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**Information received from Governments**

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**

[Agenda item 7]

**DOCUMENT A/CN.4/356 and Add.1-3\***

**Information received from Governments**

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[25 March, 8 and 20 April and 5 May 1982]

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*NOTE*

Multilateral conventions mentioned in the present document:

	<i>Source</i>
Vienna Convention on Diplomatic Relations (Vienna, 18 April 1961) Hereinafter called 1961 Vienna Convention	United Nations, <i>Treaty Series</i> , vol. 500, p. 95.
Vienna Convention on Consular Relations (Vienna, 24 April 1963) Hereinafter called 1963 Vienna Convention	<i>Ibid.</i> , vol. 596, p. 261.
Convention on Special Missions (New York, 8 December 1969)	United Nations, <i>Juridical Yearbook 1969</i> (Sales No. E.71.V.4), p. 125.
Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character (Vienna, 14 March 1975) Hereinafter called 1975 Vienna Convention	<i>Ibid.</i> , 1975 (Sales No. E.77.V.3), p. 87.

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\* Incorporating document A/CN.4/356/Add.1/Corr.1.

## Introduction

1. The International Law Commission, at its thirty-third session in 1981, requested the Secretariat to solicit from States information on national laws, regulations, procedures and practices as well as information on judicial decisions, arbitral awards and diplomatic correspondence regarding the treatment of the diplomatic courier and the diplomatic bag.<sup>1</sup> Pursuant to the Commission's request, the Legal Counsel of the United Nations addressed a circular letter dated 14 October 1981 to the Governments of States, inviting them to submit relevant information by 28 February 1982.
2. The replies received by the end of April 1982 from the Governments of 13 States are reproduced below.

<sup>1</sup> *Yearbook . . . 1981*, vol. II (Part Two), p. 162, para. 248, subpara. (b).

### Austria

[Original: English]  
[19 February 1982]

1. Austria is party to the following multilateral conventions:

Convention on the Privileges and Immunities of the United Nations, 1946;<sup>1</sup>

Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations, 1947;<sup>2</sup>  
Vienna Convention on Diplomatic Relations, 1961;  
Vienna Convention on Consular Relations, 1963.

2. Provisions regarding the status of the diplomatic courier and the diplomatic bag are contained in the headquarters agreements with the following international organizations established in Austria:

International Atomic Energy Agency;  
United Nations Industrial Development Organization;

Organization of the Petroleum Exporting Countries;  
OPEC Fund for International Development.

The text of the above-mentioned relevant provisions is reproduced below (sect. A).

3. The Austrian position on certain aspects relating to the diplomatic courier and diplomatic bag is reflected in the circulars reproduced below (sect. B).

4. Provisions of bilateral treaties on consular relations concluded by Austria which might be relevant to the study of the status of the diplomatic courier and bag are also reproduced below (sect. C).

### A. HEADQUARTERS AGREEMENTS

*Agreement between the Republic of Austria and the International Atomic Energy Agency regarding the headquarters of the International Atomic Energy Agency*<sup>3</sup>

<sup>1</sup> United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum).

<sup>2</sup> *Ibid.*, vol. 33, p. 261.

<sup>3</sup> *Ibid.*, vol. 339, p. 152.

### Section 15

(a) All official communications directed to the IAEA, or to any of its officials at the headquarters seat, and all outward official communications of the IAEA, by whatever means or in whatever form transmitted, shall be immune from censorship and from any other form of interception or interference with their privacy. Such immunity shall extend, without limitation by reason of this enumeration, to publications, still and moving pictures, films and sound recordings.

(b) The IAEA shall have the right to use codes and to dispatch and receive correspondence and other official communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

*Agreement between the United Nations and the Republic of Austria regarding the headquarters of the United Nations Industrial Development Organization*<sup>4</sup>

#### Article VI. Communications, Publications and Transportation

### Section 13

(a) All official communications directed to the UNIDO, or to any of its officials at the headquarters seat, and all outward official communications of the UNIDO, by whatever means or in whatever form transmitted, shall be immune from censorship and from any other form of interception or interference with their privacy. Such immunity shall extend, without limitation by reason of this enumeration, to publications, still and moving pictures, films and sound recordings.

(b) The UNIDO shall have the right to use codes and to dispatch and receive correspondence and other official communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

*Agreement between the Republic of Austria and the Organization of the Petroleum Exporting Countries regarding the headquarters of the Organization of the Petroleum Exporting Countries*<sup>5</sup>

#### Article 11

- (1) All official communications directed to OPEC, or to any of its

<sup>4</sup> *Ibid.*, vol. 600, p. 94.

<sup>5</sup> *Ibid.*, vol. 589, p. 135.

officials at the headquarters seat, and all outward official communications of OPEC, by whatever means or in whatever form transmitted, shall be immune from censorship and from any other form of interception or interference with their privacy.

(2) OPEC shall have the right to use codes and to dispatch and receive correspondence and other official communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

*Agreement between the Republic of Austria and the OPEC Fund for International Development regarding the headquarters of the Fund<sup>6</sup>*

*Article 14*

(1) All official communications directed to the Fund, or to any of its officials at the headquarters seat, and all outward official communications of the Fund, by whatever means or in whatever form transmitted, shall be immune from censorship and from any other form of interception or interference with their privacy.

(2) The Fund shall have the right to use codes and to dispatch and receive correspondence and other official communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

**B. CIRCULARS**

*Circular to the diplomatic missions accredited to Austria, the international organizations in Vienna, the permanent missions and observer missions*

The introduction of more stringent security checks at international airports as a tool for fighting international terrorism has persistently given rise to the question whether the use of such measures in the case of diplomats is consistent with the provisions of the Vienna Convention on Diplomatic Relations (the stipulations of the convention applicable in this context are, without doubt, also generally recognized rules of international common law).

In recent years, the Austrian Federal Ministry of Foreign Affairs has always been of the opinion that security checks as an instrument for fighting terrorism in international civil aviation are both in the interest of all passengers, including diplomats, and admissible under the Vienna Convention on Diplomatic Relations, provided that certain limits are not exceeded. The following aspects may generally be considered a criterion for the admissibility of such measures:

The checks must not extend to diplomatic bags, except for electronic screening,

The measures must not be discriminatory, and

They must not consist in the manual search of the personal baggage of the diplomat by organs of the receiving State. Thus, the Federal Ministry of Foreign Affairs considers an inspection of the baggage admissible only if it is carried out by technical devices (X-rays, metal detectors, etc.) or if it is done in such a way that the diplomat concerned is asked to open his personal baggage without the control organs inspecting it manually. If such checks give rise to the well-founded suspicion that prohibited articles are carried along, the exemption from the prohibition of the inspection of the personal baggage provided for under article 36 (2) of the Vienna Convention on Diplomatic Relations will apply.

Basically, the Federal Ministry of Foreign Affairs considers checks of persons also admissible within reasonable limits (electronic devices, manual search).

Apart from the weighing of interests, this attitude is also substantiated

by the fact that, as a rule, the check is not carried out by State organs but by employees of the airport authority or the airline involved and also that there is no obligation to agree to being checked. According to international usage, however, the airline may deny transportation if such checks are refused.

Therefore all members of the Foreign Service are again requested, in the interest of their own security, to comply with such checks voluntarily—with the above-mentioned restrictions.

*Circular to the diplomatic missions accredited to Austria, the international organizations in Vienna, the permanent missions and observer missions*

For some time, airlines have been requesting not only the random screening of departing passengers and their hand baggage by metal detectors but also the X-raying of diplomatic bags marked as such.

In recent years, the Federal Ministry of Foreign Affairs has consistently held the opinion that security checks as a means for fighting terrorism in international civil aviation lie in the interest of all passengers and that they are also admissible in the case of diplomats and couriers in the light of the provisions of the Vienna Convention on Diplomatic Relations and the Headquarters Agreement, provided that such checks are carried out within the limits determined by the Vienna Convention. The Federal Ministry considers electronic screening of diplomatic bags marked as such admissible in this sense and being in accordance with the text and the meaning of article 27 (3) of the convention.

Mention may be made of the fact that persons who are not willing to agree to the screening of their person or their baggage, including diplomatic bags, which is demanded by the airlines, take the risk of being denied transportation.

The Federal Ministry of Foreign Affairs requests that all persons concerned are apprised of this circular.

*Circular to the diplomatic missions accredited to Austria, the international organizations in Vienna, the permanent missions and observer missions*

The Austrian Federal Ministry of Foreign Affairs presents its compliments to the diplomatic missions accredited to Austria and has the honour to announce that new technical security devices (the so-called "security lock") have been put into service at the entrance to the gates at Vienna-Schwechat airport on 14 April 1978.

