

BAB III

PENUTUP

A. Kesimpulan

Indonesia sebagai negara penerima mempunyai tanggung jawab atas perlindungan setiap perwakilan asing yang ada di negaranya, selain itu jika terjadi kerugian yang dialami perwakilan asing di negara penerima, maka harus ada penggantian kerugian sesuai dengan prinsip *Ex Gratia* yang diatur dalam Konvensi Wina 1961. Indonesia seharusnya bertanggungjawab memberikan ganti kerugian yang sesuai atas kerusakan yang dialami Gedung Kedubes RRC di Jakarta yang disebabkan oleh orang Indonesia sendiri, yaitu massa dan kelompok-kelompok mahasiswa anti komunis yang didukung Angkatan Darat pasca peristiwa G30S-PKI, yang pada puncaknya kemudian menyebabkan adanya pemutusan hubungan diplomatik antara kedua negara, bentuk pertanggungjawabannya dapat berupa pengembalian fungsi gedung perwakilan tersebut, mengganti mobil-mobil dan alat-alat kantor kedutaan yang dibakar. Tetapi pada kenyataannya sampai sekarang tidak ada penggantian kerugian secara langsung yang diberikan oleh Indonesia. Alasan dari pihak Indonesia ialah bahwa RRC dianggap telah campur tangan dalam urusan dalam negeri Indonesia berkaitan dengan peristiwa G30S-PKI itu sendiri. Akan tetapi, pihak RRC membantah tuduhan tersebut. Kasus yang berkaitan dengan RRC pasca peristiwa G30S masih berjalan sampai sekarang, dan belum ditemukan penyelesaiannya

oleh kedua belah pihak. Namun demikian, karena telah dibuka kembali hubungan diplomatik antara kedua negara ini, maka tetap disediakan gedung kedutaan besar RRC di jalan Mega Kuningan 2, Komplek Grand Kuningan, Jakarta untuk memfasilitasi para pejabat diplomatik RRC yang berkepentingan, tetapi penyediaan gedung tersebut bukan berdasarkan prinsip *Ex Gratia*, karena belum ada penyelesaian secara resmi.

B. Saran

Berdasarkan kesimpulan diatas, penulis menyarankan agar:

1. Ada keterbukaan sejarah politik orde baru Indonesia, agar dapat melihat peran negara-negara lain di belakang peristiwa G30S-PKI tersebut, termasuk peran RRC. Sehingga, dapat dilihat kebenaran yang ada, dan dapat diterapkan kembali prinsip *Ex Gratia* yang sesuai. Selain itu,
2. Adanya ketegasan penerapan Konvensi Wina 1961 di dalam berbagai praktek di negara-negara. Sehingga, perlindungan terhadap para perwakilan asing dapat diberikan sesuai yang telah diatur.

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PeraturanPerundang-undangan :

Undang-Undang Dasar Republik Indonesia Tahun 1945.

Vienna Convention on Diplomatic Relations, 1961.

Undang-Undang Republik Indonesia Nomor 1 Tahun 1982 tentang Pengesahan Konvensi Wina mengenai Hubungan Diplomatik beserta Protokol Opsionalnya dan Pengesahan Konvensi Wina mengenai Hubungan Konsuler beserta Protokol Opsionalnya.



VIENNA CONVENTION
ON DIPLOMATIC RELATIONS

Done at Vienna
On 18 April 1961

UNITED NATIONS

VIENNA CONVENTION¹
ON DIPLOMATIC RELATIONS

Done at Vienna, on 18 April 1961

The States Parties to the present Convention,

Recalling that peoples of all nations from ancient times have recognized the status of diplomatic agents,

Having in mind the purposes and principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

Believing that an international convention on diplomatic intercourse, privileges and immunities would contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

Realizing that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing States,

Affirming that the rules of customary international law should continue to govern questions not expressly regulated by the provisions of the present Convention,

Have agreed as follows :

¹ The Vienna Convention on Diplomatic Relations was adopted on 14 April 1961 by the United Nations Conference on Diplomatic Intercourse and Immunities held at the Neue Hofburg in Vienna, Austria, from 2 March to 14 April 1961. The Conference also adopted the Optional Protocol concerning the Acquisition of Nationality (see p. 223 of this volume), the Optional Protocol concerning the Compulsory Settlement of Disputes (see p. 241 of this volume), the Final Act and four resolutions annexed to that Act. The Convention and the two Protocols were deposited with the Secretary-General of the United Nations. The Final Act, by unanimous decision of the Conference, was deposited in the archives of the Federal Ministry for Foreign Affairs of Austria. The text of the Final Act and of the annexed resolutions is published for the purpose of information on p. 212 of this volume. For the proceedings of the Conference, see *United Nations Conference on Diplomatic Intercourse and Immunities, Official Records, Vols. I and II* (United Nations Publication, sales Nos. : 61.X.2 and 62.X.1).

