

## CHAPTER 18

### DIPLOMATIC IMMUNITIES AND PRIVILEGES

1967-42

This Act came into operation on 30th November, 1966.

#### **Amended by:**

*1968-5*

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#### **Guide to symbols in historical notes:**

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument



## CHAPTER 18

### DIPLOMATIC IMMUNITIES AND PRIVILEGES 1967-42

#### *Arrangement of Sections*

1. Short title

#### PART I

#### PRELIMINARY

2. Interpretation and application

#### PART II

#### DIPLOMATIC IMMUNITIES AND PRIVILEGES

3. Immunities and privileges of heads of mission
4. Immunities and privileges of members of staff and of families of heads of mission
5. Consular immunity

#### PART III

#### INTERNATIONAL ORGANISATIONS AND PERSONS CONNECTED THEREWITH

6. Immunities, privileges, etc. of certain international organisations
7. Immunities, privileges, etc. may be conferred on certain persons

8. Immunities and privileges of representatives attending international conferences

PART IV

GENERAL

9. Exemption from taxation of persons entitled to immunities and privileges
10. Minister to publish lists
11. Waiver
12. Special provisions relating to customs and excise duty
13. Reciprocal treatment
14. Citizens of Barbados
15. Domestic servants

PART V

MISCELLANEOUS PROVISIONS

16. Provisions as to exemption from taxation
17. Regulations
18. Saving for pending proceedings
19. Saving Acts 1947-32 and 1965-43

FIRST SCHEDULE

*VIENNA CONVENTION ON DIPLOMATIC RELATIONS*

*Convention of 18th April, 1961.*

SECOND SCHEDULE

THE LAWS OF BARBADOS

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**BARBADOS**

## DIPLOMATIC IMMUNITIES AND PRIVILEGES

1967-42

*An Act to confer immunities, powers and privileges on diplomatic and consular representatives and representatives of international organisations and certain other persons; and for purposes ancillary to or connected with matters aforesaid.*

[Commencement: 30th November, 1966]

**Short title**

1. This Act may be cited as the Diplomatic Immunities and Privileges Act.

## PART I

## PRELIMINARY

**Interpretation and application**

- 2.(1) For the purposes of this Act, the expression—  
“consular employee” means any person, not being a consular officer, who is employed in duties at a consular office by a foreign sovereign power and

whom the Minister recognises as such, but shall not include any person employed on domestic duties;

“consular office” means any building or part of a building which is exclusively occupied for the purpose of the official business of a consular officer;

“consular officer” means a consul-general, consul, vice-consul or consular agent representing a foreign sovereign power and holding a valid exequatur or other authorisation to act in Barbados in that capacity;

“head of mission” means an Ambassador, High Commissioner or other person, by whatever title called, accredited by a sovereign power and recognised as a head of mission in Barbados by the Government of Barbados;

“member of the family” in relation to any person to whom this Act applies, means—

(a) the spouse or any dependent child of that person; and

(b) any person deemed by the Minister to be a member of the family in question;

“Minister” means the Minister for the time being responsible for External Affairs;

“personal immunities” means immunity from suit or legal process (except in respect of things done or omitted to be done in the course of the performance of official duties) and inviolability of residence, and any exemption in respect of taxes, duties, rates or fees;

“Vienna Convention” means the international Convention on Diplomatic Relations set forth in the First Schedule.

(2) It is hereby declared that for the purposes of this Act the expression “sovereign power” includes any member of the Commonwealth which is sovereign.

## PART II

## DIPLOMATIC IMMUNITIES AND PRIVILEGES

**Immunities and privileges of heads of mission**

3. Subject to this Act, a head of mission shall be entitled to such immunities and privileges and inviolability of residence, official premises, and official archives as are by customary international law and usage accorded to a duly accredited representative of a sovereign power or as may be necessary to comply with the terms of—

- (a) the Vienna Convention; or
- (b) any other international agreement,

in the event that the country of the head of mission and Barbados are parties to such Convention or agreement.

**Immunities and privileges of members of staff and of families of heads of mission**

4.(1) Subject to this Act, a member of mission shall be entitled to such immunities and privileges as are by customary international law and usage accorded to the member of mission of a duly accredited representative of a sovereign power or as may be necessary to comply with the terms of—

- (a) the Vienna Convention; or
- (b) any other international agreement,

in the event that the country of the head of mission and Barbados are parties to such Convention or agreement.