These devices include:

1. A device for X-raying the hand baggage for metal articles, and
2. A magnetometer which identifies all metal articles worn by a person when passing through.

As from now on, all departing passengers will have to pass through this security lock, no exception being made for holders of diplomatic passports, including heads of mission and their dependants.

The Federal Ministry of Foreign Affairs hopes that these measures, which are designed to make international aviation still safer and thus serve all passengers, are appreciated.

**C. CONSULAR CONVENTIONS**

*Consular treaty between Austria and the Union of Soviet Socialist Republics, signed at Moscow on 28 February 1959<sup>7</sup>*

*Article 13*

1. The official correspondence of consulates, regardless of the

<sup>6</sup> *Bundesgesetzblatt für die Republik Österreich* (Vienna), No. 248 (8 June 1982).

<sup>7</sup> United Nations, *Treaty Series*, vol. 356, p. 62.

means of communication employed, shall be inviolable and shall not be subjected to examination.

2. In their communications with the authorities of the sending country, consulates shall be entitled to use codes and the services of diplomatic couriers. Consulates shall be charged at the same rates as diplomatic missions for the use of ordinary means of communication.

3. Consular archives shall be inviolable. Papers of an unofficial character shall not be kept in the consular archives.

4. The offices of consulates shall be inviolable. The authorities of the receiving country shall not use force in any form whatsoever, without the consent of the consul, in the offices or in the private living quarters of consuls.

*Consular treaty between Austria and Yugoslavia, signed at Belgrade on 18 March 1960*<sup>8</sup>

*Article 15*

...

(2) Official correspondence and official communications, howsoever exchanged, between the consular post and any authority of the sending State shall be inviolable and shall not be subject to censorship. The term "authority of the sending State" shall be deemed to include the diplomatic missions and consular posts of the sending State.

...

*Consular convention between Austria and Romania, signed at Vienna on 24 September 1970*<sup>9</sup>

*Article 31. Freedom of communication*

1. The receiving State shall permit and facilitate freedom of communication on the part of consular posts of the sending State for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all lawful means of communication, including diplomatic or consular couriers, diplomatic or consular bags and coded or uncoded messages. However, the consular post may install or use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the consular post and the consular bag shall be inviolable, they shall not be opened, examined or detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that the correspondence or bag contains something other than the correspondence, documents or articles referred to in paragraph 3, it shall be returned to its place of origin.

3. The consular bag, whether consisting of one package or more than one, shall be sealed and shall bear visible external marks of its character; it may contain only official correspondence and documents or articles intended exclusively for official use.

4. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. He must be a national of the sending State and may not be domiciled in the territory of the receiving State. In the performance of his functions, the consular courier shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to detention or to any other form of restriction on his personal freedom.

5. A consular bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorized airport. The captain shall be provided with an official document indicating the number of

packages constituting the consular bag; he shall not, however, be considered to be a consular courier. The consular post may send one of its members to take possession of the bag directly and freely from the captain of the aircraft. The provisions of paragraph 2 concerning the return of consular bags shall apply *mutatis mutandis*.

*Consular convention between Austria and Poland, signed at Vienna on 2 October 1974*<sup>10</sup>

*Article 18*

(1) The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts of the sending State, wherever situated, the consular post may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular mail and messages in code or cipher. However, a wireless transmitter may be installed and used in the consular post only with the consent of the receiving State.

(2) The official correspondence of the consular post shall be inviolable.

(3) Packages constituting consular official mail shall be sealed and shall bear visible external marks of their character. They may contain only official correspondence and documents or articles intended exclusively for official use.

(4) Consular official mail fulfilling the conditions of paragraph (3) shall not be opened, examined or detained.

...

*Consular convention between Austria and the German Democratic Republic, signed at Berlin on 26 March 1975*<sup>11</sup>

*Article 14*

(1) The receiving State shall permit and protect freedom of communication on the part of the consulate for all official purposes with the Government, the diplomatic missions and other consulates of the sending State, wherever situated. For that purpose, the consulate may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. The consulate may install and use a radio station only with the consent of the receiving State. The same rates for the use of means of communication shall apply to the consulate as to the diplomatic mission.

(2) The official correspondence of the consulate shall be inviolable.

(3) Packages constituting the consular bag shall be sealed and shall bear visible external marks of their character. They may contain only official correspondence and documents or articles intended exclusively for official use.

(4) A consular bag which fulfils the conditions of paragraph (3) shall not be opened, examined or detained.

(5) The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. He shall be a national of the sending State and shall not have a place of residence in the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall therefore not be liable to detention, arrest or any other form of restriction on his personal freedom. The foregoing shall also apply to a consular courier *ad hoc*, but his immunities and the obligation of the receiving State to protect him shall cease when he has delivered the consular bag to the consignee.

(6) The consular bag may also be entrusted to the captain of an aircraft operated by an airline for commercial purposes or to the captain of a ship. The captain shall be provided with an official

<sup>8</sup> *Ibid.*, vol. 763, p. 158.

<sup>9</sup> *Ibid.*, vol. 848, p. 106.

<sup>10</sup> *Bundesgesetzblatt für die Republik Österreich* (Vienna), No. 383 (18 July 1975).

<sup>11</sup> *Ibid.*, No. 494 (26 September 1975).

document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. Subject to compliance with the security regulations in force for the airport or port concerned, a member of the consulate may directly and freely deliver the consular bag to the captain or take possession of it from him.

*Consular convention between Austria and Bulgaria, signed at Sofia on 4 May 1975*<sup>12</sup>

*Article 30. Freedom of communication*

(1) The receiving State shall permit and facilitate freedom of communication on the part of the consulate of the sending State for all official purposes. In communicating with the Government, the diplomatic missions and other consulates, wherever situated, of the sending State, the consulate may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags and coded or uncoded messages. However, the consulate may install and use a wireless transmitter only with the consent of the receiving State. Where conventional means are used to transmit messages, the same rates shall apply to consulates as apply to diplomatic missions.

(2) The correspondence of the consulate and the consular bag shall be inviolable; they shall not be opened, examined or detained. Nevertheless, if there is serious reason to believe that the consignment contains something other than the official correspondence, documents or articles referred to in paragraph (3), it may be returned to its place of origin.

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

(4) The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. He shall be a national of the sending State and shall not be domiciled in the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to detention or any other form of restriction on his personal freedom.

(5) A consular bag may also be entrusted to the captain of a ship or of a commercial aircraft. He shall be provided with an official document indicating the number of packages constituting the bag. He shall not, however, be considered to be a consular courier. The consulate may send one of its members to deliver the bag directly and freely to the captain or to receive it from him. The provisions of paragraph (2) concerning the return of consular bags shall apply *mutatis mutandis*.

*Consular convention between Austria and Hungary, signed at Budapest on 25 February 1975*<sup>13</sup>

*Article 15*

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

(2) The official correspondence of the consulate shall be inviolable.

(3) Packages constituting consular official mail shall be sealed and shall bear visible external marks of their character. They may contain only official correspondence and documents or articles intended exclusively for official use.

(4) Consular official mail fulfilling the conditions of paragraph (3) shall not be opened, examined or detained.

<sup>12</sup> *Ibid.*, No. 342 (8 July 1976).

<sup>13</sup> *Ibid.*, No. 146 (7 April 1977).

(5) The consular courier shall be provided with an official document indicating his status and the number of packages constituting consular official mail. He shall be a national of the sending State and shall not be a permanent resident of the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall therefore not be liable to arrest or detention or to any other form of restriction on his personal freedom.

(6) Consular official mail may be entrusted to the captain of a ship or of a commercial aircraft. He shall be provided with an official document indicating the number of packages constituting consular official mail; however, he shall not be considered to be a consular courier. A member of the consulate may directly and freely deliver consular official mail to the captain or take possession of it from him.

**Botswana**

[Original: English]  
[4 March 1982]

1. Botswana has no national laws, regulations, judicial decisions and arbitral awards regarding treatment of the diplomatic courier and the diplomatic bag.

2. Botswana treats diplomatic couriers like accredited diplomats. They are accorded VIP status and are not subjected to security checks and/or searches at airports or borders. Diplomatic correspondence is also not subjected to security checks and/or searches.

**Czechoslovakia**

[Original: French]  
[13 April 1982]

*Customs Act of 24 April 1974*<sup>1</sup>

*Article 29*

...

2. The following shall not be subject to customs inspection:

(a) Diplomatic bags of the Federal Ministry of Foreign Affairs and of Czechoslovak diplomatic or consular missions, and diplomatic bags which are exempt from customs inspection under international treaties.

...

*Order of the Federal Ministry of Foreign Trade of 25 November 1974 implementing the Customs Act, No. 44/1974 of the Statute-book*<sup>2</sup>

CHAPTER II. EXEMPTION FROM CUSTOMS INSPECTION

...

