The Earls' Eldest Sons
50. The Marquesses' Younger Sons
51. The Bishops of London
52. The Bishop of Durham
53. The Bishop of Winchester
54. The English Diocesan Bishops according to seniority of consecration
55. The Secretaries of State, if of Baronial rank
56. The Barons of England
57. The Barons of Scotland
58. The Barons of Great Britain
59. The Barons of Ireland
60. The Barons of the United Kingdom, and of Ireland, created

- since the Union, also Lords of Appeal in Ordinary (Life Barons) who rank with Barons according to the date of their patents
61. The Lords Commissioners of the Great Seal (when existing)
 62. The Treasurer of the Household
 63. The Comptroller of the Household
 64. The Vice-Chamberlain of the Household
 65. The Secretaries of State, being under Baronial rank
 66. The Viscounts' Eldest Sons
 67. The Earls' Younger Sons
 68. The Barons' Eldest Sons
 69. The Knights of the Garter
 70. The Privy Councillors
 71. The Chancellor of the Exchequer
 72. The Chancellor of the Duchy of Lancaster
 73. The Lord Chief Justice of England
 74. The Master of the Rolls
 75. The President of the Probate, Divorce, and Admiralty Division
 76. The Lords Justices of Appeal according to seniority of appointment
 77. The Judges of the High Court of Justice, according to seniority of appointment
 78. The Vice-Chancellor of County Palatine of Lancaster
 79. The Viscounts' Younger Sons
 80. The Barons' Younger Sons
 81. The Sons of Life Barons (Lords of Appeal in Ordinary)
 82. The Baronets, according to date of patent
 83. The Knights of the Thistle*
 84. The Knights of St Patrick
 85. The Knights Grand Cross of the Bath
 86. The Knights Grand Commanders of the Star of India
 87. The Knights Grand Cross of St Michael and St George
 88. The Knights Grand Commanders of the Indian Empire
 89. The Knights Grand Cross of the Royal Victorian Order
 90. The Knights Grand Cross of the British Empire Order
 91. The Knights Commanders of the Bath
 92. The Knights Commanders of the Star of India

* Knights of the Thistle have no relative precedence accorded to them by statute, but are more customarily placed here in the table of General Precedence in England, being followed by the Knights of St Patrick.

93. The Knights Commanders of St Michael and St George
94. The Knights Commanders of the Indian Empire
95. The Knights Commanders of the Royal Victorian Order
96. The Knights Commanders of the British Empire Order
97. The Knights Bachelor
98. The Official Referees of Supreme Court of Judicature
99. The Judges of County Courts of England and Wales (including Judges of City of London Court) according to seniority of appointment
100. The Serjeants-at-Law
101. The Masters in Chancery
102. The Masters in Lunacy
103. The Companions of the Bath
104. The Companions of the Star of India
105. The Companions of St Michael and St George
106. The Companions of the Indian Empire
107. The Commanders of the Royal Victorian Order
108. The Commanders of the British Empire Order
109. The Companions of Distinguished Service Order
110. The Members of the Royal Victorian Order (fourth class)
111. The Officers of the British Empire Order
112. The Companions of Imperial Service Order
113. The Gentlemen of the Privy Chamber
114. The Eldest Sons of the Younger Sons of Peers
115. The Eldest Sons of Baronets
116. The Eldest Sons of Knights of the Garter
117. The Eldest Sons of Knights of the Bath
118. The Eldest Sons of Knights of the Star of India
119. The Eldest Sons of Knights of St Michael and St George
120. The Eldest Sons of Knights of the Indian Empire
121. The Eldest Sons of Knights of the Victorian Order
122. The Eldest Sons of Knights of the British Empire Order
123. The Eldest Sons of Knights Bachelor

} Eldest sons of
Knights Grand
Cross take
precedence of
eldest sons of
Knights of the
Second degree

124. The Members of the Royal Victorian Order (fifth class)
125. The Members of the British Empire Order
126. The Younger Sons of Baronets
127. The Younger Sons of Knights
128. Esquires
129. The Gentlemen of Coat Armour

Lieutenants and High Sheriffs of Counties have the first places in their own counties during office, the Lieutenant taking precedence of the High Sheriff, but neither is assigned any place on the Official Scale of General Precedence. Both have precedence within their jurisdiction over a Mayor, even within his own borough, when both are present officially but in the capacity of guests. On all municipal occasions, however, whether of business or entertainment, the Mayor should preside, or act as host.

Divines, Naval, Military and Air Force Officers, Members of the Legal and Medical Professions, Graduates of Universities, and Citizens and Burgesses have no precedence assigned to them, either by statute or by any fixed principle.