The Convention, in accordance with its article 51, came into force on 24 April 1964, the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twenty-second instrument of ratification or accession. For the list of States on behalf of which the instruments of ratification or accession were deposited as at the date of the registration of the Convention, see p. 204 of this volume.

Article I

For the purpose of the present Convention, the following expressions shall have the meanings hereunder assigned to them :

- (a) the "head of the mission" is the person charged by the sending State with the duty of acting in that capacity;
- (b) the "members of the mission" are the head of the mission and the members of the staff of the mission;
- (c) the "members of the staff of the mission" are the members of the diplomatic staff, of the administrative and technical staff and of the service staff of the mission;
- (d) the "members of the diplomatic staff" are the members of the staff of the mission having diplomatic rank;
- (e) a "diplomatic agent" is the head of the mission or a member of the diplomatic staff of the mission;
- (f) the "members of the administrative and technical staff" are the members of the staff of the mission employed in the administrative and technical service of the mission;
- (g) the "members of the service staff" are the members of the staff of the mission in the domestic service of the mission;
- (h) a "private servant" is a person who is in the domestic service of a member of the mission and who is not an employee of the sending State;
- (i) the "premises of the mission" are the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purposes of the mission including the residence of the head of the mission.

Article 2

The establishment of diplomatic relations between States, and of permanent diplomatic missions, takes place by mutual consent.

Article 3

1. The functions of a diplomatic mission consist *inter alia* in :
 - (a) representing the sending State in the receiving State;
 - (b) protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;
 - (c) negotiating with the Government of the receiving State;
 - (d) ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State;

- (e) promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations.

2. Nothing in the present Convention shall be construed as preventing the performance of consular functions by a diplomatic mission.

Article 4

1. The sending State must make certain that the agreement of the receiving State has been given for the person it proposes to accredit as head of the mission to that State.

2. The receiving State is not obliged to give reasons to the sending State for a refusal of agreement.

Article 5

1. The sending State may, after it has given due notification to the receiving States concerned, accredit a head of mission or assign any member of the diplomatic staff, as the case may be, to more than one State, unless there is express objection by any of the receiving States.

2. If the sending State accredits a head of mission to one or more other States it may establish a diplomatic mission headed by a "chargé d'affaires" *ad interim* in each State where the head of mission has not his permanent seat.

3. A head of mission or any member of the diplomatic staff of the mission may act as representative of the sending State to any international organization.

Article 6

Two or more States may accredit the same person as head of mission to another State, unless objection is offered by the receiving State.

Article 7

Subject to the provisions of Articles 5, 8, 9 and 11, the sending State may freely appoint the members of the staff of the mission. In the case of military, naval or air attaches, the receiving State may require their names to be submitted beforehand, for its approval.

Article 8

1. Members of the diplomatic staff of the mission should in principle be of the nationality of the sending State.

2. Members of the diplomatic staff of the mission may not be appointed from among persons having the nationality of the receiving State, except with the consent of that State which may be withdrawn at any time.

3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

Article 9

1. The receiving State may at any time and without having to explain its decision, notify the sending State that the head of the mission or any member of the diplomatic staff of the mission is *persona non grata* or that any other member of the staff of the mission is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission. A person may be declared *non grata* or not acceptable before arriving in the territory of the receiving State.

2. If the sending State refuses or fails within a reasonable period to carry out its obligations under paragraph 1 of this Article, the receiving State may refuse to recognize the person concerned as a member of the mission.

Article 10

1. The Ministry for Foreign Affairs of the receiving State, or such other ministry as may be agreed, shall be notified of :

- (a) the appointment of members of the mission, their arrival and their final departure or the termination of their functions with the mission;
- (b) the arrival and final departure of a person belonging to the family of a member of the mission and, where appropriate, the fact that a person becomes or ceases to be a member of the family of a member of the mission;
- (c) the arrival and final departure of private servants in the employ of persons referred to in sub-paragraph (a) of this paragraph and, where appropriate, the fact that they are leaving the employ of such persons;
- (d) the engagement and discharge of persons resident in the receiving State as members of the mission or private servants entitled to privileges and immunities.

2. Where possible, prior notification of arrival and final departure shall also be given.

Article 11

1. In the absence of specific agreement as to the size of the mission, the receiving State may require that the size of a mission be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the receiving State and to the needs of the particular mission.