*Article 5*

Goods shall not be subject to customs inspection if they are transported from one foreign country to another by

...

<sup>1</sup> *Sbirka zákonů Československá socialistická republika, 1974* [Compendium of Laws of the Czechoslovak Socialist Republic, 1974] (Prague), p. 121, No. 44.

<sup>2</sup> *Ibid.*, p. 405, No. 119.

(h) Diplomatic and consular couriers (hereinafter referred to as "couriers") of foreign States.

#### Article 6

1. Exemption from customs inspection shall also apply to baggage of the persons referred to in articles 4 and 5 which is transported in connection with a particular journey of such persons, even if it is imported or exported by a means of transport other than that used by such persons.

2. Exemption from customs inspection shall not apply in cases where there are serious grounds for presuming that the baggage contains articles the import, export or transit of which is prohibited or restricted. Customs inspection shall be conducted only in the presence of the person referred to in article 4 or 5 or of his authorized representative.

#### Article 7

1. Sealed diplomatic bags and consular bags (hereinafter referred to as "diplomatic bags") which the courier transports by the same means of transport as he himself uses shall not be subject to customs inspection. The courier shall be provided with an official document prepared by and bearing the stamp of the post dispatching the diplomatic bag. The said document shall indicate the number of packages constituting the diplomatic bag and the type of external cover.

2. Sealed diplomatic bags transported otherwise than by courier shall not be subject to customs inspection; however, they shall be accompanied by an official document prepared by and bearing the stamp of the post dispatching the diplomatic bag. The said document must indicate the number of packages constituting the diplomatic bag, the type of external cover and the address of the post or authority to which the bag is consigned.

3. Diplomatic bags may contain only diplomatic documents or articles intended for the official use of the mission.

#### Finland

[Original: English]  
[24 February 1982]

1. As a party to the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations, Finland is bound by the relevant provisions of these instruments. When ratifying the 1963 convention, however, Finland entered the following reservation:

With regard to article 35, paragraph 1, and article 58, paragraph 1, Finland does not accord to consular posts headed by honorary consular officers the right to employ diplomatic or consular couriers and diplomatic or consular bags, or to Governments, diplomatic missions and other consular posts the right to employ these means in communicating with consular posts headed by honorary consular officers, except to the extent that Finland may have consented thereto in particular cases.<sup>1</sup>

2. As regards foreign missions in Finland, there are national requirements according to which officially sealed courier consignments entered in the courier list, destined for such missions, are allowed to pass free of inspection and without a written customs declaration. Consignments not entered in the courier list, if not suspected of containing objects not classifiable as documents, are also allowed to pass free of inspection and without a written customs declaration. In such a case the receiver is, however, obliged to give a receipt or to sign his acknowledgement of receipt in the list of goods of the vehicle of transportation. Courier consignments and consignments of documents referred to above are

<sup>1</sup>See United Nations, *Multilateral Treaties Deposited with the Secretary-General. Status as at 31 December 1981* (Sales No. E.81.V.9), p. 71.

handed over to the receiver immediately on arrival of the vehicle. General provisions on reciprocal exemption of diplomatic consignments from customs duties are contained in the 1978 Customs Tax Act.<sup>2</sup>

3. The provisions of article 40 of the 1961 Vienna Convention dealing with the inviolability and protection of the diplomatic courier and the diplomatic bag are also strictly followed in Finland, even if no specific rules or guidelines concerning their practical application have been issued. Exemption from customs duties may also be derived from the general exemption of transit goods from such duties.

4. The administrative regulations concerning the diplomatic bag and applied in foreign representation are contained in a Manual of Diplomatic Service. The Ministry for Foreign Affairs has regular connections by air to all Finnish diplomatic missions and missions headed by appointed consuls-general. Since the captain of the aeroplane cannot, in accordance with article 27, paragraph 7, of the 1961 Vienna Convention, be considered a diplomatic courier, he or the member of the crew acting in his place as "courier" will be given only the reference numbers of the packages constituting the bag and a certificate indicating the total number of the packages, but not a courier passport. In the instructions issued to Finnish missions it is also emphasized that a courier consignment shall be delivered directly to the plane as well as received directly from the plane.

5. The Finnish foreign service no longer has regular couriers. However, *ad hoc* couriers, as provided for in article 27, paragraph 6, of the 1961 convention, are designated for special assignments. Such couriers may be officials in the foreign service or adult members of their families, or even other Finnish citizens of high reputation, and in the first place, persons eligible to carry a diplomatic passport or a passport of official service. The *ad hoc* courier will be provided not only with the certificate mentioned above but also with a courier passport which will indicate his/her diplomatic status and which the courier has to hand over to the receiver. When land or sea transportation is used (for heavy consignments), captains of Finnish ships or Finnish truck drivers may act as couriers.

6. If the right of unhampered courier connections of a Finnish mission is interfered with by the receiving State, the mission shall immediately inform the Ministry for Foreign Affairs thereof. The Ministry shall then instruct the mission as regards possible issuance of a protest or the taking of other measures.

<sup>2</sup>*Suomen Asetuskokoelma, 1978* [Compendium of Laws of Finland, 1978] (Helsinki), p. 1194, No. 575.

#### Federal Republic of Germany

[Original: German\*]  
[23 March 1982]

#### Courier service<sup>1</sup>

1. The Federal Republic of Germany permits and

\* English translation provided by the Federal Republic of Germany.

<sup>1</sup>*Gemeinsames Ministerialblatt* [Interministerial journal] (Bonn), 26th year, No. 13 (18 April 1975), p. 344, sect. VI.

protects the freedom of communication of foreign heads of State, heads or ministers of other Governments during their stay in the Federal Republic of Germany, heads of diplomatic missions and the head of the Permanent Representation of the German Democratic Republic, and heads of consular or other posts that have been granted this right for all official purposes. It follows from this that, in communicating with other missions and posts of the sending State, they may employ all appropriate means, including couriers and messages in code or cipher, as well as radio, but only with the approval of the Federal Government.

2. The official correspondence of missions and of the Permanent Representation of the German Democratic Republic is inviolable. This inviolability extends beyond the fundamental right embodied in article 10 of the Basic Law and also offers protection against confiscation by a judge.

3. Official correspondence may not be opened or detained. It may be carried by:

(a) Diplomatic or official couriers. The courier must be provided with an official document indicating his status. He enjoys personal inviolability and is not liable to any form of arrest or detention;

(b) The captain of a commercial aircraft scheduled to land at an authorized port of entry;

(c) In the case of a consular bag, the captain of a ship heading for an authorized port of entry.

4. Packages constituting the bag must bear visible external marks of their character. The courier or the captain of an aircraft or of a ship carrying the bag must be provided with an official document indicating the number of packages constituting the bag.

5. Couriers and bags also enjoy inviolability and protection in transit from the sending State.

6. Customs clearance of diplomatic and consular bags is covered by annex I, section II, of the *Dienstweisung zum Zollgesetz und zur Allgemeinen Zollordnung* (Official Instructions relating to the Customs Act and the General Customs Regulations).

#### Ivory Coast

[Original: French]  
[11 March 1982]

In the Ivory Coast, the current practice on this question is that provided for in the 1961 Vienna Convention governing diplomatic practices and diplomatic relations.

#### Japan

[Original: English]  
[18 December 1981]

1. There is no domestic law in Japan relating to the diplomatic courier and the diplomatic bag. The provisions of the 1961 Vienna Convention on Diplomatic Relations apply directly.

2. No judicial decision is found to have been made regarding the treatment of the diplomatic courier and the diplomatic bag.

#### Luxembourg

[Original: French]  
[12 February 1982]

The Luxembourg authorities strictly apply the provisions of the 1961 Vienna Convention on Diplomatic Relations governing the treatment of both the official correspondence of diplomatic missions and the diplomatic bag.

There are no national laws, regulations or other practices supplementing or replacing the Vienna Convention.

#### Mexico

[Original: Spanish]  
[23 February 1982]

The Government of Mexico bases its treatment of the diplomatic bag and the diplomatic courier on the 1961 Vienna Convention on Diplomatic Relations, to which Mexico has been a party since 1965. It may also be mentioned that draft regulations on the subject are at present under consideration, as the decrees and circulars which gave effect to the convention until 1981 have been abrogated.

#### Republic of Korea

[Original: English]  
[20 April 1982]

1. The Republic of Korea is a party to both the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations. With regard to article 27 of the Vienna Convention on Diplomatic Relations on the status of the diplomatic bag, the Government of the Republic of Korea enacted a regulation in 1962 concerning the treatment of official documents, part 4 (arts. 25–36) of which contains the provisions concerning the diplomatic bag.

