

Document:-
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Comments of States

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

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STATUS OF THE DIPLOMATIC COURIER AND THE DIPLOMATIC BAG NOT ACCOMPANIED BY DIPLOMATIC COURIER (PARAGRAPH 5 OF PART 1 OF GENERAL ASSEMBLY RESOLUTION 33/139; PARAGRAPH 5 OF GENERAL ASSEMBLY RESOLUTION 33/140)

[Agenda item 7]

DOCUMENT A/CN.4/321 and Add.1-7*

Comments of States

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[11, 15, 29 May, 5, 18, 22 June,
and 30 August 1979]

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NOTE

For the text of the treaties listed below, which are referred to in this document, see the following sources:

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| Convention on Special Missions (New York, 8 December 1969) | General Assembly resolution 2530 (XXIV), annex |
| Vienna Convention on Consular Relations (Vienna, 24 April 1963), hereinafter called "1963 Vienna Convention" | United Nations, <i>Treaty Series</i> , vol. 596, p. 261 |
| Vienna Convention on Diplomatic Relations (Vienna, 18 April 1961), hereinafter called "1961 Vienna Convention" | <i>Ibid.</i> , vol. 500, p. 95 |
| Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character | <i>Official Records of the United Nations Conference on the Representation of States in their Relations with International Organizations</i> , vol. II, <i>Documents of the Conference</i> (United Nations publication, Sales No. E.75.V.12), p. 207. |

* The comments of Bulgaria, the Byelorussian Soviet Socialist Republic and the German Democratic Republic, which were reproduced as mimeographed documents A/CN.4/321/Add.6-7, were circulated after the closure of the thirty-first session of the Commission.

Introduction

1. On 19 December 1978, the General Assembly adopted resolution 33/139, entitled "Report of the International Law Commission", paragraph 5 of section I of which reads as follows:

[*The General Assembly*]

...

... *recommends* that the International Law Commission should continue the study, including those issues it has already identified, concerning the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, in the light of comments made during the debate on this item in the Sixth Committee at the thirty-third session of the General Assembly and comments to be submitted by Member States, with a view to the possible elaboration of an appropriate legal instrument, and invites all States to submit their written comments on the preliminary study carried out by the Commission concerning the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier for their inclusion in the report of the Commission on the work of its thirty-first session.

2. Also on 19 December 1978, the General Assembly adopted resolution 33/140, entitled "Implementation by States of the provisions of the Vienna Convention on Diplomatic Relations of 1961", which reads as follows:

The General Assembly,

Taking note of the report of the Secretary-General¹ on the implementation by States of the provisions of the Vienna Convention on Diplomatic Relations of 1961,

Recalling its resolutions 3501 (XXX) of 15 December 1975 and 31/76 of 13 December 1976,

Noting with satisfaction that the number of States parties to the Vienna Convention on Diplomatic Relations of 1961 has increased since the adoption by the General Assembly of the above-mentioned resolutions,

Convinced of the desirability of the widespread acceptance of the Vienna Convention on Diplomatic Relations of 1961 and the necessity for strict observance and implementation by States of the provisions consolidated in that Convention in the interest of maintaining normal relations among them and developing international co-operation,

Concerned both at continuing instances of violations of the generally recognized rules of diplomatic law and at instances of violations of security of diplomatic missions and safety of their personnel,

Noting with appreciation the study by the International Law Commission of 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 could constitute a further development of the international diplomatic law,

1. *Requests* those States which have not yet become parties to the Vienna Convention on Diplomatic Relations of 1961 to give urgent consideration to acceding to that Convention;

2. *Calls upon* all States to observe and strictly implement the provisions of the Vienna Convention on Diplomatic Relations of 1961, especially to ensure better security of diplomatic missions and safety of their personnel, provided for in that Convention;

3. *Notes* the invitation in General Assembly resolution 33/139 of 19 December 1978 to States to submit written

¹ A/33/224.

comments on the preliminary study carried out by the International Law Commission on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, and observes that, in replying to such a request, States may also include comments and observations on the implementation of the provisions of the Vienna Convention on Diplomatic Relations of 1961 to be submitted to the General Assembly at a future session;

4. *Reaffirms* the continuing interest of the General Assembly in the implementation by States of the provisions of the Vienna Convention on Diplomatic Relations of 1961;

5. *Decides* that the General Assembly will give further consideration to this question and expresses the view that, unless Member States indicate the desirability of an earlier consideration, it would be appropriate to do so when the International Law Commission submits to the Assembly the results of its work on the possible elaboration of an appropriate legal instrument on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier.

3. In pursuance of paragraph 5 of part I of resolution 33/139 and paragraph 3 of resolution 33/140, quoted above, the Secretary-General, by circular note dated 16 February 1979, asked States for any comments they might wish to submit. By 30 August 1979, comments had been received from 14 Governments (Austria, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Chile, Cuba, Czechoslovakia, Federal Republic of Germany, German Democratic Republic, Hungary, Kuwait, Switzerland, Union of Soviet Socialist Republics, United Kingdom). These comments are reproduced below.

4. The views expressed in the Sixth Committee of the General Assembly at its thirty-third session in 1978, during the consideration of agenda item 114 (Report of the International Law Commission on the work of its thirtieth session) are reflected in the summary records of the relevant meetings of the Sixth Committee.² The views expressed in the Sixth Committee at that session in connection with agenda item 116 (Implementation by States of the provisions of the Vienna Convention on Diplomatic Relations of 1961) are reflected in the summary records of the relevant meetings of the Sixth Committee.³

Comments of States

Austria

[*Original: English*]
[25 May 1979]

The Government of Austria believes that the law with regard to the diplomatic courier is sufficiently

² See *Official Records of the General Assembly, Thirty-third session, Sixth Committee, 27th and 31st-46th meetings*; and *ibid.*, *Sessional fascicle*, corrigendum.

³ *Ibid.*, 14th-20th and 67th meetings; and *ibid.*, *Sessional fascicle*, corrigendum.

developed in international agreements. Notwithstanding, it is believed that further study of this question would be useful. The International Law Commission should be requested to continue its work on the basis of the problems already identified, which might require more detailed regulation. Because of the very preliminary stage of the work of the Commission on this question, comments on particular points would appear to be premature. An interim report containing specific formulations should be prepared prior to requesting comments of Governments with regard to detailed aspects of the problem.

