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**Report of the Working Group on the status of the diplomatic courier and the diplomatic bag
not accompanied by diplomatic courier**

Topic:
**Status of the diplomatic courier and the diplomatic bag not accompanied by the
diplomatic courier**

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Chapter VI

STATUS OF THE DIPLOMATIC COURIER AND THE DIPLOMATIC BAG
NOT ACCOMPANIED BY DIPLOMATIC COURIER

136. At its 1527th meeting, held on 27 July 1978, the Commission considered the report of the Working Group on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier (A/CN.4/L.285), which was introduced by its Chairman, Mr. Abdullah El-Erian. At the same meeting, the Commission approved the report and decided to include it in the present chapter of its report to the General Assembly (paragraphs 137-144 below). The Commission wishes to bring those paragraphs to the attention of the Secretary-General, so that he may take them into account in the analytical report that he was requested to prepare by the General Assembly in paragraph 5 of its resolution 31/76 of 13 December 1976, on ways and means to ensure the implementation of the Vienna Convention on Diplomatic Relations of 1961.⁶³⁴

137. In 1976, after considering an item entitled "Implementation by States of the provisions of the Vienna Convention on Diplomatic Relations of 1961", the General Assembly adopted resolution 31/76, in which it recognized, in the preamble, "the advisability of studying the question of the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier", and provided as follows in its paragraphs 3 to 5:

3. *Invites* Member States to submit or to supplement their comments and observations on ways and means to ensure the implementation of the provisions of the Vienna Convention on Diplomatic Relations of 1961 and on the desirability of elaborating provisions concerning the status of the diplomatic courier in accordance with paragraph 4 of General Assembly resolution 3501 (XXX), with due regard also to the question of the status of the diplomatic bag not accompanied by diplomatic courier;

4. *Requests* the International Law Commission at the appropriate time to study, in the light of the information contained in the report of the Secretary-General on the implementation by States of the provisions of the Vienna Convention on Diplomatic Relations of 1961 and other information on this question to be received from Member States through the Secretary-General, the proposals on the elaboration of a protocol concerning the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, which would constitute development and concretization of the Vienna Convention on Diplomatic Relations of 1961;

5. *Requests* the Secretary-General to submit to the General Assembly at its thirty-third session an analytical report on ways and means to ensure the implementation of the Vienna Convention on Diplomatic Relations of 1961 on the basis of comments and observations on this question received from Member States and also taking into account the results, if available and ready, of the study by the International Law Commission of the proposals on the elaboration of the above-mentioned protocol.

138. Pursuant to the request contained in paragraph 4

of that resolution, the Commission included in the agenda of its twenty-ninth session an item entitled "Proposals on the elaboration of a protocol concerning the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier", and established a Working Group presided by Mr. Abdullah El-Erian to ascertain the most suitable ways and means of dealing with the topic. The Working Group reached a series of conclusions, which the Commission subsequently approved.⁶³⁵

139. In those conclusions, the Working Group recommended, *inter alia*, that the Commission should undertake the study of the topic during its 1978 session in order to enable the Secretary-General to take into account the results of such a study in the report he had been requested to submit to the General Assembly at its thirty-third session, and that such a study should be conducted without curtailing the time allocated to the consideration of the topics to which priority had been given.

140. At the current session, the Commission again established, at its 1475th meeting, on 9 May 1978, a Working Group on the status of the diplomatic courier and of the diplomatic bag not accompanied by diplomatic courier, composed of the same members as at the twenty-ninth session, namely, Mr. Abdullah El-Erian (Chairman), Mr. Juan José Calle y Calle, Mr. Emmanuel Kodjoe Dadzie, Mr. Laurel B. Francis, Mr. Willem Riphagen, Mr. Stephen M. Schwebel, Mr. Sompong Sucharitkul, Mr. Nikolai Ushakov, and Mr. Alexander Yankov. The Working Group held four meetings, on 8 and 29 June and 20 and 25 July 1978.