SOURCE: Protocol Service of the Foreign Office.

APPENDIX III

PROTOCOL ORDER IN FRANCE

Décret du 16 Juin 1907 relatif aux préséances

Depuis 1907, ce décret a subi diverses modifications. Les dernières, résultant de la Constitution de 1958, figurent au décret du 2 décembre 1958 (J.O. du 7 décembre 1958, p. 10 959), et sont incluses dans le texte qui suit.

TITRE PREMIER DES RANGS ET PRÉSEANCES

Section I

De l'Ordre des Corps et des Autorités dans les Cérémonies Publiques

Article Premier. Lorsque les corps et les autorités sont convoqués ensemble par acte du Gouvernement, aux cérémonies publiques, à Paris, ils y prennent rang dans l'ordre de préséance suivant :

1. Le Président de la République
2. Le Premier Ministre
3. Le Président du Sénat
4. Le Président de l'Assemblée nationale
5. Le Gouvernement
6. L'Assemblée nationale
7. Le Sénat
8. Le Conseil constitutionnel
9. Le Conseil d'État
10. Le Conseil économique et social
11. Le Grand Chancelier de la Légion d'honneur et le Conseil de l'Ordre
12. Le Chancelier de l'Ordre de la Libération et le Conseil de l'Ordre
13. La Cour de Cassation
14. Le Conseil supérieur de la Magistrature
15. La Cour des Comptes
16. Le Conseil supérieur de la Guerre

17. Le Conseil supérieur de la Marine
18. L'Institut de France
19. Le Conseil supérieur de l'Instruction publique
20. Le Préfet de la Seine accompagné du Secrétaire général de la Préfecture de la Seine. Le Préfet de Police accompagné du Secrétaire général de la Préfecture de Police
21. Le Conseil municipal de Paris. Le Conseil général de la Seine
22. Le Gouverneur militaire de Paris. Le Général de division commandant le corps d'armée des troupes coloniales
23. La Cour d'Appel
24. Le Général de division commandant supérieur de la Défense et du camp retranché de Paris
25. Le Vice-Recteur de l'Académie de Paris et le Conseil de l'Université
26. L'Académie de Médecine
27. Les délégations des fonctionnaires supérieurs, des Conseils supérieurs, des Comités consultatifs et des états-majors des ministères de la Guerre et de la Marine. Chacune de ces délégations prend rang d'après l'ordre suivant des ministères: ministère de la Justice, ministère des Affaires étrangères, ministère de l'Intérieur, ministère des Finances, ministère de la Guerre, ministère de la Marine, ministères de l'Instruction publique, des Beaux Arts, des Cultes, ministères des Travaux publics, des Postes et Télégraphes, ministère du Commerce et de l'Industrie, ministère de l'Agriculture, ministère des Colonies, ministère du Travail et de la Prévoyance sociale, le Gouverneur et les sous-gouverneurs de la Banque de France, le Gouverneur et les sous-gouverneurs du Crédit foncier, le Directeur général et les sous-directeurs de la Caisse des Dépôts et Consignations prennent rang avec la délégation du ministère des Finances
28. Le Conseil de Préfecture de la Seine
29. Le Tribunal de première instance de la Seine
30. Le Tribunal de Commerce
31. La Chambre de Commerce
32. Le Corps académique
33. Les maires des arrondissements de Paris
34. Les délégations des établissements d'enseignement supérieur prenant rang d'après l'ordre établi sous le No. 27

35. L'état-major du Gouvernement militaire de Paris, l'état-major du Corps d'armée des troupes coloniales, l'état-major du Commandement supérieur de la Défense et du Camp retranché de Paris, le Général de brigade commandant le département de la Seine et son état-major, les délégations des Corps d'officiers de troupes et de services
36. Les juges de paix de Paris
37. La délégation des fonctionnaires supérieurs de la Préfecture de la Seine et de la Préfecture de Police. Les commissaires de police
38. La délégation des Conseils de Prud'hommes
39. La délégation des avocats au Conseil d'État, à la Cour de Cassation
40. La délégation des référendaires aux sceaux de France
41. La députation des avoués près la Cour d'Appel
42. La députation des avoués près le Tribunal de première instance
43. La députation des notaires
44. La députation des agents de change
45. La députation des commissaires priseurs
46. La députation des huissiers
47. La députation des courtiers d'assurances maritimes

II. — Dans les Départements

1. Le Préfet accompagné du Secrétaire général de Préfecture*
2. Les sénateurs et les députés
3. Le Conseil général du département
4. Les généraux de division chargés d'inspecter un ou plusieurs corps d'armée ou d'en diriger les manœuvres, les vice-amiraux chargés d'inspecter une ou plusieurs escadres ou d'en diriger les manœuvres
5. Le Général de division commandant le corps d'armée ou de la région, le Vice-Amiral, préfet maritime, les vice-amiraux commandants d'escadre
6. Les grand-croix et les grands officiers de la Légion d'honneur convoqués
- 6 bis. Les Compagnons de la Libération convoqués
7. La Cour d'Appel

* Le préfet de Seine-et-Oise a la préséance sur le préfet de Police dans les communes où celui-ci exerce son autorité.