Apart from the foregoing, the Austrian Government is of the view that particular attention should be given to the problems arising from the gap which exists between the justified need of the world community for security from terrorist activities, in particular in civil aviation, on the one hand, and the equally justified request for the inviolability on the diplomatic pouch, on the other hand. A concrete problem that could be studied in this context would be the direct access to the apron of international airfields when delivering or receiving diplomatic pouches transported by pilots.

Bulgaria*

[Original: English]
[28 August 1979]

The People's Republic of Bulgaria fully supports the proposal to elaborate and adopt, within the shortest time possible, a protocol concerning the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier.

The Bulgarian Government considers that existing international multilateral conventions in this field do not regulate in full the issues concerning the status of the diplomatic courier. That is why an additional protocol on this matter is needed with a view to clearly defining the status of the diplomatic courier and of the diplomatic bag not accompanied by diplomatic courier—all the more so, because such a protocol can make a contribution to the maintenance and development of friendly relations among States.

The results of the preliminary study carried out by the International Law Commission concerning the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier have brought out the need for further elaboration of the international legal norms consolidated in multilateral international conventions which treat these questions, namely: the 1963 Vienna Convention, the 1961 Vienna Convention, the Convention on Special Missions, and the 1975 Vienna Convention.

In the first place, it is necessary to work out a clear definition of the terms "diplomatic courier" and

"diplomatic bag", as well as to formulate precisely the functions of the diplomatic courier, including the question of suspension of his functions. There is also need to elaborate a set of international rules relating to the immunities of the diplomatic courier and the facilities which the receiving or the transmitting State should accord to the diplomatic courier with respect to his movements within its territory in the performance of his duties.

The Government of the People's Republic of Bulgaria considers that, for a normal and unimpeded performance of the functions of the diplomatic courier, the future protocol should provide for the following:

The granting to the diplomatic courier of the privileges and immunities necessary for the performance of his functions;

Complete immunity of the diplomatic courier from the jurisdiction of the receiving State;

Immunity from arrest and/or detention of the diplomatic courier;

Exemption from personal examination or control;

Exemption from national or local dues and taxes;

Exemption from public service of any kind;

Inviolability of the premises and means of transportation of the diplomatic courier both in the receiving State and the transit State.

Other important matters which ought to be settled in the future protocol are:

The status of the *ad hoc* diplomatic courier;

The term of validity of privileges and immunities and the status of the diplomatic courier at break of diplomatic relations;

Recall of diplomatic missions;

The question of facilities granted to the diplomatic courier;

The problem of persons declared *non grata*;

Other issues.

It is also necessary to anticipate stipulations concerning the obligation of the diplomatic courier to observe the laws and statutes of the receiving State.

The protocol should clearly determine the status of the diplomatic bag by stressing its strict inviolability and by spelling out the obligation of both the receiving State and the transit State to take all necessary measures for ensuring the inviolability of the diplomatic bag.

It is also necessary that the future protocol regulate the obligations of third parties in *force majeure* circumstances, as well as the steps which the receiving and transit States must take in cases of incidents involving the diplomatic courier and in military conflicts between States.

In the opinion of the Government of the People's Republic of Bulgaria, the results of the preliminary study conducted by the Commission provide a reasonable basis [for the expectation that a good background has been laid] for elaborating within the shortest time-limits the protocol on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier.

* Comments distributed after the closure of the thirty-first session of the Commission.

Byelorussian Soviet Socialist Republic*

[Original: Russian]
[26 June 1979]

The position of the Byelorussian SSR on the question of the implementation by States of the provisions of the 1961 Vienna Convention and on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier has been stated both in the replies of the Byelorussian SSR to the inquiries of the Secretary-General of the United Nations, reproduced in documents A/31/145 of 1 September 1976 and A/33/224 of 5 September 1978, and in statements by the Byelorussian delegation in the Sixth Committee at the thirtieth, thirty-first and thirty-third sessions of the United Nations General Assembly. The Byelorussian SSR was also a sponsor of resolutions on this question adopted at the thirteenth, thirty-first and thirty-third sessions of the General Assembly [resolutions 3501 (XXX), 31/76 and 33/140].

The Byelorussian SSR, reaffirming the views which it has already expressed on this question at the Secretary-General's request, would like to submit its comments on the preliminary study carried out by the International Law Commission concerning the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier.

In the view of the Byelorussian SSR, there are several areas of inter-State relations in which there is a need for clearer supplementary regulations governing certain questions of diplomatic law.

In that connection the Byelorussian SSR considers it necessary and timely to elaborate norms of international law governing the functions and status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier. It therefore took note with interest of the preliminary study carried out on this question by the Commission in implementation of General Assembly resolution 31/76 of 13 December 1976.⁴ The Working Group on status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier established by the Commission identified 19 issues relating to this question which need to be examined in connection with the drafting of the relevant legal document. An analysis of these issues indicates that most of them have not been properly reflected in existing international legal instruments in the field of diplomatic law, a fact which again underscores the need to prepare, as a supplement to the 1961 Vienna Convention, a legal document on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier which would be based on the provisions of that Convention and would take into consideration the corresponding provisions of similar conventions.

* Comments distributed after the closure of the thirty-first session of the Commission.

⁴ *Yearbook ... 1978*, vol. II (Part Two), pp. 138-139, document A/33/10, paras. 137-144.

1. Definition of "diplomatic courier"

As is clear from the study undertaken by the Commission, neither the 1961 Vienna Convention nor any other convention of that kind contains a definition of the term "diplomatic courier".

In the course of further work on the question the Commission should formulate a definition of that term, taking into account the provisions of the four conventions in the field of diplomatic law studied in this context, which contain elements of a possible definition of the term "diplomatic courier". In such a definition it should be indicated that the diplomatic courier is a person authorized to deliver the diplomatic bag. His status should be confirmed by an official document, which should also indicate the number of packages constituting the diplomatic bag accompanied by him.

2. Function of the diplomatic courier

In defining the function of the diplomatic courier, account should be taken of the provisions of article 27 of the 1961 Vienna Convention, article 35 of the 1963 Vienna Convention, article 28 of the Convention on Special Missions and articles 27 and 57 of the 1975 Vienna Convention. Account should also be taken of the fact that the function of the courier is that of the State and not of the individual.