2. The receiving State may equally, within similar bounds and on a non discriminatory basis, refuse to accept officials of a particular category.

Article 12

The sending State may not, without the prior express consent of the receiving State, establish offices forming part of the mission in localities other than those in which the mission itself is established.

Article 13

1. The head of the mission is considered as having taken up his functions in the receiving State either when he has presented his credentials or when he has notified his arrival and a true copy of his credentials has been presented to the Ministry for Foreign Affairs of the receiving State, or such other ministry as may be agreed, in accordance with the practice prevailing in the receiving State which shall be applied in a uniform manner.

2. The order of presentation of credentials or of a true copy thereof will be determined by the date and time of the arrival of the head of the mission.

Article 14

1. Heads of mission are divided into three classes, namely :

- (a) that of ambassadors or nuncios accredited to Heads of State, and other heads of mission of equivalent rank;
- (b) that of envoys, ministers and internuncios accredited to Heads of State;
- (c) that of "chargés d'affaires" accredited to Ministers for Foreign Affairs.

2. Except as concerns precedence and etiquette, there shall be no differentiation between heads of mission by reason of their class.

Article 15

The class to which the heads of their missions are to be assigned shall be agreed between States.

Article 16

1. Heads of mission shall take precedence in their respective classes in the order of the date and time of taking up their functions in accordance with Article 13.

2. Alterations in the credentials of a head of mission not involving any change of class shall not affect his precedence.

3. This article is without prejudice to any practice accepted by the receiving State regarding the precedence of the representative of the Holy See.

Article 17

The precedence of the members of the diplomatic staff of the mission shall be notified by the head of the mission to the Ministry for Foreign Affairs or such other ministry as may be agreed.

Article 18

The procedure to be observed in each State for the reception of heads of mission shall be uniform in respect of each class.

Article 19

1. If the post of head of the mission is vacant, or if the head of the mission is unable to perform his functions, a "chargé d'affaires" *ad interim* shall act provisionally as head of the mission. The name of the "chargé d'affaires" *ad interim* shall be notified, either by the head of the mission or, in case he is unable to do so, by the Ministry for Foreign Affairs of the sending State to the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.

2. In cases where no member of the diplomatic staff of the mission is present in the receiving State, a member of the administrative and technical staff may, with the consent of the receiving State, be designated by the sending State to be in charge of the current administrative affairs of the mission.

Article 20

The mission and its head shall have the right to use the flag and emblem of the sending State on the premises of the mission, including the residence of the head of the mission, and on his means of transport.

Article 21

1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws, by the sending State of premises necessary for its mission or assist the latter in obtaining accommodation in some other way.

2. It shall also, where necessary, assist missions in obtaining suitable accommodation for their members.

Article 22

1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.

2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

Article 23

1. The sending State and the head of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises of the mission, whether owned or leased, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in this Article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or the head of the mission.

Article 24

The archives and documents of the mission shall be inviolable at any time and wherever they may be.

Article 25

The receiving State shall accord full facilities for the performance of the functions of the mission.

Article 26

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure to all members of the mission freedom of movement and travel in its territory.

Article 27

1. The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and the other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in

code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.

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

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

5. The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State or the mission may designate diplomatic couriers *ad hoc*. In such cases the provisions of paragraph 5 of this Article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.

7. A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

Article 28

The fees and charges levied by the mission in the course of its official duties shall be exempt from all dues and taxes.

Article 29

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

Article 30

1. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.

2. His papers, correspondence and, except as provided in paragraph 3 of Article 31, his property, shall likewise enjoy inviolability.

Article 31

1. A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of :

- (a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
- (b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
- (c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.

2. A diplomatic agent is not obliged to give evidence as a witness.

3. No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under sub-paragraphs (a), (b) and (c) of paragraph 1 of this Article, and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.

4. The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State.

Article 32

1. The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under Article 37 may be waived by the sending State.

2. Waiver must always be express.

3. The initiation of proceedings by a diplomatic agent or by a person enjoying immunity from jurisdiction under Article 37 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.

Article 33

1. Subject to the provisions of paragraph 3 of this Article, a diplomatic agent shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall also apply to private servants who are in the sole employ of a diplomatic agent, on condition :

- (a) that they are not nationals of or permanently resident in the receiving State, and
- (b) that they are covered by the social security provisions which may be in force in the sending State or a third State.

3. A diplomatic agent who employs persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provision of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State provided that such participation is permitted by that State.