8. Les généraux de division en service actif dans la place
9. Le Recteur et le Conseil de l'Université, et, dans les villes où il n'y a pas d'Université, le corps académique
10. Le Président de la Cour d'Assises
11. Les généraux de brigade, les contre-amiraux en service dans la place, les contre-amiraux commandant une division navale
12. Les sous-préfets
13. Le Conseil de préfecture
14. Le Maire et le Conseil municipal
15. Le Tribunal de première instance, les juges de paix
16. Le Tribunal de Commerce
17. La Chambre de Commerce, la Chambre consultative des Arts et Manufactures
18. Le Corps académique dans les villes où il n'y a pas d'université, ou quand le recteur n'est pas présent
19. L'état-major du corps d'armée ou de la région, l'état-major de la Préfecture maritime
20. L'état-major de la division, l'état-major du commandement supérieur d'un groupe de places fortes, l'état-major de la subdivision, ou de la brigade, l'état-major de la majorité générale de la marine
21. Les fonctionnaires relevant des divers ministères, les professeurs des établissements d'enseignement supérieur, les états-major et les corps d'officiers de troupe et de services, d'après l'ordre des ministères fixé dans l'article premier, par. I, No. 27, et l'ordre établi par les arrêtés ministériels
22. Le Conseil d'arrondissement
23. Le Conseil des Prud'hommes
24. Les délégations des Comités et Conseils constitués à la Préfecture
25. Les délégations des établissements publics nationaux, départementaux et communaux
26. Les commissaires de police
27. Les avoués près la Cour d'Appel
28. Les avoués près le Tribunal de première instance
29. Les notaires
30. Les agents de change
31. Les commissaires-priseurs
32. Les huissiers

33. La députation des courtiers d'assurances maritimes et des courtiers interprètes et conducteurs de navires
34. La délégation des employés de la préfecture ou des employés de la sous-préfecture
35. La délégation des employés de la mairie et des services municipaux
36. La députation des Sociétés de Secours mutuels
37. La délégation des sapeurs-pompiers

SECTION II

De l'Ordre de Préséance des Autorités convoquées individuellement dans des Cérémonies publiques

Art. 2 – Lorsque les corps et autorités sont convoqués individuellement par acte du Gouvernement, aux cérémonies publiques à Paris, ils y prennent rang dans l'ordre de préséance suivant :

1. Le Président de la République
2. Le Premier Ministre
3. Le Président du Sénat
4. Le Président de l'Assemblée nationale
5. Les membres du Gouvernement
6. Le Président du Conseil constitutionnel
7. Le Vice-Président du Conseil d'État
8. Le Président du Conseil économique et social
9. Le Grand Chancelier de la Légion d'honneur
10. Le Chancelier de l'Ordre de la Libération
11. Le premier Président de la Cour de Cassation et le Procureur général près cette cour
12. Le premier Président de la Cour des Comptes et le Procureur général près cette même cour
13. Le Préfet de la Seine et le Préfet de Police
14. Le Président du Conseil municipal de Paris
- 14 bis. Les Compagnons de la Libération convoqués
15. Le Président du Conseil général de la Seine
16. Le Gouverneur militaire de Paris, le Général de division commandant le corps d'armée des troupes coloniales
17. Le premier Président de la Cour d'Appel et le Procureur général près cette même cour

18. Le Général de division commandant supérieur de la défense de Paris
19. Le Vice-Recteur de l'Académie de Paris
20. Les secrétaires généraux des préfectures de la Seine et de Police, le Président du Conseil de Préfecture de la Seine
21. Le Président du Tribunal civil de la Seine et le Procureur de la République près ce même tribunal
22. Le Président du Tribunal de Commerce
23. Le Président de la Chambre de Commerce
24. Le Général de Brigade commandant le département de la Seine