3. Privileges and immunities of the diplomatic courier

In the opinion of the Byelorussian SSR, for the performance of his functions the diplomatic courier should enjoy as full diplomatic status as possible. In performing his official functions the diplomatic courier should enjoy personal inviolability and immunity from arrest or detention. The receiving State or the transit State should be responsible for taking all appropriate steps to prevent any attack on the person, freedom or dignity of the diplomatic courier. In the performance of his official functions the diplomatic courier should also enjoy immunity from the criminal, civil and administrative jurisdiction of the receiving State or the transit State.

The diplomatic courier should be exempt from personal examination or control. The personal baggage of the diplomatic courier should be exempt from customs inspection, save in exceptional cases where there are serious grounds for supposing that his personal baggage contains articles the import of which is prohibited by the law of the receiving State or the transit State. In such cases, the inspection should be conducted only in the presence of the diplomatic courier.

The receiving State or the transit State should be required to take all appropriate steps to ensure the inviolability of places where the diplomatic courier is staying while performing his official functions. The necessary protection should also be afforded to the means of transport used by the diplomatic courier.

The State to which the diplomatic bag belongs should retain the right to waive fully or in part the immunities of the diplomatic courier delivering it.

The receiving State or the transit State may, without having to explain its decision, notify the State to which the diplomatic bag belongs that the diplomatic courier delivering it is not acceptable. However, the receiving State cannot demand the recall of a diplomatic courier in its territory or the termination of his functions until he has delivered to the consignee the diplomatic bag in his charge.

4. *Duration of privileges and immunities of the diplomatic courier*

The provisions of existing conventions in the field of diplomatic law basically define the time of cessation of the immunities of an *ad hoc* diplomatic courier, which takes effect when the *ad hoc* diplomatic courier has delivered to the consignee the diplomatic bag in his charge

It would appear that the diplomatic courier should enjoy privileges and immunities from the moment he enters the territory of the receiving State or the transit State for the purpose of performing his official functions until the time he leaves that territory.

5. *Consequences of the severance or suspension of diplomatic relations or armed conflict*

In the opinion of the Byelorussian SSR, in the event of the severance or suspension of diplomatic relations between the State to which the diplomatic bag belongs and the receiving State or the transit State, and also in the case of the outbreak of armed conflict between them, the receiving State or the transit State should be required to ensure the inviolability of the diplomatic bag in its territory and respect for the privileges and immunities of the diplomatic courier accompanying the bag.

6. *Definition of "diplomatic bag"*

In formulating a definition of the term "diplomatic bag" it should be indicated that the term means the official correspondence of the Government of a State or its diplomatic mission, intended for communication between the Government and the diplomatic mission or between the diplomatic mission and other missions and consulates of that State, regardless of where they are situated.

The packages constituting the diplomatic bag should bear visible external marks indicating their character and the State to which they belong and should contain only diplomatic documents or articles intended for official use.

7. *Status of the diplomatic bag*

It would seem necessary to note that the diplomatic bag may be accompanied or not accompanied by diplomatic courier. The diplomatic bag, whether accompanied or unaccompanied by diplomatic courier,

is inviolable and should not be opened or detained; nor should its contents be ascertained by technical means without its being opened.

8. *Respect for the laws and regulations of the receiving State*

In the opinion of the Byelorussian SSR, in the formulation of provisions on this point it should be indicated that, without prejudice to his privileges and immunities, the diplomatic courier enjoying such privileges and immunities should be required to respect the laws and regulations of the receiving State; he should also be required to refrain from interfering in the internal affairs of that State.

9. *Obligations of the receiving State or the transit State*

The existing conventions in the field of diplomatic law contain some provisions which could be used in the elaboration of international norms on this question.

In particular, it should be indicated that the diplomatic courier is to be protected by the receiving State in the performance of his functions. Transit States should afford diplomatic couriers and the diplomatic bag the same inviolability and protection as the receiving State is required to provide.

10. *Obligations of the receiving State or the transit State in the event of death or accident of the diplomatic courier precluding him from the performance of his functions*

In the view of the Byelorussian SSR, in such cases the receiving State or the transit State should be required to notify the State to which the diplomatic bag belongs as quickly as possible and to hand over the diplomatic bag to an official representative of that State.

11. *Obligations of the third State in cases of force majeure*

In cases of *force majeure*, the State in whose territory the diplomatic courier or diplomatic bag is present should respect the privileges and immunities of the diplomatic courier and the status of the diplomatic bag.

In the opinion of the Byelorussian SSR, the rules of international law governing the functions and status of the diplomatic courier and the diplomatic bag accompanied or not accompanied by diplomatic courier might be laid down in an additional protocol to the 1961 Vienna Convention, which would be based on the provisions of that Convention and would take into consideration the relevant provisions of other conventions of a similar nature. The protocol should also indicate that, where necessary, the terms "diplomatic courier" and "diplomatic bag" will be equated with the terms "consular courier" and "consular bag", referred to in article 35 of the 1963 Vienna Convention; the terms "courier of the special mission" and "the special

mission's bag", referred to in article 28 of the Convention on Special Missions; the terms "courier of the mission" and "the mission's bag"; and the term "courier of the delegation" and "the delegation's bag", referred to in articles 27 and 57 respectively of the 1975 Vienna Convention.

The Byelorussian SSR reserves the right to submit additional comments on the question of the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier in connection with the further elaboration of international norms on this question.

The speedy elaboration and adoption of an additional protocol to the 1961 Vienna Convention regulating the functions and status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier would undoubtedly make a positive contribution to the further codification and progressive development of international diplomatic law and to the strengthening of mutual understanding and co-operation among States.

Canada

[Original: English]
[30 April 1979]

The Government of Canada considers that the 1961 Vienna Convention is declaratory of customary international law and would support any resolution calling upon States which have not yet done so to accede to the Convention.

The Government of Canada is of the view that questions arising from the implementation of the Convention should be resolved through bilateral means and doubts the necessity to develop further any particular aspect of the Convention.

With regard to the statute of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, it is the opinion of the Government of Canada that articles 27 and 40 of the 1961 Vienna Convention, if strictly applied, provide sufficient guarantees to ensure the proper functioning and protection of official communications by couriers. Consequently, Canada does not see a need to elaborate additional or more detailed provisions on the matter.

Chile

[Original: Spanish]
[8 May 1979]

In accordance with the provisions of United Nations General Assembly resolutions 33/139 and 33/140, both dated 19 December 1978, the Secretary-General has informed the Government of Chile of the recommendation that the International Law Commission should continue its study concerning the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier in the light of comments made during the debate on that item in the Sixth Committee at the thirty-third session of the General Assembly and of comments to be submitted by

Member States, with a view to the possible elaboration of an appropriate legal instrument.