2. With regard to the diplomatic courier, the Government of the Republic of Korea has neither laws nor regulations, but as a courtesy, the following practice has been established.

If a resident embassy in the Republic of Korea requests the Ministry of Foreign Affairs to provide possible assistance to escort its diplomatic courier, the Ministry will make necessary arrangements, in co-operation with the appropriate authorities (the Customs Office), in order to ensure that the procedures are facilitated and that the diplomatic courier is assisted by the authorities concerned.

3. As regards the system for the diplomatic bag, the text of the regulation mentioned above is reproduced below.

#### *Regulation on the Treatment of Official Documents*<sup>1</sup>

##### PART 4: DIPLOMATIC BAG

##### *Article 25. Limitation of the contents of the bag*

1. The diplomatic bag (hereinafter referred to as "bag") shall contain documents and articles intended only for official use.

<sup>1</sup>Minister's Directive of 25 January 1980.

2. The "official use" means when it is used for the following cases:

- (a) Official documents and materials necessary for the management of the missions abroad and for their diplomatic negotiations;
- (b) Letters and other materials required for the maintenance of security;
- (c) Semi-official correspondence and communications; and
- (d) Other matters recognized as important by the Minister of Foreign Affairs and the heads of the missions.

*Article 26. Receiving and sending of the bag*

The bag shall be handled only by an official appointed to that capacity among civil servants higher than grade 7. However, the Head Office of the Ministry of Foreign Affairs (hereinafter referred to as "Head Office") may designate agents which assist the Ministry in transportation and customs clearance of the bags under the supervision of the official in charge. The agent shall be designated by the Ministry among the transportation companies affiliated with the International Air Transport Association (IATA).

*Article 27. Official in charge of the bag*

1. The bags shall be handled only by the officials in charge, and the officials shall be responsible for possible accidents caused by their own negligence.

2. Each mission abroad shall provide the Head Office with the name of its official in charge at the beginning of each year and, in case the official is replaced, it shall report the successor's name, title, date of replacement and the reason for replacement to the Head Office without delay.

*Article 28. Request for dispatch*

1. The documents and materials to be sent by the bag shall be forwarded to the Documents and Archives Division by 15.00 hours (by 12.00 hours on Saturdays) on the previous day to the sending date, the schedule of which is arranged by the Documents and Archives Division. However, urgent documents or materials may be dispatched separately by a special bag and, in this case, the request shall be made officially in writing by Assistant Ministers, Directors-General, the Inspector-General, the Director of the Administration Division or the Dean of the Institute of Foreign Affairs and National Security.

2. The Government authorities (hereinafter referred to as "other authorities") or private citizens other than the Head Office or overseas missions may not use the bag, except when Assistant Ministers, Directors-General, the Inspector-General, the Director of the Administration Division, the Dean of the Institute of Foreign Affairs and National Security or heads of missions abroad, recognizing the importance of the documents and materials as related to the diplomatic mission and its function, have made a written request.

3. The expenses concerned, in paragraph 2, shall be charged to the requesting authorities.

*Article 29. Special bag and cargo*

1. When the official in charge sends a special bag, he shall inform the consignee in advance of the flight number, air way-bill number, destination, date of arrival, etc.

2. If the weight of the documents does not exceed 3 kilograms and the contents of such are less important, the head of the mission abroad may send them in sealed yellow envelopes by air freight, registered mail or parcel.

3. If the cargo is heavy and large and less urgent, it may be sent by ship as diplomatic cargo.

4. Newspapers, books or other materials may be sent by air or sea mail depending on their urgency. In such a case, they shall bear the visible external mark "diplomatic freight".

*Article 30. Control of the bag and inspection of the contents*

1. The staff of the Documents and Archives Division of the Head Office and the official in charge in the missions abroad shall control the contents of the bag in accordance with article 25 and, if necessary, may open and inspect the contents of the bag. However, at the special request of the authorities concerned, referred to in article 28, paragraph 2, the presentation of the "list of items" and the inspection of the contents may be omitted.

2. When difficulties are expected in repacking the material or freight in its original form after the bag has been opened for inspection, the inspection may be substituted by the presentation of the Confirmation of the Contents issued by the official in charge in the sending office according to the form shown in attachment 1.

*Article 31. Security measures*

For the maintenance of security, all the documents to be sent by the bag shall be put in envelopes and sealed up. The bag containing such documents shall be packed and locked according to the procedures and be sealed up by lead ball with the seal of the Ministry of Foreign Affairs.

*Article 32. Inquiry concerning a bag not arrived*

If the bag does not arrive in due time or the locking of the bag, including the lead ball, is not in a proper form, the head of the mission abroad shall immediately inquire of the air freight company concerned about it and report the fact to the Head Office without delay.

*Article 33. Communicating a change in the dispatching schedule*

If the sending office is to change the dispatching schedule, it shall inform the receiving office of the fact beforehand in the same manner as when a special diplomatic bag is being sent.

*Article 34. List of contents*

The official in charge prepares three copies of the list of documents and material according to the form shown in attachment 2; one of these shall be kept in the sending office and the remaining two shall be forwarded after being signed by the sending official. The receiving official shall return one of the two copies to the sending office after signing it and retain the other. The receiving official shall compare the list with the contents of the bag.

*Article 35. Comparing the list with the contents of the bag*

If the contents do not conform to the list, the receiving official shall immediately report the fact to the sending official. In the case of a bag delivered to another mission, that mission shall send it back to the sending office without delay. However, if the mission which has received a wrong bag finds it more convenient, in terms of distance, to send it directly to the original receiving office, it shall forward it and report the fact to the Head Office without delay.

*Article 36. Exception to the contents limitation*

Medical supplies and necessities, being recognized *mutatis mutandis* as items prescribed in article 25, may be sent in the bag only for the use of the staff of missions abroad in special areas where living conditions are notably uncomfortable. The above-mentioned dispatch is subject to the approval of the Minister of Foreign Affairs.

## Spain

[Original: Spanish]  
[2 February 1982]

*Regulations concerning the diplomatic bag of 1 July 1968*

## SECTION I. DEFINITION AND CATEGORIES OF BAG

## Article 1

The Spanish diplomatic bag is the means of communication which ensures the inviolability of official correspondence between the central Government of the State and its missions abroad.

## Article 2

Diplomatic bags may, according to their characteristics and the means of transport used, belong to the following categories:

- (a) Accompanied (normally by air);
- (b) Forwarded
  - 1. By air;
  - 2. By sea;
  - 3. By land;
- (c) Postal (consigned by ordinary mail under international agreements). According to whether or not a particular periodicity is prescribed, bags may be either regular or special.

## Article 3

Accompanied bags shall contain confidential, classified or urgent documents only and shall be made up whenever the nature of their contents warrants. Such bags shall be entrusted, against receipt, to the flight personnel of national airlines, who shall deliver them at the place of destination, against receipt, to authorized members of diplomatic and consular missions or to official couriers of this Ministry [of Foreign Affairs]. In exceptional cases, they may be delivered to the Chief of Operations of the Spanish airline Iberia.

## Article 4

Bags forwarded as air freight shall be used for diplomatic communication with posts served by foreign airlines. Unclassified official correspondence shall also continue to be forwarded by national airlines.

## Article 5

The use by Spanish missions of bags forwarded by sea or by land shall be limited to those special consignments whose weight, dimensions and lack of urgency render it desirable. Prior authorization from this Ministry is needed for the consignment of bags by these means. Since the delivery of bags to the Ministry is subject to certain customs formalities, the instructions of the Department of Archives and Diplomatic Mail regarding their make-up and consignment must be complied with.

## Article 6

Postal diplomatic bags are consigned by ordinary mail, with franking privileges, under international agreements between Spain and the countries of the Americas, Germany, Italy, Portugal and the United Kingdom. In accordance with those agreements, such bags shall consist of packages weighing less than 20 kilograms, the three dimensions of which do not exceed 140 centimetres in all or 60 centimetres individually.

## SECTION II. PERSONS RESPONSIBLE FOR BAGS

## Article 7

1. Heads of diplomatic mission or consular post are responsible for the bag service at the mission or post in question.

2. Each mission or post shall maintain a list of officers who may perform the duty of delivering and accepting bags. The list must be proposed by the head of the diplomatic mission or consular post and approved by the General Foreign Service Directorate.

## Article 8

1. The Chief of the Diplomatic Bag Unit is directly responsible for his unit at the Ministry of Foreign Affairs, under the authority of the Department of Archives and Diplomatic Mail.

2. Official couriers are the officers responsible for accompanying and accepting bags. They shall normally perform this duty in the central Government. Their status shall be certified by means of appropriate credentials.