(2) For the purposes of subsection (1), the expression “member of mission” in relation to any head of mission includes—

- (a) a member of the official or domestic staff of the head of mission;
- (b) a member of the family of the head of mission;

- (c) a member of the family or of the domestic staff of a member of the official staff of the head of mission.

### **Consular immunity**

**5.(1)** Subject to this Act, every consular officer and consular employee of a foreign sovereign power in Barbados shall be entitled to immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of his official duties as such and to such inviolability of official archives as may be necessary to comply with the terms of any treaty or other international agreement to which the foreign sovereign power and Barbados are parties, or as are recognised by the principles of customary international law and usage.

(2) Regulations may be made under this Act conferring on—

- (a) persons in the service of the government of any Commonwealth country other than Barbados; or
- (b) persons in the service of the government of any territory for whose international relations the government of any such country other than Barbados is responsible;

(other than persons on whom immunity is conferred by the foregoing provisions of this Part), holding such offices or class of offices as may be specified in that behalf in the regulations, the like immunity from suit and legal process and the like inviolability of official archives as are accorded to consular officers of a foreign sovereign power, and the regulations may provide for applying in relation to official premises of persons to whom immunity is conferred under this subsection the provisions of subsection (1) of section 4 of the *Consular Conventions Act*, Cap. 17 as if those premises were consular offices of a country to which that section applies and those persons were consular officers.

(3) In paragraph (b) of subsection (2) the expression “territory” includes any state or province of a Commonwealth country.

- (4) The provisions of this section shall have effect in relation to the Republic of Ireland as if it were a Commonwealth country.

### PART III

#### INTERNATIONAL ORGANISATIONS AND PERSONS CONNECTED THEREWITH

##### **Immunities, privileges, etc. of certain international organisations**

6.(1) This section shall apply to any organisation declared by the Minister by order to be an organisation of which one or more sovereign powers or the government or governments thereof are members.

- (2) Subject to subsection (3), the Minister may from time to time by order—
- (a) provide that any organisation to which this section applied (hereinafter referred to as “ the organisation ”) shall, to such extent as may be specified in the order, have the immunities and privileges set out in Part I of the Second Schedule and shall also have the legal capacities of a body corporate;
  - (b) confer upon—
    - (i) any persons who are representatives (whether of governments or not) on any organ of the organisation or are members of any committee of the organisation or of any organ thereof;
    - (ii) such officers or classes of officers of the organisation as are specified in the order, being the holders of such high offices in the organisation as are so specified;
    - (iii) such persons employed on missions on behalf of the organisation as are specified in the order,

to such extent as is specified in the order, the immunities and privileges specified in Part II of the Second Schedule;

- (c) confer upon such other classes of officers and servants of the organisation as are specified in the order, to such extent as is so specified the immunities and privileges specified in Part III of the Second Schedule

[1968-5]

- (d) confer upon such other persons as are specified in the order, being persons under contract with the organisation, to such extent as is so specified, the immunities and privileges specified in Part V of the Second Schedule;

and Part IV of the Second Schedule shall have effect for the purpose of extending to the staffs of such representatives and members as are mentioned in subparagraph (i) of paragraph (b) and to the families of officers of the organisation any immunities and privileges conferred upon the representatives, members, or officers under that paragraph, except in so far as the operation of the said Part IV is excluded by the order conferring the immunities and privileges.

- (3) Any order made by the Minister pursuant to subsection (2)—

- (a) may, notwithstanding any thing contained in subsection (2), confer on the organisation or on such persons or classes of persons as are referred to in that subsection such immunities and privileges as are required to give effect to any international agreement in that behalf to which Barbados is a party;
- (b) shall be so framed as to secure that there are not conferred on the organisation or on any such person or class of persons as aforesaid any immunities and privileges greater in extent than those which, at the time of the making of the order, are required to be conferred on the organisation or on such person or class of persons as aforesaid in order to give effect to any such international agreement in that behalf.

(4) Nothing in this section shall authorise the making of any order to confer immunity or privilege upon any person as a representative of the Government of Barbados or a member of the staff of such representative.

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[1968-5]

### **Immunities, privileges, etc. may be conferred on certain persons**

7. The Minister may from time to time by order confer on the judges and registrars of the International Court of Justice established by the Charter of the United Nations and of any other international judicial institution approved by the Minister, and on suitors to that Court or to any such institutions and their agents, counsel and advocates, such immunities, privileges, and facilities as may be required to give effect to any resolution of, or Convention approved by, the General Assembly of the United Nations or, in the case of any such institution as aforesaid, as the Minister may deem necessary for the proper discharge of its functions.