In addition, Member States were invited to submit, not later than 30 April 1979, their written observations or comments on the topic in question.

The Secretary-General's note added that it would be appreciated if States were to include comments and observations on the implementation of the provisions of the 1961 Vienna Convention, to be submitted to the General Assembly at a future session.

After placing on the agenda of its twenty-ninth session the 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", the Commission established a Working Group to deal with the topic. That Group tentatively identified 19 issues that might be considered.⁵ At the same time, the intention was to harmonize those issues with the relevant rules of the following multilateral agreements: the 1961 Vienna Convention; the 1963 Vienna Convention; the Convention on Special Missions; and the 1975 Vienna Convention.

The issues tentatively identified by the Working Group and the comments that might be made on them are set out below:

1. Definition of "diplomatic courier"

Although the existing multilateral agreements contain no definition of "diplomatic courier", a consensus exists as to its actual meaning. On the basis of the provisions on the topic, the expression may be said to have the following meaning: diplomatic courier means the person who, duly authorized by his Government, is responsible for the custody and physical transport of the diplomatic bag, or for transmitting an oral message, from the sending State to the premises of the appropriate mission or office in the receiving State.

However, this issue should be linked to question No. 13, concerning the definition of "diplomatic bag". Furthermore, and for the sake of completeness, whatever definitions clause is drafted should also envisage the definition of "transit State" and that of "receiving State".

2. Function of the diplomatic courier

The existing multilateral conventions provide guidelines for defining the functions of the diplomatic courier. In performing his specific tasks, the diplomatic courier becomes the appropriate means used by a State to contact, in a safe and official manner, the particular diplomatic mission, consular office, permanent observer mission, special mission, or observer delegation which calls for its attention at the time. In practice, therefore, the courier has a number of functions, and hence the definition should be broad and flexible,

⁵ See *Yearbook . . . 1978*, vol. II (Part Two), p. 139, document A/33/10, paras. 142-143.

rather than narrow and restricted to a list of various activities.

3. *Multiple appointment of the diplomatic courier*

There would appear to be no objection to the multiple appointment of the diplomatic courier, if circumstances necessitate it.

4. *Privileges and immunities of the diplomatic courier*

With regard to this issue, the privileges and immunities should be limited strictly to the natural scope of the functions of the diplomatic courier. In the performance of his duties, the diplomatic courier acts as the official link between his Government and the seat of the mission or the office concerned, which means that his status resembles to some extent that of the diplomatic agent. In this respect, what should be stressed is the need to guarantee exemption from personal examination and from inspection of his baggage, the inviolability of his residence while he remains in the transit State or in the receiving State until he has delivered the bag or message, and the inviolability of means of transport. The grant of privileges and immunities to the diplomatic courier is therefore inherent in his status as a Government official holding diplomatic rank for the duration of his essentially temporary mission. As far as the waiver of such privileges is concerned, the principle set forth in article 3, paragraph 1, of the 1961 Vienna Convention, applying to the diplomatic agent, should remain applicable.

5. *Facilities accorded to the diplomatic courier*

The facilities to be accorded to the diplomatic courier are related to the deference and courtesies to be extended by States, in their relations with one another, to the representatives or envoys of other States. Consequently, it will be necessary to determine specific facilities case by case, according to circumstances, and for this reason a generic approach seems to be called for to the undertaking by States to facilitate, as far as possible, the performance of the functions of the courier—for example, by the timely and prompt granting of visas.

6. *Duration of privileges and immunities of the diplomatic courier*

It seems advisable to restate the principle laid down in the four existing multilateral conventions, namely that the privileges and immunities enjoyed by the diplomatic courier would cease to apply from the moment when the courier has delivered the diplomatic bag to the consignee.

7. *Nationality of the diplomatic courier*

In view of the fact that, through the diplomatic courier, the sending State extends its official activity in the transport and delivery of the diplomatic bag, and of the importance of entrusting such a mission to an

official who is one of its own nationals and is duly authorized, the principle set forth in the 1963 Vienna Convention (article 35, para. 5) appears sound, namely that the courier shall be neither a national of the receiving State, nor, unless he is a national of the sending State, a permanent resident of the receiving State.

8. *End of functions of the diplomatic courier*

With regard to the termination of the functions of the diplomatic courier, there are two distinct points: one concerning his function at the international level, and the other concerning his function under internal law. So far as the first point is concerned, the courier's functions would terminate when he delivers the diplomatic bag which he has been instructed to carry and deliver to the consignee; so far as the second point is concerned, his functions would terminate at the time when he reports the completion of his mission in the receiving State to the authority or service which assigned the official mission to him.

9. *Consequences of the severance or suspension of diplomatic relations, the recall of diplomatic missions or armed conflict*

The function of the diplomatic courier, although he is accorded privileges and immunities similar to those of the diplomatic agent, is of a procedural rather than a substantively political nature. Consequently, the severance or suspension of diplomatic relations or the recall of missions should not influence decisively the functions of the courier during his passage through transit States. In strict law, the same would be true even in the event of an armed conflict with such States. In the event of the severance or suspension of diplomatic relations with the receiving State, or the recall of diplomatic missions, the diplomatic courier would act as a liaison between the sending State and the diplomatic mission agreeing to look after the interests of that State; such situations of bilateral abnormality would not then interfere with the performance of the courier's functions. In the event of armed conflict, the *de facto* situation would prevent the courier from continuing to perform his functions.

10. *Granting of visas to the diplomatic courier*

The granting of visas to the diplomatic courier would remain one of the facilities which transit States agree to provide, as noted under item 5.

11. *Persons declared not acceptable*

According to the principle laid down in article 9, paragraph 1, of the 1961 Vienna Convention, the declaration of a person as not acceptable relates directly to the members of the staff of a mission who do not possess diplomatic status. Consequently, the diplomatic courier would not be liable on those grounds to recall from the receiving State, since he is neither a member of the staff of the mission, nor

connected with it or with the receiving State in any permanent manner. On the other hand, owing to the essentially temporary nature of the functions of the courier, it would be feasible to appoint as courier a person who has been declared not acceptable, even for the State in question. As has already been mentioned, the diplomatic courier does not perform his functions within the mission or office, but outside it, as an official link between the sending State and the mission concerned, and hence he is not involved in the internal operations of the mission. Furthermore, the diplomatic courier's connection with the sending State's diplomatic or consular mission lasts only for as long as is necessary to deliver the communication or message brought by him; consequently, the declaration of a person as not acceptable, made on an occasion prior to that on which he is sent as a diplomatic courier, would not prevent him from accomplishing his particular mission. Nevertheless, in order to avoid in the future situations which might offend the sensibilities of the receiving State, sending States might undertake not to send as diplomatic couriers persons declared not acceptable by that country.