141. The Working Group had before it three working papers. The first, prepared by the Secretariat pursuant to the request made by the Commission at its twenty-ninth session, contained a classification of the general views of Member States on the elaboration of a protocol concerning the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, as well as the proposals submitted by Member States on the elaboration of such a protocol, and a description of certain practical measures proposed either by Member States in their written comments during 1976-1978 or by their representatives in the Sixth Committee at the thirtieth and thirtyfirst sessions of the General Assembly. The working paper also reproduced, in a comparative table, the relevant provisions of the 1961 Vienna Convention on Diplomatic Relations,⁶³⁶ of the 1963 Vienna Convention on Consular Relations,⁶³⁷ of the 1969 Convention

⁶³⁴ United Nations, *Treaty Series*, vol. 500, p. 95.

⁶³⁵ *Yearbook ... 1977*, vol. II (Part Two), p. 125, doc. A/32/10, paras. 83 and 84.

⁶³⁶ See foot-note 634 above.

⁶³⁷ United Nations, *Treaty Series*, vol. 596, p. 261.

on Special Missions,⁶³⁸ and of the 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.⁶³⁹ It further contained, in an annex, the comments on the elaboration of such a protocol received from Member States since 1977, those received up to the end of 1976 being reproduced in document A/31/145 and Add. 1. The second working paper contained the suggestions by the Chairman of the Working Group for an outline of issues on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier based on the comments and proposals of Member States as classified in the preceding working paper. The third working paper, prepared by the Secretariat at the request of the Working Group, set out the relevant provisions of the four multilateral conventions mentioned above under each of the headings contained in the second working paper, as orally revised by the Working Group.

142. On the basis of the working papers as well as of other relevant material, the Working Group studied the proposals on the elaboration of a protocol concerning the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, together with the provisions of the four above-mentioned multilateral conventions.⁶⁴⁰ The Working Group adopted as its basic position that there had been considerable developments in various aspects of the question in recent years, as reflected in the three multilateral conventions adopted subsequent to the 1961 Vienna Convention on Diplomatic Relations, and that the relevant provisions of those conventions, if any, should therefore form the bases for any further study of the question. The Working Group tentatively identified 19 issues and examined each of them in order to ascertain whether any of the four conventions adequately covered the issue concerned and what further elements could be considered as appropriately falling within each of those issues. Although, pursuant to the request of the General Assembly resolution quoted above,⁶⁴¹ the issues were so formulated as to be applicable to the "diplomatic" courier or bag, certain members of the Working Group were of the view that they were also relevant with respect to the other couriers or bags defined under the above-mentioned three conventions and should therefore subsequently be made applicable to such couriers or bags as well.

143. The issues tentatively identified were as follows:

- (1) Definition of "diplomatic courier"
- (2) Function of the diplomatic courier
- (3) Multiple appointment of the diplomatic courier
- (4) Privileges and immunities of the diplomatic courier
 - (a) Personal inviolability
 - (i) Immunity from arrest or detention
 - (ii) Exemption from personal examination or control
 - (iii) Exemption from inspection of personal baggage

⁶³⁸ General Assembly resolution 2530 (XXIV), annex.

⁶³⁹ *Official Records of the United Nations Conference on the Representation of States in Their Relations with International Organizations*, vol. II, *Documents of the Conference* (United Nations publication, Sales No. E.75.V.12), p. 207.

⁶⁴⁰ See para. 141.

⁶⁴¹ See para. 137.