### **Immunities and privileges of representatives attending international conferences**

8.(1) Where—

- (a) a conference is held in Barbados and is attended by representatives of the governments of one or more sovereign powers or of any of the territories for whose international relations any of those governments is responsible; and
- (b) it appears to the Minister that doubts may arise as to the extent to which the representatives of those governments (other than the Government of Barbados) and members of their official staffs are entitled to immunities and privileges,

the Minister may, by notice in the *Gazette*, direct that every representative of any such government (other than the Government of Barbados) shall, for the purposes of any enactment or rule of law or custom relating to diplomatic immunities and

privileges, be treated as if he were a head of mission, and that such of the members of his official staff as the Minister may from time to time direct shall be treated for the purpose aforesaid as if they were members of the official staff of a head of mission.

(2) For the purposes of subsection (1) the Minister may compile a list of the representatives of the governments aforesaid (other than the Government of Barbados) and members of their official staffs as he thinks proper, and shall cause such list and any amendment of that list or amended list to be published in the *Gazette* and such publication shall include a statement of the date from which the list or amendment, as the case may be, takes or took effect.

#### PART IV

#### GENERAL

#### **Exemption from taxation of persons entitled to immunities and privileges**

**9.(1)** The Minister responsible for Finance may by order published in the *Gazette* or by directions in writing—

- (a) make such provisions as he thinks fit in order to facilitate any exemption from taxes, duties, rates or fees to which any person is entitled consequent on the diplomatic immunities and privileges to which this Act relates and may in the order or directions declare the extent of such exemption in respect of any person or class of persons and as to whether or not any particular tax, duty, rate or fee is included therein or excluded therefrom; and where any such declaration is made it shall, subject to the Second Schedule (in the case of any person to whom an order made under subsection (1) or subsection (2) of section 6 refers), be conclusive;

- (b) grant any person or class of persons to whom section 5 refers exemption from taxes, duties and rates upon—
- (i) the person concerned; or
  - (ii) the moveable property of such person; or
  - (iii) so much of the income of the person concerned as is derived from the holding of his office,

or from the payment of any fees imposed by law.

(2) No order published or directions given by the Minister responsible for Finance pursuant to subsection (1) shall be construed as exempting any person from compliance with the formalities in respect of importation of goods which are prescribed in any law relating to customs.

(3) Any exemption from taxes, duties, rates or fees to which this section relates shall be subject to compliance with such conditions for protecting the revenue as may be prescribed by the officer or the authority responsible under the law for collecting the taxes, duties, rates or fees in question.

#### **Minister to publish lists**

**10.(1)** The Minister shall compile a list of the persons appearing to him to be entitled to immunities and privileges in accordance with the principles of customary international law and usage or by or under the provisions of this Act, except—

- (a) children under the age of eighteen years of a person so entitled;
- (b) any person whose name appears on a list published under subsection (2) of section 8;

and he shall from time to time amend the list, and shall cause the list and any amendment of the list or any amended list to be published in the *Gazette*.

(2) If in any proceedings any question arises whether or not any person or any organisation is entitled to immunities or privileges in accordance with the

principles of customary international law and usage or by or under the provisions of this Act or by reason of being included in a list compiled under subsection (2) of section 8, a certificate issued by or under the authority of the Minister stating any fact relevant to that question shall be conclusive evidence of the fact.

### **Waiver**

**11.** Any immunities or privileges conferred on any person by or under this Act or any regulations may be waived in accordance with the principles of customary international law and usage or in compliance with the terms of any Convention or agreement in that behalf to which Barbados is a party.

### **Special provisions relating to customs and excise duty**

**12.(1)** If any goods to which this section applies are sold or disposed of within three years of importation or of being taken out of bond or of purchase to a person who is not entitled to customs, or, as the case may be, excise franchise privileges, the person who sells or disposes of such goods may be called upon to pay duty thereon at the rate required according to the law relating to the payment of customs or excise duty.

(2) This section applies to goods which have been imported or taken out of bond without payment of customs duty or which have been purchased without payment of excise duty by a person in pursuance of any diplomatic immunity or privilege or other immunity or privilege conferred or granted by or under this Act.

### **Reciprocal treatment**

**13.(1)** Nothing in this Act shall be construed as precluding the Minister from withdrawing—

- (i) any immunities or privileges conferred by or under or specified in Part II in respect of any sovereign power or any class of persons employed by such power on the grounds that such power is failing to accord corresponding immunities or privileges in respect of Barbados; or

- (ii) any immunities or privileges referred to in Part III or in the Second Schedule from any representatives or nationals of any sovereign power on the grounds that such power is failing to accord corresponding immunities or privileges in respect of Barbados,

or from declining to accord any such immunity or privilege as may be conferred by order or direction under this Act on any such grounds as aforesaid.