12. *Status of the diplomatic courier ad hoc*

The multilateral conventions referred to above all permit the designation of diplomatic couriers *ad hoc*. They state that, in any event, such a courier's privileges and immunities would be more limited, in that they would cease to apply upon delivery of what was entrusted to him to the consignee. Consequently, the diplomatic courier *ad hoc* should be governed by specific rules within the general rules applicable to the diplomatic courier, in respect of such questions as his legal status in the interim period elapsing between the delivery of the diplomatic bag and the time when he is entrusted with another.

13. *Definition of "diplomatic bag"*

This definition should be linked with the definition of the "diplomatic courier", as noted under item 1. It would, however, be desirable to draft a definition taking account of the provisions of the four multilateral conventions. As a result, the diplomatic bag would mean all packages which bear visible external marks of their character and permit the official movement of documents or articles intended exclusively for the use of the sending State and of its mission or office abroad.

14. *Status of the diplomatic bag accompanied by diplomatic courier*

This item concerns the security measures to be taken by States in respect of packages constituting a diplomatic bag. One of the factors to be considered is the principle that the bag may not be opened or detained; in addition, provision should be made for all such measures as are to be taken by the transit and receiving States for the adequate protection of the

diplomatic bag, which are referred to under items 18 and 19.

15. *Status of the diplomatic bag not accompanied by diplomatic courier*

It is desirable to specify the rules applicable to the diplomatic bag in this case, if it is felt that in such circumstances there is a greater need for the protection and free transit of the packages constituting the bag. The principle established in the existing multilateral conventions should therefore be upheld, in the sense that the diplomatic bag should be entrusted to the highest ranking person in charge of the means of transport being used to carry it, namely the captain of the ship or aircraft concerned. Upon its arrival at the port or airport of entry in the receiving State, the diplomatic bag would be handed over to the mission official duly authorized for that purpose, who would take direct physical possession of the packages.

16. *Respect for the laws and regulations of the receiving State*

Unquestionably, the diplomatic courier must observe the laws and regulations of the receiving State. Without prejudice to the privileges and immunities to which he is entitled, the diplomatic courier should endeavour not to contravene the laws of the receiving State; while this obligation is expressly stipulated in the 1961 Vienna Convention (article 41, para. 1) in respect of all persons enjoying privileges and immunities, including the duty not to interfere in the internal affairs of that State, there is no reason why the principle should not be reiterated in the future rules concerning the diplomatic courier.

17. *Obligations of the receiving State*

The primary obligation of the receiving State may be described briefly as being to afford to the diplomatic courier the guarantees necessary for the enjoyment of the privileges and immunities which are inherent in his function. As the relevant multilateral conventions indicate, the diplomatic courier shall be protected by the receiving State. Consequently, rather than draw up a list of the specific secondary obligations which give effect to the principal obligation, it would be better to give a general definition of this duty. In the event of the diplomatic courier's death, or if some accident should prevent him from carrying out his functions, the future rule should be designed to ensure the protection of the packages constituting the diplomatic bag until they are handed over to another courier.

18. *Obligation of the transit State*

For the purpose of the prompt and complete performance of the mission entrusted to him, the diplomatic courier should be able to rely on the undertaking given by States to give him passport visas, if such visas are necessary. A provision embodying this

obligation on the part of transit States to permit movement through their territory would constitute an effective protection for the movement of the courier in the performance of his duty. For this purpose, it would be desirable to combine this principle with item 5, concerning the facilities to be accorded to the diplomatic courier. In the event of the diplomatic courier's death or of an accident in the transit State that prevents him from performing his functions, the principle to be followed would be analogous to that stated under item 17.

19. *Obligations of the third State in cases of force majeure*

If, in consequence of *force majeure* or of some fortuitous event, the diplomatic courier is compelled to make use of the territory of a third State, it is reasonable to infer that the protection of that State should be extended, for as long as necessary, to the person of the courier and to the diplomatic bag which he is accompanying.

Cuba

[Original: Spanish]
[5 May 1979]

The Government of the Republic of Cuba reiterates its interest in the maintenance of normal relations among States and in the development of international co-operation; it therefore regards it as vitally important that the rules of international law should be strictly observed in relations among States in order to maintain peace and international security, and it condemns once again breaches of the security, privileges and immunities of diplomatic missions and their staff in flagrant violation of the provisions of the 1961 Vienna Convention.

The Government of Cuba agrees on the need for those States that are not yet parties to the Convention to accede to it, and thus contribute to better implementation of its rules in the interests of the international community.

In order to prevent States from taking unilateral measures in interpreting and applying the provisions of article 27 of the 1961 Vienna Convention, which relate to the status of the diplomatic courier, the Government of Cuba believes that additional rules should be drawn up in respect not only of the definition of the term but also of other matters, such as the privileges and immunities of the diplomatic courier and his status in the event of suspension of diplomatic relations or permanent or temporary recall of diplomatic missions, and in the event of armed conflicts between States.

The Government of Cuba considers that these additional provisions should also cover the legal status of couriers referred to in the relevant Conventions of 1963, 1969 and 1975, since their functions are basically the same and they should therefore receive the same legal treatment. The legal status of the

diplomatic bag not accompanied by diplomatic courier should also be regulated.

The diplomatic courier service is one of the oldest and most necessary institutions in inter-State relations and, with the development of transport and communications, has come to include the dispatch of unaccompanied diplomatic bags.

Experience has shown that normal and unobstructed functioning of this service is an essential requirement for the satisfactory discharge of the duties of diplomatic missions, consular offices, special missions and representatives to international bodies.

For these reasons, the Government of Cuba believes that this matter should continue to receive the attention of the General Assembly and that it would be appropriate to return to the subject when the International Law Commission submits the results of its work on the possible elaboration of an appropriate legal instrument on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier.