## Article 9

Bags may be accompanied to their final destination by a specially designated person, who shall be provided with a certificate giving his personal particulars and the number, weight and other characteristics of the packages constituting the bags, so that they can be distinguished from his personal baggage. Abroad, the certificate shall be signed by the appropriate head of diplomatic mission or consular post. At this Ministry, the certificate shall be signed by the Director of Archives and Diplomatic Mail.

## Article 10

Designated officers or carriers of a bag must deliver it without fail to the head of mission to whom it is addressed or to the Chief of the Diplomatic Bag Unit at the Ministry of Foreign Affairs, who alone are authorized to receive bags and arrange for the distribution of their contents. Any person improperly opening a diplomatic bag will incur liability.

## SECTION III. CONTENT AND MAKE-UP OF BAGS

## Article 12

1. The costs of air freight for consignments from other departments or from chancelleries and attachés' offices of missions abroad shall be charged to the budget of the Ministry of Foreign Affairs when they are included in a regular bag. If their size or characteristics necessitate the use of a separate bag, or if their urgency requires the making up of a special bag, such costs shall be borne by the department or office in which they originate.

2. In choosing the most convenient and economical means of transport, the Department of Archives and Diplomatic Mail or heads of mission, as the case may be, shall consider the circumstances and urgency of each consignment. The foregoing shall also be taken into account by our missions with a view to not requesting consignments by diplomatic bag from other ministerial departments without prior notification to the Department of Archives and Diplomatic Mail.

## Articles 11 and 13-22

[Classified internal provisions].

## SECTION IV. FORM OF BAGS

## Article 23

The bag shall consist of one or more sealed bags or one or more sealed canvas packages. Each bag shall have attached to it a tag or a stick-on label in a visible position bearing the stamp of the Ministry of Foreign Affairs or the mission of origin and the words "diplomatic bag". Diplomatic bags may be addressed only to the Minister of Foreign Affairs, heads of diplomatic mission or officers in charge of a consular post. Consignments dispatched by other departments or addressed to other offices, even within the Ministry of Foreign Affairs itself, have no such status and are not, therefore, regarded as diplomatic bags by the Spanish or foreign customs.

## Article 24

[Classified internal provisions.]

## Article 25

Heads of mission or heads of post shall ensure that surplus empty bags do not remain at their missions or posts; they must be returned regularly to the Ministry by sea or land, or even by air if other communication services are infrequent.

## Union of Soviet Socialist Republics

[Original: Russian]  
[31 March 1982]

*Information on enforceable enactments in the USSR concerning the status of the diplomatic courier and diplomatic bag not accompanied by diplomatic courier*

## I

1. Soviet legislation defines the legal status of the diplomatic courier and diplomatic bag not accompanied by diplomatic courier in complete accordance with the 1961 Vienna Convention on Diplomatic Relations, to which the Soviet Union is a party.
2. The basic document of Soviet legislation in force with regard to this question is the Regulations concerning Diplomatic and Consular Missions of Foreign States in the Territory of the Union of Soviet Socialist Republics, approved by a decree of the Presidium of the Supreme Soviet of the USSR dated 23 May 1966.<sup>1</sup> The rules concerning the diplomatic courier and the diplomatic bag which are contained in the Regulations set out in detail and further develop the relevant provisions of the 1961 Vienna Convention.
3. Provisions concerning the legal status of the diplomatic courier and the diplomatic bag are also contained in the Customs Code of the USSR, approved by a decree of the Presidium of the Supreme Soviet of the USSR dated 5 May 1964.<sup>2</sup> The Code provides that "the procedure of admission across the State frontier of the USSR . . . of the diplomatic bag of the USSR and the personal belongings of Soviet diplomatic couriers shall be determined by legislation of the USSR and also by rules approved by the Ministry of Foreign Trade in accordance with an agreement with the Ministry of Foreign Affairs of the USSR" (article 58). The procedure of admission across the State frontier of the USSR of the diplomatic bag and personal belongings of foreign diplomatic couriers is determined "by legislation of the USSR and also by rules approved by the Ministry of Foreign Trade in accordance with an agreement with the Ministry of Foreign Affairs of the USSR and the Ministry of Finance of the USSR" (article 59).
4. The Regulations concerning the protection of the State frontier of the Union of Soviet Socialist Republics, approved by a decree of the Presidium of the Supreme Soviet of the USSR dated 5 August 1960,<sup>3</sup> state that "the admission of persons across the State

frontier of the USSR shall be permitted only if such persons have the required and properly executed documents entitling them to enter or leave the USSR and shall take place at the control stations of the frontier forces" (article 11). Article 12 of the Regulations states that "admission of the diplomatic bag across the State frontier of the USSR shall be handled by the customs offices in accordance with the Customs Code of the USSR and special instructions".

5. The provisions cited above are set out in detail in the Regulations concerning Entry into and Exit from the USSR, approved by a resolution of the Council of Ministers of the USSR dated 22 September 1970, and also in the Rules concerning Admission Across the State Frontier of the USSR of the Diplomatic Bag of the USSR and of Foreign States and the Personal Belongings of Diplomatic Couriers, approved by the Ministry of Foreign Trade on 4 April 1967.
6. A number of other legislative documents, whose provisions relate to diplomatic couriers of foreign States as well, are in effect in the Soviet Union. Among these documents, mention should first be made of the Act concerning the Legal Status of Foreign Citizens in the USSR, of 24 June 1981.<sup>4</sup> A number of special rules are contained in Soviet criminal law. Under the USSR Act on Criminal Responsibility for Crimes against the State, of 25 December 1958,<sup>5</sup> terrorist acts—the murder of a representative of a foreign State in order to provoke war or international complications, or grievous bodily harm inflicted upon such a representative with the same intentions—are considered particularly dangerous crimes against the State. Persons who have committed such crimes are criminally responsible under article 4 of the Act. This rule is reproduced in the Criminal Code of the Russian Soviet Federated Socialist Republic<sup>6</sup> (article 67) and in the criminal codes of other Union Republics. According to the commentaries to the Criminal Code of the RSFSR, this rule applies to terrorist acts against "persons who are in our country on the instructions of their Governments" and therefore should also be applied in cases in which a terrorist act has been committed in the territory of the USSR against a diplomatic courier of a foreign State. Conditional remission of the remainder of the punishment and commutation of the punishment under article 44 of the Basic Principles of Criminal Legislation of the USSR and the Union Republics, of 25 December 1958,<sup>7</sup> may not be applied to a person who has been sentenced for this type of crime.
7. According to article 4 of the above-mentioned Basic Principles of Criminal Legislation, where a crime has been committed within the territory of the USSR by diplomatic representatives of foreign States or by other citizens who, according to the laws or international agreements, do not come within the jurisdiction of Soviet courts in criminal cases, the question of their criminal responsibility is settled through the diplomatic

<sup>1</sup> *Sbornik zakonov SSSR i ukazov Prezidiuma Verkhovnogo Soveta SSSR 1938–1975* [Compendium of laws of the USSR and of decrees of the Presidium of the Supreme Soviet of the USSR, 1938–1975] (Moscow), vol. 2 (1975), p. 280.

<sup>2</sup> *Ibid.*, vol. 1, p. 417.

<sup>3</sup> *Ibid.*, vol. 2, p. 392.

<sup>4</sup> *Vedomosti Verkhovnogo Soveta Soyuzu Sovetskikh Sotsialisticheskikh Respublik* [Bulletin of the Supreme Soviet of the Union of Soviet Socialist Republics] (Moscow), vol. 44, No. 26 (1 June 1981), sect. 836.

<sup>5</sup> *Sbornik . . . (op. cit.)*, vol. 3, p. 251.

<sup>6</sup> *Zakony RSFSR i Postanovleniya Verkhovnogo Soveta RSFSR* [Laws of the RSFSR and decrees of the Supreme Soviet of the RSFSR], third session of the fifth legislature (Moscow, 1960), p. 58.

<sup>7</sup> *Sbornik . . . (op. cit.)*, vol. 4 (1976), p. 60.

channel. The same rule applies to persons who have committed administrative offences under the Basic Principles of Legislation of the USSR and the Union Republics concerning Administrative Offences, of 23 October 1980 (article 8).<sup>8</sup>

## II

### LEGISLATIVE TEXTS

#### A. Regulations concerning diplomatic and consular missions of foreign States in the territory of the Union of Soviet Socialist Republics<sup>9</sup>

##### [Extracts]

##### GENERAL PROVISIONS

###### Article 1

Diplomatic missions (embassies or non-ambassadorial missions) and consular missions (consulates-general, consulates, vice-consulates or consular agencies) in the territory of the USSR shall, as organs of a foreign State, be accorded the privileges and immunities set forth in these Regulations for the exercise of their functions as determined in accordance with the norms of international law.