- (2) The Minister may by order confer immunities or privileges other than those conferred by or under or specified in Part II in respect of any sovereign power or any class of persons employed by such power if, in the opinion of the Minister, such immunities or privileges are necessary to accord with corresponding immunities or privileges granted by such power in respect of Barbados.

### **Citizens of Barbados**

**14.** No person being exclusively a citizen of Barbados shall in Barbados be entitled to any personal immunities and the members of such person's family shall not, as such, be entitled to any personal immunities unless his name is included in a list compiled under section 10 and published in the *Gazette* and still in force.

### **Domestic servants**

**15.** No person shall be entitled to any immunities or privileges in accordance with customary international law or usage or by or under any of the provisions of this Act, on account of his being a domestic servant of a head of mission or any other person, unless his name is included in a list compiled under section 10 and published in the *Gazette* and still in force.

## PART V

## MISCELLANEOUS PROVISIONS

**Provisions as to exemption from taxation**

**16.(1)** The Minister responsible for Finance may direct that such refunds or payments be made from any public fund or account or from the money of any local authority, public body or person as may in his opinion be necessary to give effect to any exemption granted under this Act.

(2) Where any loss is suffered by any public fund or account other than the Consolidated Fund by the granting of any such exemption or by the making of any refund or payment directed under this section, the Minister responsible for Finance may direct that such payments be made from the Consolidated Fund to that other fund or account as may be necessary in his opinion to reimburse that loss.

(3) Where any loss is suffered by any local authority, public body or person by the granting of any such exemption or by the making of any refund or payment directed under this section, the Minister responsible for Finance may direct that such payments be made from the Consolidated Fund to that local authority, public body or person as may be necessary in his opinion to reimburse that loss.

(4) The Accountant-General, or in the case of refunds or payments to be made from any public funds or account other than the Consolidated Fund, the person or authority responsible for making payments from such funds or account, is hereby authorised and required to pay from the Consolidated Fund or from such other public funds or account, as the case may be, such sums as may be directed to be refunded or paid under this section.

**Regulations**

**17.** The Minister may from time to time make regulations for carrying into effect the purposes of this Act, and regulations so made shall be subject to negative resolution.

**Saving for pending proceedings**

**18.** This Act shall not affect any legal proceedings begun before the enactment thereof.

**Saving Acts 1947-32 and 1965-43**

**19.** Every order made and list compiled under the provisions of the Diplomatic Privileges Act, 1947, or the Diplomatic Privileges (Vienna Convention) Act, 1965, which are still in force immediately before the 30th November, 1966,\* shall be deemed to have been made or compiled under the corresponding provisions of this Act and shall continue in force accordingly until amended, varied, revoked or replaced under this Act.

*\*[Being the date of commencement of this Act.]*

**FIRST SCHEDULE**

(ss. 2, 3 and 4)

*VIENNA CONVENTION ON DIPLOMATIC RELATIONS*<sup>1</sup>*[Printed in the form published in "Treaty Series Miscellaneous No. 6 (1961)" Cmd. 1368.]*

## THE STATES PARTIES TO THE PRESENT CONVENTION,

RECALLING that peoples of all nations from ancient times have recognised the status of diplomatic agents,

HAVING IN MIND the purposes and principles of the Charter of the United Nations\* concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

*\*[ "Treaty Series No. 67 (1946)." Cmd. 7015.]*

BELIEVING that an international convention on diplomatic intercourse, privileges and immunities would contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

REALIZING that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing States,

AFFIRMING that the rules of customary international law should continue to govern questions not expressly regulated by the provisions of the present Convention,

HAVE AGREED as follows:—

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<sup>1</sup> Convention of 18th April, 1961.

## ARTICLE 1

For the purpose of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

- (a) the “ head of the mission ” is the person charged by the sending State with the duty of acting in that capacity;
- (b) the “ members of the mission ” are the head of the mission and the members of the staff of the mission;
- (c) the “ members of the staff of the mission ” are the members of the diplomatic staff, of the administrative and technical staff and of the service staff of the mission;
- (d) the “ members of the diplomatic staff ” are the members of the staff of the mission having diplomatic rank;
- (e) a “ diplomatic agent ” is the head of the mission or a member of the diplomatic staff of the mission;
- (f) the “ members of the administrative and technical staff ” are the members of the staff of the mission employed in the administrative and technical service of the mission;
- (g) the “ members of the service staff ” are the members of the staff of the mission in the domestic service of the mission;
- (h) a “ private servant ” is a person who is in the domestic service of a member of the mission and who is not an employee of the sending State;
- (i) the “ premises of the mission ” are the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purposes of the mission including the residence of the head of the mission.