Czechoslovakia

[Original: English]
[23 April 1979]

The Czechoslovak Socialist Republic fully supports the request, expressed by delegations of numerous States in foregoing sessions of the United Nations General Assembly, that a protocol be worked out that would unequivocally determine the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier. The reason behind that proposal is that the existing conventions codifying the so-called international diplomatic law are incomplete in this respect, and the mentioned protocol would suitably complement them. At the same time it would be of considerable significance for the further development of friendly relations among States.

The Czechoslovak Socialist Republic welcomes therefore that the International Law Commission is taking this matter under consideration.

In the view of the respective Czechoslovak authorities, the protocol should, in the first place, give a clear-cut answer as to who is a "diplomatic courier" and what is a "diplomatic bag". It should provide beyond any doubt for the personal inviolability of the diplomatic courier and, in that connection, for the obligations of the State on the territory of which the courier finds himself, i.e. both the receiving State and the transit State, to take all necessary measures for his protection. The protocol should also provide for the complete immunity of the diplomatic courier from the jurisdiction of the State in whose territory he travels, for his exemption from inspection of personal baggage, for the inviolability of his residence both in the receiving State and in the transit States, as well as for all the privileges and immunities granted to diplomatic representatives. It is equally necessary to determine the status of the diplomatic courier *ad hoc*.

The protocol should also clearly provide for the status of the diplomatic bag, whether accompanied or not accompanied by the diplomatic courier, and reaffirm and emphasize the absolute inviolability of the diplomatic bag as well as the obligation of both the receiving State and the transit States to take all necessary measures to ensure its inviolability.

The protocol should unambiguously provide for the obligations of the receiving State and the transit States in respect of the diplomatic courier and the diplomatic bag. It should also contain provisions concerning the obligations of third States in cases of *force majeure*. It would furthermore be useful if the protocol provided for the appropriate rights of the receiving State in respect of the diplomatic courier, i.e. to make it possible for the receiving State to declare the person of the diplomatic courier not acceptable. The protocol should also stipulate the duty of the diplomatic courier to observe the laws and regulations of the receiving State.

Finally, the protocol should provide that the status of the diplomatic courier and the diplomatic bag will analogically apply also to the couriers and the diplomatic bag referred to in the 1963 Vienna Convention, the 1969 Convention on Special Missions and the 1975 Vienna Convention.

The respective Czechoslovak authorities are convinced that the Commission has undertaken a thorough preliminary research of this issue and that the results of its work accomplished so far provide a good foundation for the drafting of a protocol on the status of the diplomatic courier and the diplomatic bag not accompanied by a diplomatic courier.

German Democratic Republic*

[Original: English]
[11 July 1979]

The Ministry of Foreign Affairs of the German Democratic Republic wishes to reaffirm its views set forth earlier in a written communication of 23 June 1976.⁶

The Ministry of Foreign Affairs considers the 1961 Vienna Convention to be an international legal instrument of the greatest significance. Strict observance of its norms and a further increase in the number of States parties to the Convention will effectively contribute to the preservation of international peace and security.

During the years since its entry into force the 1961 Convention has proved to be a useful regulatory mechanism, which is reflected, *inter alia*, in the fact that it has served as a model for further codification work and for the drafting of domestic legislation. The Convention, in general, meets present-day requirements as regards the creation of the legal framework for the conduct of diplomatic relations between States.

A review of developments since the Convention's adoption 18 years ago reveals, however, that it contains norms which require more precise language and further development. This goes, in particular, for the range of issues relating to freedom of communication as an essential element in the performance of functions by diplomatic missions. The practice of States over the past few years and the reservations expressed by several countries in respect of article 27 of the 1961 Vienna Convention on Diplomatic Relations make it clear that there are quite a number of questions in this connection that require a clear-cut solution commensurate with current conditions.

The Ministry of Foreign Affairs of the German Democratic Republic therefore welcomes the activities of the United Nations International Law Commission designed to draft an optional protocol on the 1961 Vienna Convention, and is in favour of expediting this matter.

With reference to the report of the Commission's working group,⁷ the Ministry of Foreign Affairs believes that the list of problems it contains provides basic and effective guidelines for the further work in this field, defining, at the same time, the substance of the set of problems to be covered by a future protocol.

The Ministry of Foreign Affairs reserves the right to present its views on specific matters involved in greater detail at a later date.

It is the general understanding of the Ministry of Foreign Affairs that the unrestricted exercise of the right to free communication, in accordance with the basic principles of international law and on a basis of reciprocity, is indispensable for diplomatic missions to be able to perform their functions without hindrance. Any restriction of the freedom of communication, e.g. by hindering diplomatic couriers in the performance of their duties or by opening or detaining the diplomatic bag, is inconsistent with both the basic principles of international law and the letter and spirit of the 1961 Vienna Convention.

In the light of what has been stated above, the Ministry of Foreign Affairs of the German Democratic Republic considers it indispensable that a future additional protocol should proceed from the need to ensure that diplomatic missions can perform their functions without hindrance. Hence, the diplomatic courier must be accorded full diplomatic immunities and privileges in both the receiving State and the transit State, regardless of whether he carries a diplomatic bag or is under instructions to transmit oral communications. The questions that need to be regulated in concrete terms include, in particular, the courier's immunity from jurisdiction, exemption of his person from search and of his personal baggage from inspection, the inviolability of his residence and of the means of transport he uses, and other specific facilities.

Similar considerations apply to the legal regulations

* Comments distributed after the closure of the thirty-first session of the Commission.

⁶ A/31/145, pp. 6-7.

⁷ See *Yearbook ... 1978*, vol. II (Part Two), pp. 138 *et seq.*, document A/33/10, paras. 137-144.

relating to the diplomatic bag, since the latter directly serves the implementation of government policies, even if it is not sent through diplomatic couriers. Consequently, an exact definition of the term "diplomatic bag" should form the basis of unambiguous regulations which would exclude any rejection of a diplomatic bag on the grounds of a purely subjective suspicion that misuse may be involved.

Moreover, the Ministry of Foreign Affairs is in favour of clear-cut provisions to govern the status of the courier and the diplomatic bag in the event of emergencies such as the breaking off or suspension of diplomatic relations, armed conflict, the death of a courier, his involvement in an accident, and any event of *force majeure*.

In conclusion, the Ministry of Foreign Affairs of the German Democratic Republic points out once again that it considers it desirable that a future additional protocol be extended also to other relevant multi-lateral normative acts.