5. The provisions of this Article shall not affect bilateral or multilateral agreements concerning social security concluded previously and shall not prevent the conclusion of such agreements in the future.

Article 34

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except :

- (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;
- (b) dues and taxes on private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
- (c) estate, succession or inheritance duties levied by the receiving State, subject to the provisions of paragraph 4 of Article 39;
- (d) dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;
- (e) charges levied for specific services rendered;
- (f) registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property, subject to the provisions of Article 23.

Article 35

The receiving State shall exempt diplomatic agents from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 36

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on :

- (a) articles for the official use of the mission;
- (b) articles for the personal use of a diplomatic agent or members of his family forming part of his household, including articles intended for his establishment.

2. The personal baggage of a diplomatic agent shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this Article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the diplomatic agent or of his authorized representative.

Article 37

1. The members of the family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in Articles 29 to 36.

2. Members of the administrative and technical staff of the mission, together with members of their families forming part of their respective households, shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in Articles 29 to 35, except that the immunity from civil and administrative jurisdiction of the receiving State specified in paragraph 1 of Article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges specified in Article 36, paragraph 1, in respect of articles imported at the time of first installation.

3. Members of the service staff of the mission who are not nationals of or permanently resident in the receiving State shall enjoy immunity in respect of acts performed in the course of their duties, exemption from dues and taxes on the emoluments they receive by reason of their employment and the exemption contained in Article 33.

4. Private servants of members of the mission shall, if they are not nationals of or permanently resident in the receiving State, be exempt from dues and taxes on the emoluments they receive by reason of their employment. In other respects, they may enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 38

1. Except insofar as additional privileges and immunities may be granted by the receiving State, a diplomatic agent who is a national of or permanently resident in that State shall enjoy only immunity from jurisdiction, and inviolability, in respect of official acts performed in the exercise of his functions.

2. Other members of the staff of the mission and private servants who are nationals of or permanently resident in the receiving State shall enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 39

1. Every person entitled to privileges and immunities shall enjoy them from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs or such other ministry as may be agreed.

2. When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of his functions as a member of the mission, immunity shall continue to subsist.

3. In case of the death of a member of the mission, the members of his family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the country.

4. In the event of the death of a member of the mission not a national of or permanently resident in the receiving State or a member of his family forming part of his household, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his death. Estate, succession and inheritance duties shall not be levied on movable property the presence of which in the receiving State was due solely to the presence there of the deceased as a member of the mission or as a member of the family of a member of the mission.

Article 40

1. If a diplomatic agent passes through or is in the territory of a third State, which has granted him a passport visa if such visa was necessary, while proceeding to take up or to return to his post, or when returning to his own country, the third State shall accord him inviolability and such other immunities as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges and immunities who are accompanying the diplomatic agent, or travelling separately to join him or to return to their country.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the passage of members of the administrative and technical or service staff of a mission, and of members of their families, through their territories.

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

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and diplomatic bags, whose presence in the territory of the third State is due to *force majeure*.

Article 41

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

2. All official business with the receiving State entrusted to the mission by the sending State shall be conducted with or through the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.

3. The premises of the mission must not be used in any manner incompatible with the functions of the mission as laid down in the present Convention or by other rules of general international law or by any special agreements in force between the sending and the receiving State.

Article 42

A diplomatic agent shall not in the receiving State practise for personal profit any professional or commercial activity.

Article 43

The function of a diplomatic agent comes to an end, inter alia :

- (a) on notification by the sending State to the receiving State that the function of the diplomatic agent has come to an end;
- (b) on notification by the receiving State to the sending State that, in accordance with paragraph 2 of Article 9, it refuses to recognize the diplomatic agent as a member of the mission.

Article 44

The receiving State must, even in case of armed conflict, grant facilities in order to enable persons enjoying privileges and immunities, other than nationals of the receiving State, and members of the families of such persons irrespective of their nationality, to leave at the earliest possible moment. It must, in particular, in case of need, place at their disposal the necessary means of transport for themselves and their property.

Article 45

If diplomatic relations are broken off between two States, or if a mission is permanently or temporarily recalled :

- (a) the receiving State must, even in case of armed conflict, respect and protect the premises of the mission, together with its property and archives;
- (b) the sending State may entrust the custody of the premises of the mission, together with its property and archives, to a third State acceptable to the receiving State;
- (c) the sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

Article 46

A sending State may with the prior consent of a receiving State, and at the request of a third State not represented in the receiving State, undertake the temporary protection of the interests of the third State and of its nationals.

Article 47

1. In the application of the provisions of the present Convention, the receiving State shall not discriminate as between States.