## ARTICLE 2

The establishment of diplomatic relations between States, and of permanent diplomatic mission, takes place by mutual consent.

## ARTICLE 3

1. The functions of a diplomatic mission consist *inter alia* in—
  - (a) representing the sending State in the receiving State;
  - (b) protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;
  - (c) negotiating with the Government of the receiving State;
  - (d) ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State;
  - (e) promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations.
2. Nothing in the present Convention shall be construed as preventing the performance of consular functions by a diplomatic mission.

## ARTICLE 4

1. The sending State must make certain that the *agrément* of the receiving State has been given for the person it proposes to accredit as head of the mission to that State.
2. The receiving State is not obliged to give reasons to the sending State for a refusal of *agrément*.

## ARTICLE 5

1. The sending State may, after it has given due notification to the receiving States concerned, accredit a head of mission or assign any member of the diplomatic staff, as the case may be, to more than one State, unless there is express objection by any of the receiving States.
2. If the sending State accredits a head of mission to one or more other States it may establish a diplomatic mission headed by a *chargé d'affaires ad interim* in each State where the head of mission has not his permanent seat.
3. A head of mission or any member of the diplomatic staff of the mission may act as representative of the sending State to any international organisation.

## ARTICLE 6

Two or more States may accredit the same person as head of mission to another State, unless objection is offered by the receiving State.

## ARTICLE 7

Subject to the provisions of Articles 5, 8, 9 and 11, the sending State may freely appoint the members of the staff of the mission. In the case of military, naval or air *attachés*, the receiving State may require their names to be submitted beforehand, for its approval.

## ARTICLE 8

1. Members of the diplomatic staff of the mission should in principle be of the nationality of the sending State.

2. Members of the diplomatic staff of the mission may not be appointed from among persons having the nationality of the receiving State, except with the consent of that State which may be withdrawn at any time.

3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

#### ARTICLE 9

1. The receiving State may at any time and without having to explain its decision, notify the sending State that the head of the mission or any member of the diplomatic staff of the mission is *persona non grata* or that any other member of the staff of the mission is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission. A person may be declared *non grata* or not acceptable before arriving in the territory of the receiving State.

2. If the sending State refuses or fails within a reasonable period to carry out its obligations under paragraph 1 of this Article, the receiving State may refuse to recognise the person concerned as a member of the mission.

#### ARTICLE 10

1. The Ministry for Foreign Affairs of the receiving State, or such other ministry as may be agreed, shall be notified of—

- (a) the appointment of members of the mission, their arrival and their final departure or the termination of their functions with the mission;
- (b) the arrival and final departure of a person belonging to the family of a member of the mission and, where appropriate, the fact that a person becomes or ceases to be a member of the family of a member of the mission;

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- (c) the arrival and final departure of private servants in the employ of persons referred to in sub-paragraph (a) of this paragraph and, where appropriate, the fact that they are leaving the employ of such persons;
  - (d) the engagement and discharge of persons resident in the receiving State as members of the mission or private servants entitled to privileges and immunities.
2. Where possible, prior notification of arrival and final departure shall also be given.

#### ARTICLE 11

1. In the absence of specific agreement as to the size of the mission, the receiving State may require that the size of a mission be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the receiving State and to the needs of the particular mission.
2. The receiving State may equally, within similar bounds and on a nondiscriminatory basis, refuse to accept officials of a particular category.

#### ARTICLE 12

The sending State may not, without the prior express consent of the receiving State, establish offices forming part of the mission in localities other than those in which the mission itself is established.

#### ARTICLE 13

1. The head of the mission is considered as having taken up his functions in the receiving State either when he has presented his credentials or when he has notified his arrival and a true copy of his credentials has been presented to the Ministry for Foreign Affairs of the receiving State, or such other ministry as may

be agreed, in accordance with the practice prevailing in the receiving State which shall be applied in a uniform manner.

2. The order of presentation of credentials or of a true copy thereof will be determined by the date and time of the arrival of the head of the mission.