- (b) Inviolability of residence
- (c) Inviolability of means of transport
- (d) Immunity from jurisdiction
- (e) Waiver of immunities
- (5) Facilities accorded to the diplomatic courier
- (6) Duration of privileges and immunities of the diplomatic courier
- (7) Nationality of the diplomatic courier
- (8) End of functions of the diplomatic courier
- (9) Consequences of the severance or suspension of diplomatic relations, of the recall of diplomatic missions or of armed conflict
- (10) Granting of visas to the diplomatic courier
- (11) Persons declared not acceptable
- (12) Status of the diplomatic courier *ad hoc*
- (13) Definition of "diplomatic bag"
- (14) Status of the diplomatic bag accompanied by diplomatic courier
- (15) Status of the diplomatic bag not accompanied by diplomatic courier
 - (a) General
 - (b) The diplomatic bag entrusted to the captain of a commercial aircraft or of a ship
- (16) Respect for the laws and regulations of the receiving State
- (17) Obligations of the receiving State
 - (a) General
 - (b) Obligations of the receiving State in the event of death or accident of the diplomatic courier precluding him from the performance of his functions
- (18) Obligations of the transit State
 - (a) General
 - (b) Obligations of the transit State in the event of death or accident of the diplomatic courier precluding him from the performance of his functions
- (19) Obligations of the third State in cases of *force majeure*

144. As a result of the study thus undertaken by the Working Group, the following provisions of the four aforementioned conventions⁶⁴² were deemed relevant, as appropriate, to each of the issues listed in the preceding paragraph; additional points made in the course of the Working Group's discussions are also reflected under each issue.

(1) DEFINITION OF "DIPLOMATIC COURIER"

No definition of "diplomatic courier" as such is contained in the existing conventions.⁶⁴³ However, the following provisions may be considered as containing elements for a possible definition.

⁶⁴² See para. 141 above.

⁶⁴³ The words "existing conventions" as used below refer to the Vienna Convention on Diplomatic Relations (known as the "1961 Vienna Convention"), the Vienna Convention on Consular Relations (known as the "1963 Vienna Convention"), the Convention on Special Missions, and the Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character (known as the "1975 Vienna Convention"). For references, see foot-notes 634 and 637-639 above.

(a) 1961 Vienna Convention (article 27, paragraphs 1 and 5):

1. ... In communicating with the Government and the other missions and consulates of the sending States, wherever situated, the mission may employ all appropriate means, including diplomatic couriers...

5. The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag ...

(b) 1963 Vienna Convention (article 35, paragraphs 1 and 5):

1. ... In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all appropriate means, including diplomatic or consular couriers...

5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag...

(c) Convention on Special Missions (article 28, paragraphs 1, 3 and 6):

1. ... In communicating with the Government of the sending State, its diplomatic missions, its consular posts and its other special missions or with sections of the same mission, wherever situated, the special mission may employ all appropriate means, including couriers...

3. Where practicable, the special mission shall use the means of communication, including... the courier, of the permanent diplomatic mission of the sending State.

6. The courier of the special mission, who shall be provided with an official document indicating his status and the number of packages constituting the bag...

(d) 1975 Vienna Convention (article 27, paragraphs 1 and 5, and article 57, paragraphs 1, 3 and 6):

Article 27

1. ... In communicating with the Government of the sending State, its permanent diplomatic missions, consular posts, permanent missions, permanent observer missions, special missions, delegations and observer delegations, wherever situated, the mission may employ all appropriate means, including couriers...

...

5. The courier of the mission, who shall be provided with an official document indicating his status and the number of packages constituting the bag...

Article 57

1. ... In communicating with the Government of the sending State, its permanent diplomatic missions, consular posts, permanent missions, permanent observer missions, special missions, other delegations, and observer delegations, wherever situated, the delegation may employ all appropriate means, including couriers...

...

3. Where practicable, the delegation shall use the means of communication, including... the courier, of the permanent diplomatic mission, of a consular post, of the permanent mission or of the permanent observer mission of the sending State.

...

6. The courier of the delegation, who shall be provided with an official document indicating his status and the number of packages constituting the bag...

(2) FUNCTION OF THE DIPLOMATIC COURIER

The provisions of the existing conventions mentioned under heading (1) above are also relevant under this heading. Some members stressed the need to make it clear that the function of the courier was that of the State and not of the individual. It was also pointed out that the function of the courier was not limited to the carrying of diplomatic bags; he might also carry messages orally.