Germany, Federal Republic of

[Original: English⁸
[14 May 1979]

1. The Government of the Federal Republic of Germany welcomes the work of the International Law Commission on the status of the diplomatic courier and the diplomatic bag. As stated already in its reply to the related inquiry in 1976,⁹ it discerns a special need to regulate in detail, by means of clear and generally acceptable international rules, the dispatch by land, air and sea of the diplomatic bag not accompanied by diplomatic courier. Consequently, the Government of the Federal Republic of Germany would welcome it if during its future work the Commission gave priority treatment to the subject of the diplomatic bag not accompanied by diplomatic courier, with a view to elaborating provisions for the safer, simpler and speedier dispatch of the diplomatic bag. In the past, the subject "Status of the diplomatic bag not accompanied by diplomatic courier" has been listed among the nineteen issues tentatively identified by the Commission as the issues to be covered by a possible protocol concerning the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier.¹⁰

The Government of the Federal Republic of Germany comments as follows on a selection of those issues and on the relevant observations:

Privileges and immunities of the diplomatic courier

Privileges and immunities should be granted to the diplomatic courier only to the extent necessary for the performance of his functions.

⁸ The comments of the Government of the Federal Republic of Germany were submitted by that Government in German together with an English translation.

⁹ A/31/145, p. 7.

¹⁰ See *Yearbook . . . 1978*, vol. II (Part Two), p. 139, document A/33/10, para. 143.

Facilities accorded to the diplomatic courier

A provision should be elaborated concerning preferential treatment of the diplomatic courier with respect to passport and customs formalities.

Duration of privileges and immunities of the diplomatic courier

The privileges and immunities should apply for the entire duration of his stay in the receiving State, on the understanding that the diplomatic courier delivers a diplomatic bag to the diplomatic mission and also receives a diplomatic bag from the mission and that he performs these two acts without delay and subsequently departs immediately.

Granting of visas to the diplomatic courier

It does not appear necessary to give the courier the status of a diplomatic agent in the matter of visas.

Persons declared not acceptable

A provision should be elaborated analogous to article 9 of the 1961 Vienna Convention concerning the declaration of the diplomatic courier as *persona non grata*.

Status of the diplomatic courier ad hoc

The diplomatic courier *ad hoc* should have the same status as the ordinary diplomatic courier.

Status of the diplomatic bag not accompanied by diplomatic courier

It appears necessary that all the rights and obligations connected with the dispatch of the diplomatic bag not accompanied by diplomatic courier should be regulated in detail. In this connection, it is of paramount importance to ensure the inviolability of the diplomatic bag not accompanied by diplomatic courier. This could be accomplished, for example, by provisions guaranteeing the immediate delivery by the receiving State of the incoming diplomatic bag not accompanied by diplomatic courier and the instantaneous clearance of the outgoing diplomatic bag not accompanied by diplomatic courier immediately prior to the departure of the means of transport for the diplomatic bag. Regulations on the type and colour of the diplomatic bag not accompanied by diplomatic courier could also serve to ensure as direct and immediate a transfer as possible of the bag from the means of transport to the authorized member of the diplomatic mission, and vice versa.

Respect for the laws and regulations of the receiving State

A provision analogous to article 41, paragraph 1, of the 1961 Vienna Convention should be elaborated concerning the diplomatic courier's obligation to respect the laws and regulations of the receiving State.

Obligations of the receiving State, of the transit State and of the third State in cases of force majeure

A provision should be elaborated concerning the obligations of the receiving State, of the transit State and of the third State in cases of *force majeure*.

2. The Government of the Federal Republic of Germany confirms the observation it made in response to the Secretary-General's inquiry in 1976, that in its experience the rules on diplomatic relations codified in the 1961 Vienna Convention are observed and applied in the vast majority of cases.¹¹ The Federal Government attaches great importance to the universal observance and application of the rules governing diplomatic relations as prerequisite for trouble-free diplomatic intercourse.

It therefore regrets having to note, on the other hand, that in its experience the violations of the rules on diplomatic relations have increased in number and gravity since 1976. The Government of the Federal Republic of Germany has noticed that these violations concerned primarily the right to freedom of movement and travel (article 26), the right to freedom of communication (article 27), the right to inviolability of the diplomatic mission and of the diplomatic agent's private residence (articles 22 and 30), the right to respect for and protection of the diplomatic agent's dignity (article 29), the right to exemption from customs duties on imported articles (article 36) and the right to exemption from taxation (article 34). The Government of the Federal Republic of Germany considers the involvement of the United Nations General Assembly with the implementation of the 1961 Vienna Convention to be a means of countering such violations. It is therefore in favour of the General Assembly's discussion at intervals of this subject.

Hungary

[Original: English]
[9 May 1979]

As it has already expressed in a statement of its views of 4 June 1976,¹² the Government of the Hungarian People's Republic deems it necessary to elaborate, as soon as possible, an additional protocol on the status of the diplomatic courier to the 1961 Vienna Convention.

The report of the International Law Commission on the work of its thirtieth session rendered account of a study made by the Working Group on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, on whether certain questions on the status of the diplomatic courier are duly regulated in the present valid multilateral international conventions.¹³ From this very thorough examination, it becomes clear that several questions require solution. Thus, for instance, the concept and functioning of the diplomatic courier are not defined. The immunities of the courier are not duly regulated. Present conventions do not contain provisions on the immunity of jurisdiction, the inviolability of the

residence, the exemption of the courier from personal examination and control or from the inspection of his personal baggage, nor on the facilities to be granted to the diplomatic courier. Many other questions—the duration of immunities, the status of the courier if diplomatic relations have broken off, etc.—also call for solution.

The Hungarian Government is of the opinion that, with a view to smooth performance of their important duties, the same immunities and privileges should be provided for diplomatic couriers as those diplomatic representatives enjoy.

The results of the examination of the Commission and its Working Group have confirmed the early belief of the Government of the Hungarian People's Republic that the elaboration of a protocol on the status of the diplomatic courier is absolutely desirable.

Kuwait

[Original: English]
[1 June 1979]

1. The competent authorities in the State of Kuwait do not believe there is a need for a special protocol concerning the status of the diplomatic courier and the diplomatic bag not accompanied by a diplomatic courier because the 1961 Vienna Convention has already taken care of this matter. The Convention has provided protection for the diplomatic bag and the diplomatic courier.

There is no need to make specific provisions for the exemption of the diplomatic courier from personal examination or to provide for the inviolability of his residence because the task of the courier is of a correspondence rather than of a diplomatic representative character, and thus one should avoid causing undue difficulties to the host country.