#### ARTICLE 14

1. Heads of mission are divided into three classes, namely—
  - (a) that of ambassadors or nuncios accredited to Heads of State, and other heads of mission of equivalent ranks;
  - (b) that of envoys, ministers and internuncios accredited to Heads of State;
  - (c) that of *chargés d'affaires* accredited to Ministers for Foreign Affairs.
2. Except as concerns precedence and etiquette, there shall be no differentiation between heads of mission by reason of their class.

#### ARTICLE 15

The class to which the heads of their missions are to be assigned shall be agreed between States.

#### ARTICLE 16

1. Heads of mission shall take precedence in their respective classes in the order of the date and time of taking up their functions in accordance with Article 13.
2. Alterations in the credentials of a head of mission not involving any change of class shall not affect his precedence.

3. This article is without prejudice to any practice accepted by the receiving State regarding the precedence of the representative of the Holy See.

#### ARTICLE 17

The precedence of the members of the diplomatic staff of the mission shall be notified by the head of the mission to the Ministry for Foreign Affairs or such other ministry as may be agreed.

#### ARTICLE 18

The procedure to be observed in each State for the reception of heads of mission shall be uniform in respect of each class.

#### ARTICLE 19

1. If the post of head of the mission is vacant, or if the head of the mission is unable to perform his functions, a *chargé d'affaires ad interim* shall act provisionally as head of the mission. The name of the *chargé d'affaires ad interim* shall be notified, either by the head of the mission, or, in case he is unable to do so, by the Ministry for Foreign Affairs of the sending State or such other ministry as may be agreed.

2. In cases where no member of the diplomatic staff of the mission is present in the receiving State, a member of the administrative and technical staff may, with the consent of the receiving State, be designated by the sending State to be in charge of the current administrative affairs of the mission.

## ARTICLE 20

The mission and its head shall have the right to use the flag and emblem of the sending State on the premises of the mission, including the residence of the head of the mission, and on his means of transport.

## ARTICLE 21

1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws, by the sending State of premises necessary for its mission or assist the latter in obtaining accommodation in some other way.
2. It shall also, where necessary, assist missions in obtaining suitable accommodation for their members.

## ARTICLE 22

1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.
2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.
3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

## ARTICLE 23

1. The sending State and the head of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises of

the mission, whether owned or leased, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in this Article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or the head of the mission.

#### ARTICLE 24

The archives and documents of the mission shall be inviolable at any time and wherever they may be.

#### ARTICLE 25

The receiving State shall accord full facilities for the performance of the functions of the mission.

#### ARTICLE 26

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure to all members of the mission freedom of movement and travel in its territory.

#### ARTICLE 27

1. The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.
3. The diplomatic bag shall not be opened or detained.
4. The packages constituting the diplomatic bag must bear visible external marks of their character and may contain only diplomatic documents or articles intended for official use.
5. The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.
6. The sending State or the mission may designate diplomatic couriers *ad hoc*. In such cases the provisions of paragraph 5 of this Article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.
7. A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorised port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

#### ARTICLE 28

The fees and charges levied by the mission in the course of its official duties shall be exempt from all dues and taxes.

## ARTICLE 29

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

## ARTICLE 30

1. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.
2. His papers, correspondence and, except as provided in paragraph 3 of Article 31, his property, shall likewise enjoy inviolability.

## ARTICLE 31

1. A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of—
  - (a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
  - (b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
  - (c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.
2. A diplomatic agent is not obliged to give evidence as a witness.

**3.** No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under subparagraphs (a), (b) and (c) of paragraph 1 of this Article, and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.

**4.** The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State.

#### ARTICLE 32

**1.** The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under Article 37 may be waived by the sending State.

**2.** The waiver must always be express.

**3.** The initiation of proceedings by a diplomatic agent or by a person enjoying immunity from jurisdiction under Article 37 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

**4.** Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.

#### ARTICLE 33

**1.** Subject to the provisions of paragraph 3 of this Article, a diplomatic agent shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall also apply to private servants who are in the sole employ of a diplomatic agent, on condition—

- (a) that they are not nationals of or permanently resident in the receiving State; and
- (b) that they are covered by the social security provisions which may be in force in the sending State or a third State.

3. A diplomatic agent who employs persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State provided that such participation is permitted by that State.

5. The provisions of this Article shall not affect bilateral or multi-lateral agreements concerning social security concluded previously and shall not prevent the conclusion of such agreements in the future.

#### ARTICLE 34

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except—

- (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;
- (b) dues and taxes on private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;

- (c) estate, succession or inheritance duties levied by the receiving State, subject to the provisions of paragraph 4 of Article 39;
- (d) dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;
- (e) charges levied for specific services rendered;
- (f) registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property, subject to the provisions of Article 23.