(3) MULTIPLE APPOINTMENT
OF THE DIPLOMATIC COURIER

No provision is contained in the existing conventions.

(4) PRIVILEGES AND IMMUNITIES
OF THE DIPLOMATIC COURIER

On the general question of the privileges and immunities to be granted to the diplomatic courier, certain members stressed the importance of according the fullest possible diplomatic status to the courier, whereas others took the view that such privileges and immunities should be strictly limited to the needs of his functions.

In connexion with the same general question, it was pointed out that the existing conventions did not cover cases where the courier had another status as well, such as that of a diplomatic agent or consular officer.

(a) *Personal inviolability*

The existing conventions contain the following provisions.

(d) 1961 Vienna Convention (article 27, paragraph 5):

5. ... He [the diplomatic courier] shall enjoy personal inviolability...

(b) 1963 Vienna Convention (article 35, paragraph 5):

5. ... He [the consular courier] shall enjoy personal inviolability...

(c) Convention on Special Missions (article 28, paragraph 6):

6. ... He [the courier of the special mission] shall enjoy personal inviolability...

(d) 1975 Vienna Convention (article 27, paragraph 5, and article 57, paragraph 6):

Article 27

...

5. ... He [the courier of the mission] shall enjoy personal inviolability...

Article 57

...

6. ... He [the courier of the delegation] shall enjoy personal inviolability...

(i) *Immunity from arrest or detention*

The existing conventions provide as follows.

(d) 1961 Vienna Convention (article 27, paragraph 5):

5. ... He [the diplomatic courier]... shall not be liable to any form of arrest or detention.

(b) 1963 Vienna Convention (article 35, paragraph 5):

5. ... He [the consular courier]... shall not be liable to any form of arrest or detention.

(c) Convention on Special Missions (article 28, paragraph 6):

6. ... He [the courier of the special mission]... shall not be liable to any form of arrest or detention.

(d) 1975 Vienna Convention (article 27, paragraph 5, and article 57, paragraph 6):**Article 27**

...

5. ... He [the courier of the mission]... shall not be liable to any form of arrest or detention.

Article 57

...

6. ... He [the courier of the delegation]... shall not be liable to any form of arrest or detention.

(ii) Exemption from personal examination or control

No provision is contained in the existing conventions.

(iii) Exemption from inspection of personal baggage

No provision is contained in the existing conventions.

(b) Inviolability of residence

No provision is contained in the existing conventions. Emphasis was placed on the need to provide for protection of the place where the courier was staying while performing his functions.

(c) Inviolability of means of transport

No provision is contained in the existing conventions. Emphasis was placed on the need to ensure adequate protection of the means of transport of the courier.

(d) Immunity from jurisdiction

No provision is contained in the existing conventions. It was stated that such immunity should be granted to the courier in connexion with the performance of his functions.

(e) Waiver of immunities

No provision is contained in the existing conventions.

(5) FACILITIES ACCORDED TO THE DIPLOMATIC COURIER

No provision is contained in the existing conventions.

(6) DURATION OF PRIVILEGES AND IMMUNITIES OF THE DIPLOMATIC COURIER

No provision is contained in the existing conventions. However, the following provisions relating to the courier *ad hoc* may be taken into account.

(a) 1961 Vienna Convention (article 27, paragraph 6):

6. ... the immunities [which a diplomatic courier *ad hoc* enjoys] shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.

(b) 1963 Vienna Convention (article 35, paragraph 6):

6. ... the immunities [which a consular courier *ad hoc* enjoys] shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.

(c) Convention on Special Missions (article 28, paragraph 7):

7. ... the immunities [which a courier *ad hoc* for the special mission enjoys] shall cease to apply when the courier *ad hoc* has delivered to the consignee the special mission's bag in his charge.