2. However, discrimination shall not be regarded as taking place :

- (a) where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its mission in the sending State;
- (b) where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present Convention.

Article 48

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly

of the United Nations to become a Party to the Convention, as follows : until 31 October 1961 at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March 1962, at the United Nations Headquarters in New York.

Article 49

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 50

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in Article 48. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 51

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 52

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in Article 48 :

- (a) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with Articles 48, 49 and 50;
- (b) of the date on which the present Convention will enter into force, in accordance with Article 51.

Article 53

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in Article 48.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE at Vienna, this eighteenth day of April one thousand nine hundred and sixty-one.

**LIST OF STATES ON BEHALF OF WHICH THE INSTRUMENTS
OF RATIFICATION OR ACCESSION (A) TO THE
VIENNA CONVENTION ON DIPLOMATIC RELATIONS
WERE DEPOSITED WITH THE SECRETARY-GENERAL
OF THE UNITED NATIONS, INDICATING
THE RESPECTIVE DATES OF DEPOSIT**

ALGERIA.....	14 April 1964(a)
ARGENTINA	10 October 1963
BYELORUSSIAN SOVIET SOCIALIST REPUBLIC ¹	14 May 1964
CONGO (Brazzaville).....	11 March 1963(a)
CUBA ¹	26 September 1963
CZECHOSLOVAKIA	24 May 1963
DOMINICAN REPUBLIC.....	14 January 1964
GABON	2 April 1964(a)
GHANA	28 June 1963
GUATEMALA.....	1 October 1963
HOLY SEE	17 April 1964
IRAQ ²	15 October 1963
IVORY COAST	1 October 1962(a)
JAMAICA	5 June 1963(a)
JAPAN	8 June 1964
LAOS.....	3 December 1962(a)
LIBERIA	15 May 1962
LIECHTENSTEIN	8 May 1964
MADAGASCAR	31 July 1963(a)
MAURITANIA	16 July 1962(a)
NIGER	5 December 1962(a)
PAKISTAN	29 March 1962
PANAMA	4 December 1963
RWANDA.....	15 April 1964(a)
SIERRA LEONE.....	13 August 1962(a)
SWITZERLAND	30 October 1963
TANGANYIKA.....	5 November 1962
UKRAINIAN SOVIET SOCIALIST REPUBLIC ¹	12 June 1964
UNION OF SOVIET SOCIALIST REPUBLICS ¹	25 March 1964
UNITED ARAB REPUBLIC ¹	9 June 1964(a)
YUGOSLAVIA	1 April 1963

¹ With declarations and/or reservations, for the text of which see p. 206 of this volume.

² Confirming the reservations made by the Representative of Iraq upon signature of the Convention on 20 February 1962. For the text of this reservation, see p. 189 of this volume.

DECLARATIONS AND RESERVATIONS MADE UPON
RATIFICATION OR ACCESSION

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

(Original : Russian text)

"..."

[TRANSLATION]

Reservation concerning article 11, paragraph 1 :

In accordance with the principle of the equality of rights of States, the Byelorussian Soviet Socialist Republic considers that any difference of opinion regarding the size of a diplomatic mission should be settled by agreement between the sending State and the receiving State.

Declaration concerning articles 48 and 50 :

The Byelorussian Soviet Socialist Republic considers it necessary to draw attention to the discriminatory nature of articles 48 and 50 of the Convention, under the terms of which a number of States are precluded from acceding to the Convention. The Convention deals with matters which affect the interests of all States and should therefore be open for accession by all States. In accordance with the principle of sovereign equality, no State has the right to bar other States from accession to a Convention of this nature.

CUBA

(Original : Spanish text)

"El Gobierno Revolucionario de Cuba hace expresa reserva de las disposiciones de los artículos 48 y 50 de la Convención, porque estima que, dada la índole de su contenido y regulación, tienen derecho a participar en ella todos los estados libres y soberanos y por lo tanto, es partidario de facilitar el ingreso de todos los países de la Comunidad Internacional, sin distinción de cuál sea el tamaño territorial de los Estados, el número de sus habitantes, o sus sistemas sociales, económicos y políticos."

[TRANSLATION]

The Revolutionary Government of Cuba makes an explicit reservation in respect of the provisions of articles 48 and 50 of the Convention, because it considers that, in view of the nature of the contents of the Convention and the subject it governs, all free and sovereign States have the right to participate in it; for that reason, the Revolutionary Government of Cuba favours facilitating the admission of all countries of the International Community, without any distinction based on the extent of a

State's territory, the number of its inhabitants or its social, economic or political systems.¹

UKRAINIAN SOVIET SOCIALIST REPUBLIC

(Original : Ukrainian text)

"..."