#### ARTICLE 35

The receiving State shall exempt diplomatic agents from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

#### ARTICLE 36

**1.** The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on—

- (a) articles for the official use of the mission;
- (b) articles for the personal use of a diplomatic agent or members of his family forming part of his household, including articles intended for his establishment.

**2.** The personal baggage of a diplomatic agent shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this Article or articles the import or export of which is prohibited by the law or controlled by the

quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the diplomatic agent or of his authorised representative.

#### ARTICLE 37

1. The members of the family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in Articles 29 to 36.

2. Members of the administrative and technical staff of the mission, together with members of their families forming part of their respective households, shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in Articles 29 to 35, except that the immunity from civil and administrative jurisdiction of the receiving State specified in paragraph 1 of Article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges specified in Article 36, paragraph 1, in respect of articles imported at the time of first installation.

3. Members of the service staff of the mission who are not nationals of or permanently resident in the receiving State shall enjoy immunity in respect of acts performed in the course of their duties, exemption from duties and taxes on the emoluments they receive by reason of their employment and the exemption contained in Article 33.

4. Private servants of members of the mission shall, if they are not nationals of or permanently resident in the receiving State, be exempt from dues and taxes on the emoluments they receive by reason of their employment. In other respects, they may enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

## ARTICLE 38

1. Except in so far as additional privileges and immunities may be granted by the receiving State, a diplomatic agent who is a national of or permanently resident in that State shall enjoy only immunity from jurisdiction and inviolability, in respect of official acts performed in the exercise of his functions.

2. Other members of the staff of the mission and private servants who are nationals of or permanently resident in the receiving State shall enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

## ARTICLE 39

1. Every person entitled to privileges and immunities shall enjoy them from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs or such other ministry as may be agreed.

2. When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in the case of armed conflict. However, with respect to acts performed by such person in the exercise of his functions as a member of the mission, immunity shall continue to subsist.

3. In case of the death of a member of the mission, the members of his family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the country.

4. In the event of the death of a member of the mission not a national of or permanently resident in the receiving State or a member of his family forming part of his household, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his death. Estate, succession and inheritance duties shall not be levied on movable property the presence of which in the receiving State was due solely to the presence there of the deceased as a member of the mission or as a member of the family of a member of the mission.

#### ARTICLE 40

1. If a diplomatic agent passes through or is in the territory of a third State, which has granted him a passport visa if such visa was necessary, while proceeding to take up or to return to his post, or when returning to his own country, the third State shall accord him inviolability and such other immunities as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges or immunities who are accompanying the diplomatic agent, or travelling separately to join him or to return to their country.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the passage of members of the administrative and technical or service staff of a mission, and of members of their families, through their territories.

3. Third States shall accord to official correspondence and other official communications in transit, including messages in code or cipher, the same freedom and protection as is accorded by the receiving State. They shall accord to diplomatic couriers, who have been granted a passport visa if such visa was necessary, and diplomatic bags in transit the same inviolability and protection as the receiving State is bound to accord.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and diplomatic bags, whose presence in the territory of the third State is due to *force majeure*.

#### ARTICLE 41

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

2. All official business with the receiving State entrusted to the mission by the sending State shall be conducted with or through the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.

3. 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.

#### ARTICLE 42

A diplomatic agent shall not in the receiving State practise for personal profit any professional or commercial activity.

#### ARTICLE 43

The function of a diplomatic agent comes to an end, *inter alia*—

- (a) on notification by the sending State to the receiving State that the function of the diplomatic agent has come to an end;

- (b) on notification by the receiving State to the sending State that, in accordance with paragraph 2 of Article 9, it refuses to recognise the diplomatic agent as a member of the mission.

## ARTICLE 44

The receiving State must, even in case of armed conflict, grant facilities in order to enable persons enjoying privileges and immunities, other than nationals of the receiving State, and members of the families of such persons irrespective of their nationality, to leave at the earliest possible moment. It must, in particular, in case of need, place at their disposal the necessary means of transport for themselves and their property.

## ARTICLE 45

If diplomatic relations are broken off between two States, or if a mission is permanently or temporarily recalled—

- (a) the receiving State must, even in case of armed conflict, respect and protect the premises of the mission, together with its property and archives;
- (b) the sending State may entrust the custody of the premises of the mission, together with its property and archives, to a third State acceptable to the receiving State;
- (c) the sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

## ARTICLE 46

A sending State may with the prior consent of a receiving State, and at the request of a third State not represented in the receiving State, undertake the temporary protection of the interests of the third State and of its nationals.