(d) 1975 Vienna Convention (article 27, paragraph 6, and article 57, paragraph 7):**Article 27**

...

6. ... the immunities [which a courier *ad hoc* of the mission enjoys] shall cease to apply when the courier *ad hoc* has delivered to the consignee the mission's bag in his charge.

Article 57

...

7. ... the immunities [which a courier *ad hoc* of the delegation enjoys] shall cease to apply when the courier *ad hoc* has delivered to the consignee the delegation's bag in his charge.

The view was expressed that the jurisdictional immunities *ratione materiae* should continue even after a courier ceased to exercise his functions.

(7) NATIONALITY OF THE DIPLOMATIC COURIER

The following provision appears in the 1963 Vienna Convention (article 35, paragraph 5):

5. ... Except with the consent of the receiving State he shall be neither a national of the receiving State, nor, unless he [the consular courier] is a national of the sending State, a permanent resident of the receiving State...

(8) END OF FUNCTIONS OF THE DIPLOMATIC COURIER

No provision is contained in the existing conventions. It was stated that the termination of a courier's functions should be the moment when he returned to his home base.

(9) CONSEQUENCES OF THE SEVERANCE OR SUSPENSION OF DIPLOMATIC RELATIONS, OF THE RECALL OF DIPLOMATIC MISSIONS OR OF ARMED CONFLICT

No provision is contained in the existing conventions.

(10) GRANTING OF VISAS TO THE DIPLOMATIC COURIER

No provision is contained in the existing conventions. It was considered desirable to establish a rule aimed at facilitating the granting of visas where visas were required. It was maintained that full diplomatic status should be given to couriers with respect to visas.

(11) PERSONS DECLARED NOT ACCEPTABLE

No provision is contained in the existing conventions.

(12) STATUS OF THE DIPLOMATIC COURIER *ad hoc*

The existing conventions provide the following.

(a) 1961 Vienna Convention (article 27, paragraph 6):

6. The sending State or the mission may designate diplomatic couriers *ad hoc*. In such cases the provisions of paragraph 5⁶⁴⁴ 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.

(b) 1963 Vienna Convention (article 35, paragraph 6):

6. The sending State, its diplomatic missions and its consular posts may designate consular couriers *ad hoc*. In such cases the provisions of paragraph 5⁶⁴⁵ 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 consular bag in his charge.

(c) Convention on Special Missions (article 28, paragraph 7):

7. The sending State or the special mission may designate couriers *ad hoc* of the special mission. In such cases the provisions of paragraph 6⁶⁴⁶ of this article shall also apply, except that the immunities therein mentioned shall cease to apply when the courier *ad hoc* has delivered to the consignee the special mission's bag in his charge.

(d) 1975 Vienna Convention (articles 27, paragraph 6, and 57, paragraph 7):

Article 27

...

6. The sending State or the mission may designate couriers *ad hoc* of the mission. In such cases the provisions of paragraph 5⁶⁴⁷ of this article shall also apply, except that the immunities therein mentioned shall cease to apply when the courier *ad hoc* has delivered to the consignee the mission's bag in his charge.

Article 57

...

7. The sending State or the delegation may designate couriers *ad hoc* of the delegation. In such cases the provisions of paragraph 6⁶⁴⁸ of this article shall also apply, except that the immunities therein mentioned shall cease to apply when the courier *ad hoc* has delivered to the consignee the delegation's bag in his charge.

It was pointed out that the courier *ad hoc* might have another status, such as that of a diplomatic agent or consular officer, and that such a case was not covered by the existing conventions. It was also pointed out that there was need to define his status during the time when, after delivering a bag in his charge, he had to wait for some time until he was entrusted with another bag.

⁶⁴⁴ See items (1) (a) and (4) (a) above, and (17) (a) (i) below.

⁶⁴⁵ See items (1) (b) and (4) (a) above, and (17) (a) (ii) below.