[TRANSLATION]

Reservation concerning article 11, paragraph 1 :

In accordance with the principle of the equality of rights of States, the Ukrainian Soviet Socialist Republic considers that any difference of opinion regarding the size of a diplomatic mission should be settled by agreement between the sending State and the receiving State.

Declaration concerning articles 48 and 50 :

The Ukrainian Soviet Socialist Republic considers it necessary to draw attention to the discriminatory nature of articles 48 and 50 of the Convention, under the terms of which a number of States are precluded from acceding to the Convention. The Convention deals with matters which affect the interests of all States and should therefore be open for accession by all States. In accordance with the principle of sovereign equality, no State has the right to bar other States from accession to a Convention of this nature.

UNION OF SOVIET SOCIALIST REPUBLICS

(Original : Russian text)

"..."

¹ By a communication received on 23 December 1963, the Permanent Representative of Guatemala to the United Nations informed the Secretary-General that the Government of Guatemala rejects formally these reservations.

[TRANSLATION]

Reservation concerning article 11, paragraph 1 :

In accordance with the principle of the equality of rights of States, the Union of Soviet Socialist Republics considers that any difference of opinion regarding the size of a diplomatic mission should be settled by agreement between the sending State and the receiving State.¹

Declaration concerning articles 48 and 50 :

The Union of Soviet Socialist Republics considers it necessary to draw attention to the discriminatory nature of articles 48 and 50 of the Convention, under the terms of which a number of States are precluded from acceding to the Convention. The Convention deals with matters which affect the interests of all States and should therefore be open for accession by all States. In accordance with the principle of sovereign equality, no State has the right to bar other States from accession to a Convention of this nature.

UNITED ARAB REPUBLIC

"1. Paragraph 2 of article 37 shall not apply.

"2. It is understood that the accession to this Convention does not mean in any way a recognition of Israel by the Government of the United Arab Republic. Furthermore, no treaty relations will arise between the United Arab Republic and Israel."

¹ By a communication received on 22 June 1964, the Permanent Secretary of the Ministry of External Affairs of the United Republic of Tanganyika and Zanzibar informed the Secretary-General that the Government of the United Republic of Tanganyika and Zanzibar rejects formally the reservation to article 11, paragraph 1, of the Convention made by the Government of the Union of Soviet Socialist Republics in its instrument of ratification.

TEXT OF THE FINAL ACT OF THE
UNITED NATIONS CONFERENCE ON
DIPLOMATIC INTERCOURSE AND IMMUNITIES,
SIGNED AT VIENNA ON 18 APRIL 1961

1. The General Assembly of the United Nations, by resolution 1450 (XIV) of 7 December 1959, decided to convene an international conference of plenipotentiaries to consider the question of diplomatic intercourse and immunities and to embody the results of its work in an international convention, together with such ancillary instruments as might be necessary. The General Assembly, accepting an invitation extended by the Federal Government of Austria, also asked the Secretary-General to convoke the conference at Vienna not later than the spring of 1961.

2. The United Nations Conference on Diplomatic Intercourse and Immunities met at the Neue Hofburg in Vienna, Austria, from 2 March to 14 April 1961.

3. The governments of the following eighty-one States were represented at the Conference : Albania, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo (Leopoldville), Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Federal Republic of Germany, Federation of Malaya, Finland, France, Ghana, Greece, Guatemala, Haiti, Holy See, Honduras, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Lebanon, Liberia, Libya, Liechtenstein, Luxembourg, Mali, Mexico, Morocco, Netherlands, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Viet Nam, Romania, Saudi Arabia, Senegal, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia.

4. At the invitation of the General Assembly, the following specialized agencies were represented by observers at the Conference :

International Labour Organization;
Food and Agriculture Organization of the United Nations;
United Nations Educational, Scientific and Cultural Organization.

5. At the invitation of the General Assembly, the International Atomic Energy Agency and the following intergovernmental organizations were also represented by observers at the Conference :

League of Arab States;
Asian-African Legal Consultative Committee.

6. The Conference elected Mr. Alfred Verdross (Austria) as President.

7. The Conference elected as Vice-Presidents the representatives of the following participating States : Argentina, Canada, Chile, China, Colombia, Czechoslovakia, France, Iran, Iraq, Italy, Liberia, Mexico, Nigeria, Philippines, Romania, Spain, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia.

8. The following committees were set up by the Conference :

General Committee

Members : The President of the Conference, the Vice-Presidents, and the Chairman of the Committee of the Whole;

Chairman : The President of the Conference.