Privileges and immunities shall also be accorded to the personnel of the said missions to the extent specified in the following articles.

###### Article 2

It is the duty of all persons enjoying the privileges and immunities set forth in these Regulations to respect the laws, resolutions and rules in force in the USSR and the Union Republics.

###### Article 3

In those cases in which an international treaty to which the USSR is a party establishes rules other than those contained in these Regulations, the rules of the international treaty shall apply.

###### Article 4

These Regulations shall extend (*mutatis mutandis*) to diplomatic and consular missions of foreign States which may be opened in the territory of a Union Republic by agreement between that Republic and the foreign State.

##### DIPLOMATIC MISSIONS

###### Article 9

A diplomatic mission may communicate freely with its Government, with its country's consular missions in the territory of the USSR, and also with its country's diplomatic and consular missions in third States, by means of . . . the diplomatic bag.

. . .

The diplomatic bag shall not be opened or detained. All parcels constituting the diplomatic bag must bear visible external indications of their character and may contain only diplomatic documents and articles intended for official use.

The procedure for admission of the diplomatic bag across the State frontier of the USSR shall be determined by rules issued by the Ministry of Foreign Trade in accordance with an agreement with the Ministry of Foreign Affairs of the USSR and the Ministry of Finance of the USSR.

The diplomatic courier shall enjoy personal inviolability in the performance of his duties; he shall not be liable to arrest or detention.

The appropriate organs of the USSR and the Union Republics shall afford every assistance to diplomatic couriers in order to ensure their unimpeded passage to the destination and place of safe-keeping of the diplomatic bag conveyed by them.

The provisions of this article shall also apply to temporary diplomatic couriers appointed for the conveyance solely of a specific diplomatic bag (*ad hoc* diplomatic couriers). The immunities accorded to temporary diplomatic couriers shall cease to apply when they have delivered the diplomatic bag to its destination.

By special agreement with a foreign State, the diplomatic bag may be transmitted through the usual channels of communication without an accompanying courier or may be entrusted to the captain of a civil aircraft, who shall not be considered a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly from the captain of the aircraft.

##### CONSULAR MISSIONS

###### Article 24

A consular mission may communicate freely with its Government, with its country's diplomatic mission and consular missions in the territory of the USSR and with its country's diplomatic and consular missions in third States by means of . . . the diplomatic bag.

#### B. Regulations concerning entry into and exit from the Union of Soviet Socialist Republics<sup>10</sup>

##### [Extracts]

##### ENTRY INTO THE UNION OF SOVIET SOCIALIST REPUBLICS

1. The entry of Soviet citizens into the Union of Soviet Socialist Republics shall be permitted on the basis of valid Soviet diplomatic or service . . . passports . . . and certificates of return.

2. The entry of foreign citizens and stateless persons into the Union of Soviet Socialist Republics shall be permitted on the basis of valid foreign passports, or equivalent documents, when furnished with Soviet entry visas, unless another procedure for entry has been established by agreement between the Union of Soviet Socialist Republics and the country concerned.

3. Visas for entry into the Union of Soviet Socialist Republics shall be issued abroad to foreign citizens and stateless persons by Soviet embassies, missions and consulates or, in individual cases, by Soviet representatives specially empowered for that purpose.

4. In appropriate circumstances, visas for entry into the USSR may also be issued in the territory of the Union of Soviet Socialist Republics (exit-entry visas) when a citizen travels abroad for a limited period. Such visas shall be issued in the prescribed manner by the Ministry of Foreign Affairs of the USSR, by the ministries of foreign affairs of the Union Republics, by the diplomatic agencies of the Ministry of Foreign Affairs of the USSR, by the Ministry of Internal Affairs of the USSR, by the ministries of internal affairs of the Union Republics and Autonomous Republics and by the departments of internal affairs of the executive committees of territorial, regional and town Councils of Workers' Deputies.

##### EXIT FROM THE UNION OF SOVIET SOCIALIST REPUBLICS

5. The exit of Soviet citizens from the Union of Soviet Socialist

<sup>8</sup>*Vedomosti* . . . , vol. 43, No. 44 (29 October 1980), sect. 909.

<sup>9</sup>Decree of the Presidium of the Supreme Soviet of the USSR of 23 May 1966; see footnote 1 above.

<sup>10</sup>Resolution of the Council of Ministers of the USSR of 22 September 1970.

Republics shall be permitted on the basis of the valid documents listed in paragraph 8, subparagraphs (a) to (d), of these Regulations.

6. The exit of foreign citizens and stateless persons from the Union of Soviet Socialist Republics shall be permitted on the basis of valid foreign passports or equivalent documents, when furnished with an exit visa, unless a different procedure for exit has been established by agreement between the Union of Soviet Socialist Republics and the country concerned.

7. Visas for exit from the Union of Soviet Socialist Republics shall be issued in the prescribed manner by the Ministry of Foreign Affairs of the USSR, by the ministries of foreign affairs of the Union Republics, by the diplomatic agencies of the Ministry of Foreign Affairs of the USSR, by the Ministry of Internal Affairs of the USSR, by the ministries of internal affairs of the Union Republics and Autonomous Republics and by the departments of internal affairs of the executive committees of territorial, regional and town Councils of Workers' Deputies.

Visas for the exit of foreign citizens and stateless persons from the Union of Soviet Socialist Republics may also be issued abroad (entry-exit visas) when a person enters the USSR for a limited period. Such visas shall be issued by Soviet embassies, missions and consulates or, in individual cases, by Soviet representatives specially empowered for that purpose.

#### DOCUMENTS ENTITLING PERSONS TO CROSS THE STATE FRONTIER OF THE USSR

8. The following documents may be issued to a citizen of the Union of Soviet Socialist Republics for exit from the USSR, sojourn abroad and return to the USSR:

- (a) A diplomatic passport;
- (b) A service passport . . .

. . .

In the absence of such documents, a certificate of return may be issued for return to the USSR.

9. Diplomatic and service . . . passports shall be issued to citizens of the Union of Soviet Socialist Republics who are to travel abroad by the Ministry of Foreign Affairs of the USSR and the ministries of foreign affairs of the Union Republics in accordance with paragraphs 13 and 14 . . . of these Regulations.

Diplomatic and service . . . passports and certificates of return to the USSR shall be issued to citizens of the Union of Soviet Socialist Republics who are abroad by Soviet embassies, missions and consulates or, in individual cases, by Soviet representatives specially empowered for that purpose.

. . .

13. Diplomatic passports shall be issued:

. . .

- (d) . . . to diplomatic couriers . . .

14. Service passports shall be issued:

- (a) to ministry officials . . .

. . .

17. Diplomatic or service . . . passports shall be issued respectively to wives, children aged less than 18 years and unmarried daughters aged more than 18 years travelling with the persons mentioned in paragraphs 13, 14 . . . or travelling to meet such persons. Children aged less than 16 years may also be included in the passports of one of their parents or of the person with whom they are travelling.

. . .

19. Foreign visas for persons travelling on official business shall be received through the Ministry of Foreign Affairs of the USSR, the missions of the Soviet Union in other countries, the ministries of foreign affairs of the Union Republics and the embassies and missions of the USSR in other countries.

#### C. Rules concerning admission across the state frontier of the USSR of the diplomatic bag of the USSR and of foreign States and the personal belongings of diplomatic couriers<sup>11</sup>

##### Based on articles 58 and 59 of the Customs Code of the Soviet Union

1. The following shall have the right of unhindered communication by means of the diplomatic bag: . . . the Ministries (Departments) of Foreign Affairs of States with which the USSR maintains diplomatic or consular relations; the diplomatic and consular missions of those States in the territory of the USSR and in third countries; and international organizations in the territory of the USSR and the missions of foreign States accredited to such organizations if their accreditation is pursuant to an international agreement to which the Soviet Union is a party.

On a basis of reciprocity, this right may be extended to cover transit through the territory of the Soviet Union of the diplomatic bag of foreign States with which the USSR has no diplomatic or consular relations.

2. The diplomatic bag shall not be opened or detained when crossing the State frontier of the USSR.

All parcels constituting the diplomatic bag must bear visible external indications of their character and may contain only official correspondence and documents or articles intended for official use.

Each parcel of the diplomatic bag must be sealed with wax or lead seals by the sender and must bear a gummed label with the words *expédition officielle*. The weight of the diplomatic bag sent to the USSR may be limited on the basis of reciprocity. There shall be no limit on the weight of the diplomatic bag sent in transit through the territory of the USSR.

3. The diplomatic courier must be provided with an official document (courier's certificate) indicating his status and the number of parcels constituting the diplomatic bag. The said document must be signed by the official empowered for that purpose and must bear the stamp of the office sending the diplomatic bag.