⁶⁴⁶ See items (1) (c) and (4) (a) above, and (17) (a) (iii) below.

⁶⁴⁷ See items (1) (d) and (4) (a) above, and (17) (a) (iv) below.

⁶⁴⁸ *Ibid.*

(13) DEFINITION OF "DIPLOMATIC BAG"

No definition of "diplomatic bag" as such is contained in the existing conventions. The following provisions, however, may be considered as relevant.

(a) 1961 Vienna Convention (article 27, paragraphs 2 and 4):

2. ... Official correspondence means all correspondence relating to the mission and its functions.

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.

(b) 1963 Vienna Convention (article 35, paragraphs 1, 2 and 4):

1. ... In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all appropriate means, including... diplomatic or consular bags...

2. ... Official correspondence means all correspondence relating to the consular post and its functions.

4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.

(c) Convention on Special Missions (article 28, paragraphs 2, 3 and 5):

2. ... Official correspondence means all correspondence relating to the special mission and its functions.

3. Where practicable, the special mission shall use the means of communication, including the bag... of the permanent diplomatic mission of the sending State.

5. The packages constituting the bag of the special mission must bear visible external marks of their character and may contain only documents or articles intended for the official use of the special mission.

(d) 1975 Vienna Convention (articles 27, paragraphs 2 and 4, and 57, paragraphs 2, 3 and 5):

Article 27

...

2. ... Official correspondence means all correspondence relating to the mission and its functions.

...

4. The packages constituting the bag of the mission must bear visible external marks of their character and may contain only documents or articles intended for the official use of the mission.

Article 57

...

2. ... Official correspondence means all correspondence relating to the delegation and its tasks.

3. Where practicable, the delegation shall use the means of communication, including the bag... of the permanent diplomatic mission, of a consular post, of the permanent mission or of the permanent observer mission of the sending State.

...

5. The packages constituting the bag of the delegation must bear visible external marks of their character and may contain only documents or articles intended for the official use of the delegation.

(14) STATUS OF THE DIPLOMATIC BAG
ACCOMPANIED BY DIPLOMATIC COURIER

The following provisions in the existing conventions may be considered as relevant.

(a) 1961 Vienna Convention (article 27, paragraph 3):

3. The diplomatic bag shall not be opened or detained.

(b) 1963 Vienna Convention (article 35, paragraph 3):

3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reasons to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4 of this article, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State, the bag shall be returned to its place of origin.

(c) Convention on Special Missions (article 28, paragraph 4):

4. The bag of the special mission shall not be opened or detained.

(d) 1975 Vienna Convention (articles 27, paragraph 3, and 57, paragraph 4):

Article 27

...

3. The bag of the mission shall not be opened or detained.

Article 57

...

4. The bag of the delegation shall not be opened or detained.

In addition, the provisions quoted under items (18) (a) and (19) below may also be relevant.

It was pointed out that the existing conventions did not adequately provide for protection of the diplomatic bag accompanied by a courier in the place where he was staying or on means of transport.

(15) STATUS OF THE DIPLOMATIC BAG NOT
ACCOMPANIED BY DIPLOMATIC COURIER

(a) *General*

The provisions quoted and referred to under item (14) above are also relevant to the status of the diplomatic bag not accompanied by diplomatic courier.

(b) *The diplomatic bag entrusted to the captain
of a commercial aircraft or of a ship*

The existing conventions provide the following.

(a) 1961 Vienna Convention (article 27, paragraph 7):

7. A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorized 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.

(b) 1963 Vienna Convention (article 35, paragraph 7):

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized

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 consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

(c) Convention on Special Missions (article 28, paragraph 8):

8. The bag of the special mission may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. The captain shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a courier of the special mission. By arrangement with the appropriate authorities, the special mission may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

(d) 1975 Vienna Convention (articles 27, paragraph 7, and 57, paragraph 8):

Article 27

...