Committee of the Whole

Chairman : Mr. A.S. Lall (India);

Vice-Chairmen : Mr. H. Birecki (Poland), Mr. N. Iriniz Casas (Uruguay);

Rapporteur : Mr. W. Riphagen (Netherlands).

Drafting Committee

Members : Mr. Geraldo Eulalio do Nascimento e Silva (Brazil), Mr. Hu Ching-Yu (China), Mr. Jacques Patey (France), Mr. E.K. Dadzie (Ghana), Mr. Endre Ustor (Hungary), Mr. Alfonso de Rosenzweig Diaz (Mexico), Mr. Rudolf L. Bindschedler (Switzerland), Mr. G.I. Tunkin (Union of Soviet Socialist Republics), Mr. Abdullah El-Erian (United Arab Republic), Mr. F. A. Vallat (United Kingdom of Great Britain and Northern Ireland), Mr. Warde M. Cameron (United States of America);

Chairman : Mr. R.S.S. Gunewardene (Ceylon).

Credentials Committee

Members : Australia, El Salvador, Haiti, Mali, Philippines, Spain, Union of Soviet Socialist Republics, United Arab Republic, United States of America;

Chairman : Mr. J.C.G. Kevin (Australia).

9. The Committee of the Whole set up the following sub-committee :

Sub-Committee on Special Missions

Members : Ecuador, Iraq, Italy, Japan, Senegal, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia;

Chairman : Mr. N. Ponce Miranda (Ecuador).

10. The Secretary-General of the United Nations was represented by Mr. C.A. Stavropoulos, the Legal Counsel. Mr. Yuen-li Liang, Director of the Codification Division of the Office of Legal Affairs of the United Nations, was appointed Executive Secretary.

11. The General Assembly, by its resolution 1450 (XIV) convening the Conference, referred to the Conference chapter III of the "Report of the International

Law Commission covering the work of its tenth session"¹ as the basis for its consideration of the question of diplomatic intercourse and immunities. The General Assembly, by its resolution 1504 (XV) of 12 December 1960, also referred to the Conference the draft articles on special missions contained in chapter III of the "Report of the International Law Commission covering the work of its twelfth session,"² so that they might be considered together with the draft articles on diplomatic intercourse and immunities included in the Commission's report on its tenth session.

12. The Conference also had before it observations submitted by governments³ on the drafts prepared by the International Law Commission during successive stages of its work, preparatory documentation prepared by the Secretariat of the United Nations, the text of the final report of the Asian-African Legal Consultative Committee on functions, privileges and immunities of diplomatic envoys or agents, adopted at the Committee's third session,⁴ and the text of the Convention regarding diplomatic officers adopted by the Sixth International American Conference and signed at Havana, 20 February 1928.³

13. On the basis of the deliberations, as recorded in the records and report of the Committee of the Whole and in the records of the plenary meetings, the Conference prepared the following Convention and Protocols :

Vienna Convention on Diplomatic Relations;
Optional Protocol concerning Acquisition of Nationality;
Optional Protocol concerning the Compulsory Settlement of Disputes.

The foregoing Convention and protocols, which are subject to ratification, were adopted by the Conference on 14 April 1961, and opened for signature on 18 April 1961, in accordance with their provisions, until 31 October 1961 at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March 1962, at the United Nations Headquarters in New York. The same instruments were also opened for accession, in accordance with their provisions, and will be deposited with the Secretary-General of the United Nations.

14. In addition, the Conference adopted the following resolutions, which are annexed to this Final Act :

Resolution on Special Missions;
Resolution on Consideration of Civil Claims;
Resolution expressing a tribute to the International Law Commission;

¹ *Official Records of the General Assembly, thirteenth session, supplement No. 9 (A/3859).*

² *Ibid, fifteenth session, supplement No. 9 (A/4425).*

³ A/3859, annex, and A/4164 and Add.1 to 7.

⁴ Reproduced in document A/CONF.20/6.

³ Reproduced in document A/CONF.20/7.

Resolution expressing a tribute to the Government and people of the Republic of Austria.

IN WITNESS WHEREOF the representatives have signed this Final Act.

DONE at Vienna this eighteenth day of April, one thousand nine hundred and sixty-one, in a single copy in the Chinese, English, French, Russian and Spanish languages, each text being equally authentic. By unanimous decision of the Conference, the original of this Final Act shall be deposited in the archives of the Federal Ministry for Foreign Affairs of Austria.



