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REPRESENTATIVES OF STATES TO INTERNATIONAL ORGANIZATIONS

Differences in form between part II and part IV
of the draft articles

Note by the Secretariat

1. In preparing its observations and suggestions concerning the draft articles on representatives of States to international organizations (A/CN.4/L.162, 163, 164 and 165), the Secretariat noted the existence of a difficulty which it wishes to draw to the attention of the Commission. This difficulty, which affects the text in the four working languages in differing degrees, is due to the fact that the draft contains a number of parallel provisions some of which are based on the Vienna Convention on Diplomatic Relations while others are based on the Convention on Special Missions.
2. In paragraph (16) of its general comments on part IV, section 2 (Facilities, privileges and immunities of delegations), of the draft articles, the Commission noted that "as regards the nature and extent of privileges and immunities of members of delegations... it takes the position that these should be based upon a selective merger of the pertinent provisions of the Convention on Special Missions and the provisions regarding permanent missions... provided for in part two of these articles". The Commission added that "owing to the temporary character of their task, delegations... occupy in the system of diplomatic law of international organizations a position similar to that of special missions within the framework of bilateral diplomacy. It follows that the determination of their privileges and immunities should be made in the light of those of special missions..." (A/8010).

3. On the other hand, many provisions of part II of the draft articles - especially those concerning the facilities, privileges and immunities of permanent missions - are based on the Vienna Convention on Diplomatic Relations. However, although that Convention and the Convention on Special Missions contain many similarities, since the latter is based on the former, they also reveal some differences in form. These are not differences in nature, purpose or wording but simply reflect the desire to make some improvements in the style of the syntax of the Vienna Convention. Some of these differences in form are encountered in part II and part IV of the draft articles. While they might be justified in the case of two separate conventions, the same cannot be said for two parts of one and the same instrument.

4. Accordingly, the Commission may wish to eliminate the differences in question by choosing in each case the wording that it feels is most suitable.