## ARTICLE 47

1. In the application of the provisions of the present Convention, the receiving State shall not discriminate as between States.
2. However, discrimination shall not be regarded as taking place—
  - (a) where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its mission in the sending State;
  - (b) where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present Convention.

## ARTICLE 48

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialised agencies or Parties to the Statute of the International Court of Justice,\* and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows: until 31st October, 1961, at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31st March, 1962, at the United Nations Headquarters in New York.

*\*[“ Treaty Series No. 67 (1946).” Cmd. 7015.]*

## ARTICLE 49

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

## ARTICLE 50

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in Article 48. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

## ARTICLE 51

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

## ARTICLE 52

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in Article 48—

- (a) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with Articles 48, 49 and 50;
- (b) of the date on which the present Convention will enter into force, in accordance with Article 51.

## ARTICLE 53

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies

thereof to all States belonging to any of the four categories mentioned in Article 48.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments, have signed the present Convention.

DONE AT VIENNA, this eighteenth day of April one thousand nine hundred and sixty-one.

[Here follow the signatures of representatives of the following States\*—

*\*[This list contains only the names of States whose representatives signed the Convention on 18th April, 1961.]*

Ceylon	Ecuador	Senegal
Ghana	Federal Republic of Germany	Sweden
Irish Republic		Switzerland
Albania	Guatemala	Ukrainian S.S.R.
Argentina	Holy See	U.S.S.R.
Austria	Hungary	Uruguay
Brazil	Israel	Venezuela
Bulgaria	Lebanon	Yugoslavia]
Byelorussian S.S.R.	Liberia	
Chile	Liechtenstein	

China	Mexico
Colombia	Norway
Congo (Leopoldville)	Panama
Czechoslovakia	Poland
Denmark	Romania

**SECOND SCHEDULE**

(s. 6)

**PART I—IMMUNITIES AND PRIVILEGES OF THE ORGANISATION**

1. Immunity from suit and legal process.
2. The like inviolability of official archives and premises occupied as offices as is accorded in respect of the official archives and premises of the head of mission.
3. The like exemption or relief from taxes, duties, rates and fees, other than duties on the importation of goods, as is accorded to a sovereign Power.
4. Exemption from duties on the importation of goods directly imported by the organisation for its official use in Barbados or for exportation or, on the importation of any publications of the organisation directly imported by it, such exemption to be subject to compliance with such conditions as the Comptroller of Customs may prescribe for the protection of the revenue.
5. Exemption from prohibitions and restrictions on importation or exportation in the case of goods directly imported or exported by the organisation for its official use and in the case of any publications of the organisation directly imported or exported by it.
6. The right to avail itself, for telegraphic communications sent by it and containing only matter intended for publication by the Press or for broadcasting (including communications addressed to or despatched from places outside Barbados), of any reduced rates applicable for the corresponding service in the case of Press telegrams.

PART II—IMMUNITIES AND PRIVILEGES OF HIGH OFFICERS, REPRESENTATIVES,  
MEMBERS OF COMMITTEES AND PERSONS ON MISSIONS

1. The like immunity from suit and legal process as is accorded to a head of mission.
2. The like inviolability of residence as is accorded to such a head of mission.
3. The like exemption or relief from taxes, duties, rates and fees as is accorded to such a head of mission.

PART III—IMMUNITIES AND PRIVILEGES OF OTHER OFFICERS AND SERVANTS

1. Immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties.
2. Exemption from income tax in respect of emoluments received as an officer or servant of the organisation.

PART IV—IMMUNITIES AND PRIVILEGES OF OFFICIAL STAFF AND OF HIGH OFFICER'S  
FAMILY

1. Where any person is entitled to any such immunities and privileges as are mentioned in Part II of this Schedule as a representative on any organ of the organisation or a member of any committee of the organisation or of an organ thereof, his official staff accompanying him as such a representative or member shall also be entitled to those immunities and privileges to the same extent as the retinue of a head of mission is entitled to the immunities and privileges accorded to the head of mission.
2. Where any person is entitled to any such immunities and privileges as are mentioned in Part II of this Schedule as an officer of the organisation, that person's wife or husband and children under the age of twenty-one shall also be entitled to those immunities and privileges to the same extent as the wife or

husband and children of a head of mission are entitled to the immunities and privileges accorded to the head of mission.

PART V—IMMUNITIES AND PRIVILEGES OF PERSONS UNDER CONTRACT

1. Immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties.
2. Exemption from income tax in respect of emoluments received from the organisation.