2. The competent authorities have no objection to some of the issues defined in the Report of the International Law Commission on the work of its thirtieth session¹⁴ designed to facilitate implementation of the 1961 Vienna Convention, such as: (1) end of functions of the diplomatic courier; (2) consequences of the severance or suspension of diplomatic relations, the recall of diplomatic missions or armed conflict; (3) obligations of the receiving State in the event of death or accident of the diplomatic courier precluding him from the performance of his functions; (4) obligations of the transit State in the event of death or accident of the diplomatic courier precluding him from the performance of his functions.

Switzerland

[Original: French]
[30 April 1979]

With regard to the status of the diplomatic courier, the Swiss Government considers that the provisions of

¹¹ A/31/145, p. 7.

¹² *Ibid.*, pp. 8–9.

¹³ See *Yearbook . . . 1978*, vol. II (Part Two), pp. 139 *et seq.*, document A/33/10, paras. 142 *et seq.*

¹⁴ *Ibid.*

the 1961 Vienna Convention, if properly implemented, are sufficient and give the diplomatic courier adequate protection.

It should be noted, moreover, that States are using diplomatic couriers less and less frequently and that diplomatic bags are now usually sent overland, by air or by sea without being entrusted to a courier.

In many States, the packages and parcels constituting the diplomatic bag are sent by post. They are then treated in the same way as letters or parcels sent by ordinary or registered mail. It might be useful to envisage provisions ensuring that diplomatic bags sent by post arrive quickly and safely under all circumstances.

The possibility of entrusting a diplomatic bag to the captain of a commercial aircraft, in accordance with article 27, paragraph 7, of the 1961 Vienna Convention, usually arises only in the case of a diplomatic bag of the State to which the airline company belongs. The diplomatic bags of other States must therefore be sent as air freight, and are treated as such upon departure and arrival. In order to avoid the delays that generally result from such a situation, consideration should be given to provisions for swifter forwarding of diplomatic bags sent as air freight, particularly by exempting them from Customs formalities.

The provisions suggested above could, in addition, be accompanied by practical measures designed to facilitate the dispatch of diplomatic bags not accompanied by diplomatic courier and to guarantee their security. The Swiss Government is referring in particular to the possibility of harmonizing or standardizing the text of the *laissez-passer* which diplomatic couriers must carry, as well as the visible external markings of packages and parcels constituting the diplomatic bag.

Union of Soviet Socialist Republics

[Original: Russian]
[8 May 1979]

The Soviet Union is in favour of the elaboration and adoption, in the United Nations, of a protocol on the status of the diplomatic courier and the diplomatic bag not accompanied by a diplomatic courier. It bases its position on the need to develop further and to set out in detail in such a protocol, the international legal rules concerning the status of the diplomatic courier as affirmed in the Vienna Convention on Diplomatic Relations of 1961 and other international conventions on questions of diplomatic and consular law. The practice of inter-State relations shows that normal and unhindered functioning of the institution of diplomatic couriers and the diplomatic bag not accompanied by courier, and free communication between Governments and their diplomatic representatives, are necessary conditions for the successful performance of their functions by diplomatic representatives.

The Soviet Union has already expressed its views on the possible content of a draft for the future protocol. These views are set forth most fully in the report of the

Secretary-General to the thirty-third session of the General Assembly on the question of the "Implementation by States of the Provisions of the Vienna Convention on Diplomatic Relations of 1961".¹⁵

The preliminary study undertaken by the International Law Commission on the question of the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier confirms the need to elaborate the aforementioned protocol. The Commission's analysis of all international conventions that deal with the question of diplomatic couriers—the 1961 Vienna Convention, the 1963 Vienna Convention, the Convention on Special Missions, and the 1975 Vienna Convention—shows that the rules of international law on many questions of importance from the point of view of defining the legal status of the diplomatic courier and the diplomatic bag need to be developed further. In the future protocol, it is necessary *inter alia* to define the concept of the diplomatic courier and the diplomatic bag; to elaborate provisions concerning the granting to diplomatic couriers of the privileges and immunities of diplomatic agents, including immunity from arrest or detention, immunity from the jurisdiction of the receiving State, inviolability of domicile and means of transport, immunity from personal searches and exemption of personal baggage from inspection; and to formulate provisions concerning the inviolability of the diplomatic bag and measures to be taken by the receiving State or the transit State in connection with accidents involving the diplomatic courier or in connection with armed conflicts between States.

It should be noted that, in addition to its preliminary study, the Commission has at its disposal specific comments and observations by States concerning the content of a future draft protocol, as set out in their replies to the inquiry undertaken by the Secretary-General in pursuance of General Assembly resolution 31/76.

All this gives grounds for hoping that the Commission will be able to elaborate as quickly as possible a draft protocol on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier.

United Kingdom of Great Britain and Northern Ireland

[Original: English]
[7 June 1979]

The Government of the United Kingdom of Great Britain and Northern Ireland note that the International Law Commission has identified 19 different issues concerning the status of the diplomatic courier and the bag not accompanied by courier.¹⁶ Of these 19,

¹⁵ A/33/224.

¹⁶ See *Yearbook . . . 1978*, vol. II (Part Two), pp. 137 *et seq.*, document A/33/10, paras. 137–144.

the Commission records that many are already covered by existing provisions of the 1961 Vienna Convention. Regarding those points on which the Convention is silent, the Government of the United Kingdom do not consider that there is any practical need for further legal regulation in the form of a Protocol additional to the Convention. The 1961 Vienna Convention already provides sufficient protection for the diplomatic courier and the diplomatic bag, accompanied or unaccompanied.

The Government of the United Kingdom also note that many of the delegations which expressed support for the elaboration of a Protocol during the Sixth Committee meetings on this item at the thirty-third session of the General Assembly were particularly

concerned about the protection of the diplomatic bag not accompanied by courier. The Government of the United Kingdom agree that the unaccompanied bag should be given the same measure of protection by transit States and the receiving State as is accorded to the bag accompanied by diplomatic courier. But the provisions of paragraphs 1-4 of article 27 of the 1961 Vienna Convention apply to both accompanied and unaccompanied bags. Further provision for bags unaccompanied by courier is made by paragraph 7 of that article. It is the view of the Government of the United Kingdom that any problems there may be regarding protection of the bag unaccompanied by diplomatic courier can be solved by a more faithful compliance by all States with those legal provisions that already exist, rather than by further regulation.