4. The diplomatic bag may be entrusted to the captain of a civil aircraft. In such a case the captain of the aircraft shall be provided with an official document (courier's certificate) indicating the number of parcels constituting the diplomatic bag, but he shall not be considered a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag from the captain of the aircraft direct and without hindrance.

5. The diplomatic bag may also be entrusted to a temporary (*ad hoc*) diplomatic courier, who shall be provided with an official document (courier's certificate). In such a case, the provisions of these Rules shall apply, except that his entitlement to the privileges and immunities enjoyed by diplomatic couriers in the execution of their duties shall cease as soon as the diplomatic bag entrusted to him has been delivered to its destination.

6. The procedure and conditions for the dispatch of the properly constituted diplomatic bag transmitted through the usual channels of communication without an accompanying diplomatic courier shall be governed by agreements concluded between the Ministry of Foreign Affairs of the USSR and the competent organs of foreign States.

7. When bringing the diplomatic bag into the territory of the USSR, the diplomatic courier or the captain of the aircraft shall submit to the customs office an official document (courier's certificate) for each parcel of the bag.

The courier's certificate covering the foreign diplomatic bag must bear the visa of the Ministry of Foreign Affairs of the USSR when the diplomatic bag leaves the Soviet Union and that of the diplomatic or consular mission of the USSR when the diplomatic bag enters the USSR.

The visa requirement for courier's certificates may be waived on the basis of reciprocity. The Central Customs Administration shall supply customs offices with a list of the countries for which the visa requirement for courier's certificates has been abolished.

<sup>11</sup> Approved by the Ministry of Foreign Trade on 4 April 1967.

8. Customs offices shall inspect the diplomatic bag only externally, and in the course of such inspection they shall determine whether it is constituted in conformity with these Rules. Parcels not meeting the requirements of these Rules shall not be regarded as forming part of the diplomatic bag.

9. The personal belongings of diplomatic couriers which are imported for their personal use shall be admitted without customs inspection.

*D. Act of the Union of Soviet Socialist Republics concerning the Legal Status of Foreign Citizens in the USSR<sup>12</sup>*

[Extracts]

I. GENERAL PROVISIONS

*Article 1. Foreign citizens in the USSR*

Persons who are not citizens of the USSR and who possess evidence of citizenship of a foreign State shall be recognized as foreign citizens in the USSR.

In accordance with the Constitution of the USSR, the rights and freedoms provided for by law shall be guaranteed to foreign citizens in the USSR.

*Article 3. Principles concerning the legal status of foreign citizens in the USSR*

Foreign citizens in the USSR shall enjoy the same rights and freedoms and bear the same responsibilities as do citizens of the USSR, unless otherwise provided in the Constitution of the USSR, this Act or other Soviet legislative acts.

Foreign citizens in the USSR shall be equal before the law, irrespective of their origin, social or property status, race, nationality, sex, education, language, attitude towards religion, type and nature of occupation or other characteristics.

With regard to citizens of those States in which the rights and freedoms of citizens of the USSR are subject to special limitations, the Council of Ministers of the USSR may establish corresponding limitations.

The enjoyment by foreign citizens of rights and freedoms in the USSR must not prejudice the interests of Soviet society and the State or the rights and legitimate interests of citizens of the USSR or other persons.

*Article 4. Obligation to respect the Constitution of the USSR and to observe Soviet laws*

The exercise of the rights and freedoms provided in the USSR for foreign citizens shall be contingent upon the fulfilment by them of the obligations established by Soviet legislation.

Foreign citizens in the USSR shall be obliged to respect the Constitution of the USSR, to observe Soviet laws and to respect the rules of socialist society and the traditions and customs of the Soviet people.

*Article 5. Foreign citizens permanently resident and temporarily staying in the USSR*

...

Foreign citizens who are present in the USSR for any lawful purpose shall be considered to be temporarily staying in the USSR. They shall be obliged duly to register their foreign passport or equivalent document and to leave the USSR upon expiration of the period of stay prescribed for them.

*Article 18. Inviolability of the person and of living quarters*

In accordance with Soviet legislation, foreign citizens in the USSR shall be guaranteed inviolability of the person and of living quarters and other personal rights.

*Article 19. Travel in Soviet territory and choice of place and of residence*

Foreign citizens may travel in Soviet territory . . . in accordance with the procedure established by the legislation of the USSR. Limitations on travel . . . shall be permitted when necessary for the maintenance of State security or the preservation of public order, health and morals, or for the defence of the rights and legitimate interests of citizens of the USSR or other persons.

III. ENTRY INTO THE USSR AND EXIT FROM THE USSR OF FOREIGN CITIZENS

*Article 24. Entry into the USSR*

Foreign citizens may enter the USSR on a valid foreign passport or equivalent document provided they hold a permit issued by the competent Soviet bodies.

A foreign citizen may be denied entry into the USSR:

- (1) In the interests of maintaining State security or preserving public order;
- (2) If necessary for defence of the rights and legitimate interests of citizens of the USSR or other persons;
- (3) If, during a previous stay in the USSR, facts were established concerning the violation by him of the legislation governing the legal status of foreign citizens in the USSR, or customs, currency or other Soviet legislation;
- (4) If, upon submission of his application for entry, he furnished false information about himself or did not present the necessary documents;
- (5) On any other grounds established by the legislation of the USSR.

*Article 25. Exit from the USSR*

Foreign citizens may leave the USSR on a valid foreign passport or equivalent document provided they hold a permit issued by the competent Soviet bodies.

A foreign citizen shall not be permitted to leave the USSR:

- (1) If there are grounds for bringing a criminal charge against him (prior to completion of proceedings against him);
- (2) If he was convicted of a crime (prior to completion of sentence or prior to release from sentence);
- (3) If his departure is contrary to the interests of maintaining State security (prior to the removal of the circumstances hindering his departure);
- (4) If there are any other grounds established by the legislation of the USSR hindering his departure.

The departure of a foreign citizen from the USSR may be postponed until he has fulfilled property obligations involving the vital interests of citizens of the USSR or other persons or of State, co-operative or other public organizations.

*Article 26. Transit*

Foreign citizens in transit through the territory of the USSR shall proceed, in observance of the rules governing transit, to a frontier point of exit from the USSR by the established itinerary and may stop in Soviet territory provided they hold a permit issued by the competent Soviet bodies.

<sup>12</sup>Promulgated on 24 June 1981; see footnote 4 above.

IV. LIABILITY OF FOREIGN CITIZENS  
CURTAILMENT OF PERIOD OF STAY. EXPULSION

*Article 28. Grounds for liability  
for violation of the law*

Foreign citizens who have committed a crime or administrative or other infringements of the law in the territory of the USSR shall be liable under the same conditions as citizens of the USSR.

*Article 29. Liability for violation of the rules  
governing stay in the USSR and transit  
through the territory of the USSR*

Where foreign citizens violate the rules governing stay in the USSR, i.e., residence without documents authorizing residence in the USSR or residence with invalid documents, non-observance of the established procedure for registration, travel and choice of place of residence, failure to leave upon the expiration of the period of stay prescribed for them or non-observance of the rules governing transit through the territory of the USSR, they may be subject, as an administrative punishment measure, to a warning or a fine not exceeding 50 roubles.

Penalties are imposed by the bodies responsible for internal affairs.

The malicious violation by foreign citizens of the rules governing stay in the USSR and transit through the territory of the USSR entails criminal liability.

*Article 31. Expulsion from the USSR*

A foreign citizen may be expelled from the USSR:

(1) If his actions are contrary to the interests of maintaining State security or preserving public order;

(2) If necessary for the protection of public health and morals or the defence of the rights and legitimate interests of citizens of the USSR or other persons;

(3) If he grossly violated the legislation governing the legal status of foreign citizens in the USSR, or customs, currency or other Soviet legislation.

A decision on expulsion shall be taken by the competent Soviet bodies. A foreign citizen shall be obliged to leave the USSR within the period indicated in that decision. Individuals failing to leave in such cases shall be subject, with the approval of the public procurator, to compulsory detention and expulsion. Detention shall be permitted for the period required for expulsion.

V. FINAL PROVISIONS

*Article 33. Privileges and immunities  
of heads and officials of the missions  
of foreign States and other persons*

The provisions of this Act shall not affect the privileges and immunities established by the legislation of the USSR and by the international agreements of the USSR for heads and officials of foreign diplomatic and consular missions and other persons.