II. — Dans les Départements

1. Le Préfet
2. Les sénateurs et les députés
3. Le Président du Conseil général du département
4. Le général de division commandant du corps d'armée ou de la région
5. Le Vice-Amiral, préfet maritime, les généraux de division chargés d'inspecter un ou plusieurs corps d'armée ou d'en diriger les manœuvres, les vice-amiraux chargés d'inspecter une ou plusieurs escadres ou d'en diriger les manœuvres, prennent respectivement rang, pendant la durée de leur mission avant le commandant du corps d'armée et le vice-amiral préfet maritime
6. Les vice-amiraux commandants en chef d'escadre
7. Les grand-croix et les grands officiers de la Légion d'honneur convoqués
8. Le premier Président de la Cour d'Appel et le Procureur général près cette même cour
9. Le Général de division commandant un groupe de subdivisions de région, le Général de division commandant supérieur d'un groupe de places fortes, les généraux de division pourvus d'un commandement actif, le Vice-Amiral commandant en sous-ordre
10. Le Recteur
11. Le Président de la Cour d'Assises
12. Le Général de brigade commandant une ou plusieurs subdivisions de région, le Général de brigade commandant supérieur d'un groupe de places fortes, les généraux de brigade pourvus d'un commande-

ment actif, le Major général de la marine, les contre-amiraux commandant une division navale

13. Le Secrétaire général de la Préfecture, les sous-préfets
14. Le Maire
15. Le Président du Tribunal civil et le Procureur de la République près ce même tribunal
16. Le Président du Tribunal de Commerce
17. Le Président de la Chambre de Commerce
18. Le Président de la Chambre d'Agriculture
19. Le Commandant d'armes lorsqu'il est officier supérieur

SOURCE: J. Serres, *Manuel pratique de protocole diplomatique* (1956 ed.).

APPENDIX IV

PROTOCOL ORDER PRACTISED IN THE UNION OF SOVIET SOCIALIST REPUBLICS

1. The First Secretary of the Communist Party
2. The President of the Council of Ministers of the Union of Soviet Socialist Republics
3. Members of the Presidium of the Communist Party, in alphabetical order. (The two Vice-Prime Ministers are members.)
4. Alternate members of the Presidium of the Communist Party, in the order of seniority
5. The President of the Supreme Soviet (Head of State)
6. Vice-Presidents of the Council of Ministers
7. Presidents of the Soviet of the Union and of the Soviet for Nationalities
8. Vice-Presidents of the two Assemblies
9. The Secretary of the Presidium of the Supreme Soviet
10. Ministers of the Union of Soviet Socialist Republics
11. Members and Alternate members of the Central Committee of the Communist Party
12. Members of the Revision Commission
13. Presidents of the State Committees
14. Deputies of the Supreme Soviet and of the Federal Republics
15. Marshals of the Soviet Union
16. Leaders of the Communist Party of Moscow and of the Russian Federated Socialist Soviet Republics
17. Generals of the Army and Admirals of the Fleet
18. Responsible Collaborators of the Central Committee of the Communist Party
19. Responsible Collaborators of the Council of Ministers
20. Responsible Collaborators of the Ministry for Foreign Affairs

APPENDIX V

NATIONAL HOLIDAYS OF VARIOUS STATES

* Taken from Diplomatic List issued by the Department of State

† Taken from Diplomatic List supplied by British Foreign Office

‡ Supplied by French Foreign Office

‡ Albania	Day of Liberation	29 November
* Afghanistan	Independence Day	27 May
† Algeria	Algerian National Day	1 November
* Argentina	National Day	25 May
* Australia (Commonwealth of)	Australia Day	26 January
† Austria	National Day	26 October
‡ Barbados	Independence Day	30 November
* Belgium	Independence Day	21 July
* Bolivia	Independence Day	6 August
* Brazil	Independence Day	7 September
* Bulgaria	Anniversary of the Liberation of Bulgaria	9 September
* Burma	Independence Day	4 January
† Burundi	Independence Day	1 July
* Cambodia	Independence Day	9 November
* Cameroon	Independence Day	1 January
* Canada	Confederation (1867)	1 July
* Central African Republic	Independence Day	1 December
* Ceylon	Independence Day	4 February
† Chad	Independence Day	11 January
* Chile	Independence Day	18 September
† China	The National Day of the People's Republic of China	1 October
* China (Taiwan Republic)	Anniversary of the Founding of the Republic	10 October
* Columbia	Independence Day	20 July
† Congo Republic (Kinshasa)	Independence Day	30 June
* Congo (Republic of Brazzaville)	Independence Day	28 November
* Costa Rica	Independence Day	15 September
† Cuba	Day of Liberation	1 January
† Cyprus	Independence Day	16 August
* Czechoslovakia	National Holiday of the Republic	9 May
* Dahomey	Independence Day	1 August

