

Document:-
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**Letter dated 12 June 1970 from the Chairman of the International Law Commission
addressed to the President of the Security Council**

Topic:
Other topics

Extract from the Yearbook of the International Law Commission:-
1970, vol. II

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Letter dated 12 June 1970 from the Chairman of the International Law Commission addressed to the President of the Security Council

I have the honour to acknowledge the receipt of your letter dated 14 May 1970, transmitting a copy of document S/9789 which reproduces the text of a letter addressed to you by the Netherlands representative to the United Nations on 5 May 1970 concerning the problem of the protection and inviolability of diplomatic agents. Both letters were brought to the attention of the Commission and were circulated to members as document A/CN.4/235.

The question of the protection and inviolability of diplomatic agents has been of concern to the Commission in several instances of its work of codification and progressive development of international law. The Commission included provisions to that effect in its draft articles on diplomatic intercourse and immunities, which formed the basis for the Vienna Convention on Diplomatic Relations adopted in 1961. On that occasion the Commission stated in the commentary to Article 27 of its final draft:

"This article confirms the principle of the personal inviolability of the diplomatic agent. From the receiving State's point of view, this inviolability implies, as in the case of the mission's premises, the obligation to respect, and to ensure respect for, the person of the diplomatic agent. The receiving State must take all reasonable steps to that end, possibly including the provision of a special guard where circumstances so required. Being inviolable, the diplomatic agent is exempted from measures that would amount to direct coercion. This principle does not exclude in respect of the diplomatic agent either measures of self-defence or, in exceptional circumstances, measures to prevent him from committing crimes or offences."¹

In addition, provisions concerning the protection and inviolability of the representatives of the Sending State in a special mission and of the members of the diplomatic staff of the mission were included in the Commission's final draft articles on special missions, which formed the basis for the Convention on Special Missions adopted by the General Assembly in 1969. At the present time, the Commission is considering once again the question of inviolability and protection in the context of the relations between States and international organizations. The Commission expects to continue being concerned with this problem in the future.

Accept, Sir, the assurances of my highest consideration.

(Signed) T. O. ELIAS
Chairman of the
International Law Commission

¹ *Yearbook of the International Law Commission, 1958, vol. II, p. 97, document A/3859.*

CHAPTER II

Relations between States
and international organizations

A. INTRODUCTION

1. *Summary of the Commission's proceedings*²

12. At its twentieth and twenty-first sessions, the Commission adopted parts I and II of its provisional draft on representatives of States to international organizations, consisting of a first group of twenty-one articles on general provisions (part I) and permanent missions to international organizations in general (part II, section 1)³ and of a second group of twenty-nine articles on facilities, privileges and immunities of permanent missions to international organizations; conduct of the permanent mission and its members; and end of functions of the permanent representative (part II, sections 2, 3 and 4)⁴ The Commission decided, in accordance with articles 16 and 21 of its Statute, to submit the first and second groups of articles, through the Secretary-General, to governments for their observations. It also decided to transmit them to the secretariats of the United Nations, the specialized agencies, and the International Atomic Energy Agency (IAEA), for their observations. Bearing in mind the position of Switzerland as the host State in relation to the Office of the United Nations at Geneva and to a number of specialized agencies, as well as the wish expressed by the Government of that country, the Commission deemed it useful to transmit also both groups of draft articles to that Government for its observations.

13. At its twenty-first session in 1969 the Commission expressed its intention, as a matter of priority, to conclude at its twenty-second session in 1970 the first reading of its draft on relations between States and international organizations by considering draft articles on permanent observers of non-member States and on delegations to sessions of organs of international organizations and to conferences convened by such organizations.⁵ Also in 1969, the General Assembly, at its twenty-fourth session, adopted resolution 2501 (XXIV) which, *inter alia*, recommended that the Commission should "continue its work on relations between States and international organizations, with a view to completing in 1971 its draft articles on representatives of States to international organizations".

14. At the present session of the Commission, the Special Rapporteur, Mr. Abdullah El-Erian, submitted a fifth report (A/CN.4/227 and Add.1 and 2) containing draft articles, with commentaries, on permanent observers of non-member States to international organizations (part III) and delegations to organs of international

² An account of the historical background of the topic is contained in the report of the International Law Commission on the work of its twentieth session: *Yearbook of the International Law Commission, 1968, vol. II, pp. 193-194, document A/7209/Rev.1, paras. 9-20.*

³ *Ibid.*, p. 194, para. 21.

⁴ *Ibid.*, 1969, vol. II, p. 206, document A/7610/Rev.1, para. 13.

⁵ *Ibid.*, p. 206, para. 17 and p. 235, para. 93.