7. The bag of the mission may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized 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 courier of the mission. By arrangement with the appropriate authorities of the host State, the mission may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

Article 57

...

8. The bag of the delegation may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized 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 courier of the delegation. By arrangement with the appropriate authorities of the host State, the delegation may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

(16) RESPECT FOR THE LAWS AND REGULATIONS
OF THE RECEIVING STATE

No provision is contained in the existing conventions.

(17) OBLIGATIONS OF THE RECEIVING STATE

(a) *General*

The existing conventions provide the following.

(a) 1961 Vienna Convention (article 27, paragraph 5):

5. The diplomatic courier... shall be protected by the receiving State in the performance of his functions.

(b) 1963 Vienna Convention (article 35, paragraph 5):

5. ... In the performance of his functions he [the consular courier] shall be protected by the receiving State.

(c) Convention on Special Missions (article 28, paragraph 6):

6. The courier of the special mission... shall be protected by the receiving State in the performance of his functions.

- (d) 1975 Vienna Convention (articles 27, paragraph 5, and 57, paragraph 6):

Article 27

...

5. The courier of the mission... shall be protected by the host State in the performance of his functions.

Article 57

...

6. The courier of the delegation... shall be protected by the host State in the performance of his functions.

(b) *Obligations of the receiving State in the event of death or accident of the diplomatic courier precluding him from the performance of his functions*

No provision is contained in the existing conventions.

(18) OBLIGATIONS OF THE TRANSIT STATE

(a) *General*

The relevant conventions provide as follows:

- (a) 1961 Vienna Convention (article 40, paragraph 3):

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.

- (b) 1963 Vienna Convention (article 54, paragraph 3):

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

- (c) Convention on Special Missions (article 42, paragraphs 3 and 4):

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 the receiving State is bound to accord under the present Convention. Subject to the provisions of paragraph 4 of this article, they shall accord to the couriers and bags of the special mission in transit the same inviolability and protection as the receiving State is bound to accord under the present Convention.

4. The third State shall be bound to comply with its obligations in respect of the persons mentioned in paragraphs 1, 2 and 3 of this article only if it has been informed in advance, either in the visa application or by notification, of the transit of those persons as members of the special mission, members of their families or couriers, and has raised no objection to it.

- (d) 1975 Vienna Convention (article 81, paragraph 4):

4. 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 the host State is bound to accord under the present Convention. They shall accord to the couriers of the mission, of the delegation or of the observer delegation, who have been granted a passport visa if such visa was necessary, and to the bags of the mission, of the delegation or of the observer delegation in transit the same inviolability and protection as the host State is bound to accord under the present Convention.

The question was raised whether the status of the diplomatic courier, in particular his privileges and immunities, should be dealt with in respect of transit States also. It was pointed out that the existing conventions provided no obligation for a transit State to grant visas to diplomatic couriers but that once the couriers were admitted to the territory of the transit State, they should enjoy the necessary protection.

(b) *Obligation of the transit State in the event of death or accident of the diplomatic courier precluding him from the performance of his functions*

No provision is contained in the existing conventions.

(19) OBLIGATIONS OF THE THIRD STATE IN CASES OF *force majeure*

The existing conventions provide as follows.

- (a) 1961 Vienna Convention (article 40, paragraph 4):

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*.

- (b) 1963 Vienna Convention (article 54, paragraph 4):

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 to consular bags, whose presence in the territory of the third State is due to *force majeure*.

- (c) Convention on Special Missions (article 42, paragraph 5):

5. 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 the official communications and the bags of the special mission, when the use of the territory of the third State is due to *force majeure*.

- (d) 1975 Vienna Convention (article 18, paragraph 5):

5. The obligations of third States under paragraphs 1, 2, 3 and 4 of this article shall also apply to the persons mentioned respectively in those paragraphs and to the official communications and bags of the mission, of the delegation or of the observer delegation when they are present in the territory of the third State owing to *force majeure*.