**Yugoslavia**

[Original: English]  
[27 April 1982]

**I**

1. Yugoslavia employs diplomatic couriers *ad hoc*, as well as accompanied and unaccompanied diplomatic bags, in communicating with all categories of its missions abroad and vice versa. Yugoslavia's experience in practice is that it has encountered most difficulties with

diplomatic bags not accompanied by diplomatic courier. There have been instances when transit States and some receiving States failed to give priority to the diplomatic bag, or failed to inform the diplomatic mission of the arrival of the diplomatic bag.

Under Yugoslav law, by Yugoslavia's ratifying—that is, accepting—an international treaty, that treaty becomes an integral part of Yugoslav law. This being the case, Yugoslavia has not enacted separate regulations on the implementation of article 27 of the 1961 Vienna Convention on Diplomatic Relations and the pertinent articles of other conventions dealing with this subject, in view of the fact that it has been confirmed by practice that Yugoslav authorities have not encountered any difficulty in the application of those articles. For the purpose of ensuring consistent application in Yugoslavia of the regulations of international law on diplomatic couriers and diplomatic bags, internal instructions were issued with a view to facilitating a more effective functioning of the system of dispatching and receiving diplomatic mail and diplomatic couriers. For example, the Federal Secretariat for Foreign Affairs sent a Circular Note on 12 May 1980 to all diplomatic missions in Belgrade on the procedure applicable when receiving and dispatching diplomatic mail (see sect. II below).

In the period since the Second World War, no judicial or arbitration decisions have been adopted relating to this question; this means that Yugoslavia has consistently fulfilled its obligations in respect of these matters.

2. In view of the fact that it has not to date submitted any written comments or observations, the Yugoslav Government avails itself of this opportunity to express the view that it considers desirable the adoption of additional regulations on the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier. The provisions of the existing international conventions regulating this matter<sup>1</sup> do not, it seems, fully solve all questions; consequently, specific problems in the application of the existing regulations emerge in practice. Yugoslavia has also encountered similar difficulties with respect to its diplomatic couriers and its diplomatic bag, although it believes these difficulties were caused not so much because of the non-existence or lack of precise meaning of the regulations of international law, as because of disrespect for such regulations on the part of individual States.

The Yugoslav Government believes that the work of the International Law Commission and future international instruments will contribute to promoting and ensuring a more effective functioning of diplomatic communication between States, which is of great importance for peaceful co-operation among them. Yugoslavia has always attached and continues to attach importance to this question, as is confirmed by the fact that it has ratified the above-mentioned conventions and that it has abolished visas with about 50 States;

<sup>1</sup> Art. III, sect. 10, of the 1946 Convention on the Privileges and Immunities of the United Nations (United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum)); art. IV, sect. 12, of the 1947 Convention on the Privileges and Immunities of the Specialized Agencies (*ibid.*, vol. 33, p. 261); art. 27 of the 1961 Vienna Convention on Diplomatic Relations; art. 35 of the 1963 Vienna Convention on Consular Relations; art. 28 of the 1969 Convention on Special Missions; and arts. 27 and 57 of the 1975 Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character.

and, in those cases where visas have not been abolished, the formalities for granting the Yugoslav entry visa have been reduced to the minimum.

3. As for the problems to which greater attention should be paid in the future, the Yugoslav Government wishes to communicate the following observations:

(a) *Definition of a diplomatic bag.* A more precise definition of the diplomatic bag should be given, since the definition in the existing conventions, in the opinion of the Yugoslav Government, is not adequate. Perhaps it should be clearly stated in the definition that a "diplomatic bag" constitutes, for all intents and purposes, a *bag* (perhaps even prescribing the maximum weight of the bag).

(b) *Contents of a diplomatic bag.* This question is closely linked with the previous one. As to the contents, the existing conventions laconically stipulate that a diplomatic bag "may contain only diplomatic documents or articles intended for official use".<sup>2</sup> Prior to the adoption of the 1961 Vienna Convention on Diplomatic Relations there prevailed the notion that the diplomatic bag could contain only "diplomatic documents" and not "articles intended for official use". Obviously there are reasons why almost all States have accepted the solution outlined in article 27, paragraph 4, of the 1961 Vienna Convention. The Yugoslav Government, nevertheless, is of the opinion that there exist underlying causes for the reassessment of this provision in terms of having only some articles serving official purposes dispatched by diplomatic bag. It is well known that some States parties to the 1961 Vienna Convention have adopted internal regulations listing each article separately and limiting the number to three or four articles; obviously they are not satisfied with the solution contained in the existing conventions.

(c) *Dispatching of a diplomatic bag with the captain of a commercial ship.* The 1961 Vienna Convention permits the dispatching of a diplomatic bag with the captain of a commercial aircraft. The possibility should be provided whereby a diplomatic bag could also be entrusted to the captain of a commercial ship.

(d) *Control of the diplomatic bag.* It should be clearly specified what kind of control may be exercised by the receiving State or a transit State, and in what manner, in view of the modern technological possibilities for such an inspection without violating the secrecy or damaging the contents of the diplomatic bag. The existing conventions make no reference to this question at all. On the other hand, it is important to bear in mind that the security of air transport demands specific precautionary measures which should not be neglected.

4. The foregoing comments are of a preliminary nature. The Government of the Socialist Federal Republic of Yugoslavia will continue to follow the work of the Commission relating to the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, and retains the right subsequently to submit its observations on each point which it deems relevant and important.

## II

*Circular Note 949/80 of 12 May 1980 sent by the Federal Secretariat for Foreign Affairs to all diplomatic missions in Belgrade on the procedures applicable to receiving and dispatching diplomatic mail*

The Federal Secretariat for Foreign Affairs of the Socialist Federal Republic of Yugoslavia (Protocol) presents its compliments to the diplomatic missions in Belgrade and has the honour to inform them of the procedure with respect to the receipt and dispatch of the diplomatic bag at Belgrade International Airport.

The receipt and dispatch of the diplomatic bag at Belgrade International Airport will be carried out as before, in conformity with article 27 of the Vienna Convention on Diplomatic Relations, and in keeping with the necessary security measures in air traffic and the needs of the diplomatic missions. Therefore, the accompanied and unaccompanied diplomatic bag should bear visible external marks (a seal or *plomb*, address of the sender and address of the recipient), while the diplomatic courier should be furnished with an official document (courier's letter) indicating his status and the number of packages constituting the diplomatic bag.

In line with the above, the receipt and dispatch of the diplomatic bag will be carried out in the following manner:

1. On their arrival, diplomatic couriers carrying the diplomatic bag should be met by the authorized representatives of the diplomatic missions in the hall for baggage pick-up in the customs area in the basement. On departure, diplomatic couriers will be escorted by the representatives of the diplomatic missions to the customs control on the first floor.
2. The exchange of diplomatic bags will be carried out in a separate room located next to the passport control in the arrivals hall. The room bears the inscription "Diplomatic Mail".
3. If the diplomatic mail is received or dispatched by way of cases in the aircraft, or if it is received from a diplomatic courier or a captain of an aircraft who are unable to leave the aircraft, the authorized representatives of the diplomatic missions will be allowed access to the aircraft in the presence of an employee of the Enterprise for Airport Services.
4. When the accompanied or unaccompanied diplomatic bag is large in volume or heavy, the diplomatic missions should contact the duty officer of the Enterprise for Airport Services (tel: 601-166), indicating the kind of assistance required, the number of workers necessary to handle the bag and the time of arrival at the airport of representatives authorized by the diplomatic missions. The meeting place will invariably be in front of the main entrance 1 of Terminal 2. On arrival, diplomatic couriers carrying the bag to the baggage compartment of an aircraft may ask the ground hostess or the ramp manager for assistance.
5. Airport services will be charged, and customers are requested to sign the appropriate invoices.
6. Airport services are at the disposal of customers every day, except that on Saturdays and Sundays diplomatic bags received during the previous days will not be delivered.

<sup>2</sup>Art. 27, para. 4 of the 1961 Vienna Convention. The definition is not different in the other conventions mentioned in footnote 1.

For the purpose of meeting diplomatic couriers in the customs section, exchange of diplomatic bags in the designated room, pick-up or dispatch by way of cases in the aircraft, and pick-up from or delivery to couriers unable to leave the plane, officers of the diplomatic missions should be furnished with a special authorization from the head of their mission. On arrival at the airport, they should address the police officer at the desk at the official entrance on the first floor, except in the case of meeting diplomatic couriers (para. 1 above), when permission to enter the customs area is granted

by the customs officer at the official entrance in the basement.

In the hope that the described procedure for the pick-up and dispatch of the diplomatic bag is also in accordance with the requirements of the diplomatic missions and that it will facilitate an effective handling of the diplomatic bag, the Federal Secretariat for Foreign Affairs (Protocol) avails itself of this opportunity to renew to the diplomatic missions accredited to the Socialist Federal Republic of Yugoslavia the assurances of its high consideration.