* Denmark	Birthday of the King	11 March
* Dominican Republic	Independence Day	27 February
* Ecuador	Independence Day	10 August
* El Salvador	Independence Day	15 September
* Estonia	Independence Day	24 February
* Ethiopia	Birthday of the Emperor	23 July
* Finland	Independence Day	6 December
† France	National Day	14 July
* Gabon	Independence Day	17 August
† Gambia (The)	Independence Day	18 February
* Ghana	Republic Day	1 July
* Great Britain	Celebration of Birthday of the Queen	Variable
* Greece	Independence Day	25 March
* Guatemala	Independence Day	15 September
* Guinea	Independence Day	2 October
* Haiti	Independence Day	1 January
* Honduras	Independence Day	15 September
* Hungary	Anniversary of the Liberation of Hungary	4 April
† Iceland	National Day	17 June
† India	Republic Day	26 January
* Indonesia	Independence Day	17 August
* Iran	Birthday of the Shah	26 October
† Iraq	National Day	14 July
* Ireland (Republic of)	St Patrick's Day	17 March
† Israel	Independence Day	Variable
* Italy	Anniversary of the Republic	2 June
* Ivory Coast	Independence Day	7 August
† Jamaica	Independence Day	Variable
* Japan	Birthday of the Emperor	29 April
† Jordan	Independence Day	25 May
† Kenya	Independence Day	12 December
* Korea	Independence Day	15 August
† Kuwait	National Day	19 June
* Laos	National Day	11 May
* Latvia	Independence Day	18 November
* Lebanon	Independence Day	22 November
† Lesotho	Independence Day	4 October
* Liberia	Independence Day	26 July
* Libya	Independence Day	24 December
* Lithuania	Independence Day	16 February
† Luxemburg	National Day and Official Birthday of H.R.H. The Grand Duke	23 June
† Malagasy (Republic)	Proclamation of Republic	14 October
† Malaysia	Hari Malaysia	31 August
* Mali	Anniversary of the proclamation of the Republic	22 September
† Malta	National Day	21 September
† Malawi	Independence Day	6 July
* Malaysia	National Day	31 August
* Mauritania	Independence Day	28 November

* Mexico	Independence Day	16 September
† Mongolia	Anniversary of Mongolian People's Revolution	11 July
* Morocco	National Day	3 March
* Nepal	National Day	18 February
* Netherlands	Birthday of the Queen	30 April
* New Zealand	New Zealand Day	6 February
* Nicaragua	Independence Day	15 September
* Niger	Republic Day	18 December
* Nigeria	Independence Day	1 October
* Norway	Constitution Day	17 May
* Pakistan	Pakistan Day	23 March
* Panama	Independence Day	3 November
* Paraguay	Independence Day	14 May
* Peru	Independence Day	28 July
* Philippines	Independence Day	12 June
* Poland	National Liberation Day	22 July
† Portugal	Portugal Day	10 June
* Rumania	Liberation Day	23 August
* Rwanda	Independence Day	1 July
‡ San Marino	Festivity of San Marino	3 September
* Saudi Arabia	Anniversary of King's Accession to the Throne	12 November
* Senegal	Independence Day	4 April
* Sierra Leone	Independence Day	27 April
† Singapore	National Day	9 July
* Somalia	National Holiday	1 July
* South Africa	Republic Day	31 May
* Spain	Spanish Labour Day	18 July
* Sudan	Independence Day	1 January
* Sweden	Birthday of the King	11 November
* Switzerland	Anniversary of the Founding of the Confederation	1 August
* Syrian Arab Republic	Evacuation Day	17 April
† Tanzania	Independence Day	9 & 10 December
* Thailand	Birthday of His Majesty the King	5 December
† Togo	Independence Day	27 April
* Trinidad and Tobago	Independence Day	31 August
* Tunisia	National Day	1 June
† Turkey	Republic Day	29 October
† Uganda	Independence Day	9 October
* Union of Soviet Socialist Republics	The Great October Socialist Revolution	7 & 8 November
* United Arab Republic	National Day	23 July
* United States of America	Independence Day	4 July
* Upper Volta	Republic Day	11 December
* Uruguay	Independence Day	25 August
‡ Vatican	Proclamation of Pope Paul VI	30 June
* Venezuela	Independence Day	5 July
† Vietnam	National Day	1 November

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* Yemen	National Holiday	26 September
* Yugoslavia	Proclamation of the Federal People's Republic of Yugoslavia	29 November
† Zambia	Independence Day	24 October

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