RESOLUTIONS ADOPTED BY THE CONFERENCE

I. SPECIAL MISSIONS

The United Nations Conference on Diplomatic Intercourse and Immunities,

Recalling that the General Assembly of the United Nations, by its resolution 1504 (XV) of 12 December 1960, referred to the Conference the draft articles on special missions contained in chapter III of the "Report of the International Law Commission covering the work of its twelfth session",

Recognizing the importance of the subject of special missions,

Taking note of the comments of the International Law Commission that the draft articles on special missions constituted only a preliminary survey and that the time at its disposal had not permitted the Commission to undertake a thorough study of the matter,

Considering the limited time available to the Conference to study the subject in full,

Recommends to the General Assembly of the United Nations that it refer to the International Law Commission further study of the subject of special missions in the light of the Vienna Convention on Diplomatic Relations adopted at the present conference.

4th plenary meeting
10 April 1961

II. CONSIDERATION OF CIVIL CLAIMS

The United Nations Conference on Diplomatic Intercourse and Immunities,

Taking note that the Vienna Convention on Diplomatic Relations adopted by the Conference provides for immunity from the jurisdiction of the receiving State of members of the diplomatic mission of the sending State,

Recalling that such immunity may be waived by the sending State,

Recalling further the statement made in the preamble to the Convention that the purpose of such immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions,

Mindful of the deep concern expressed during the deliberations of the Conference that claims of diplomatic immunity might, in certain cases, deprive persons in the receiving State of remedies to which they are entitled by law,

Recommends that the sending State should waive the immunity of members of its diplomatic mission in respect of civil claims of persons in the receiving State when this can be done without impeding the performance of the functions of the mission, and that, when immunity is not waived, the sending State should use its best endeavours to bring about a just settlement of the claims.

12th plenary meeting
14 April 1961

III. TRIBUTE TO THE INTERNATIONAL LAW COMMISSION

The United Nations Conference on Diplomatic Intercourse and Immunities,

Having adopted the Vienna Convention on Diplomatic Relations on the basis of draft articles prepared by the International Law Commission,

Resolves to express its deep gratitude to the International Law Commission for its outstanding contribution to the codification and development of the rules of international law on diplomatic intercourse and immunities.

12th plenary meeting
14 April 1961

IV. TRIBUTE TO THE GOVERNMENT AND PEOPLE OF THE REPUBLIC OF AUSTRIA

The United Nations Conference on Diplomatic Intercourse and Immunities,

Having adopted the Vienna Convention on Diplomatic Relations,

Expresses its deep appreciation to the Government and people of the Republic of Austria for making possible the holding of the Conference in Vienna and for their generous hospitality and great contribution to the successful completion of the work of the Conference.

12th plenary meeting
14 April 1961

OPTIONAL PROTOCOL¹
TO THE VIENNA CONVENTION
ON DIPLOMATIC RELATIONS², CONCERNING
ACQUISITION OF NATIONALITY

Done at Vienna, on 18 April 1961

The States Parties to the present Protocol and to the Vienna Convention on Diplomatic Relations,² hereinafter referred to as "the Convention", adopted by the United Nations Conference held at Vienna from 2 March to 14 April 1961,³

Expressing their wish to establish rules between them concerning acquisition of nationality by the members of their diplomatic missions and of the families forming part of the household of those members,

Have agreed as follows :

Article I

For the purpose of the present Protocol, the expression "members of the mission" shall have the meaning assigned to it in Article I, sub-paragraph (b), of the Convention, namely "the head of the mission and the members of the staff of the mission".

¹ In accordance with article VI (1), the Protocol came into force on 24 April 1964, the date of entry into force of the Vienna Convention on Diplomatic Relations, in respect of the following States, on behalf of which the instruments of ratification or accession (a) were deposited with the Secretary-General of the United Nations on the dates indicated :

Tanganyika.....	5 November 1962	Argentina.....	10 October 1963
Laos.....	3 December 1962 (a)	Iraq.....	15 October 1963
Yugoslavia.....	1 April 1963	Panama.....	4 December 1963 (a)
Madagascar.....	31 July 1963 (a)	Dominican Rep.....	14 January 1964 (a)

Subsequently, the Protocol came into force for Gabon on 2 May 1964 and for the United Arab Republic on 9 July 1964, the instruments of accession having been deposited on behalf of these States on 2 April and 9 June 1964 respectively.

² See p. 95 of this volume.

³ *United Nations Conference on Diplomatic Intercourse and Immunities, Official Records, Vols. I and II (United Nations Publication, sales Nos. : 61.X.2 and 62.X.1).*

Article II

Members of the mission not being nationals of the receiving State, and members of their families forming part of their household, shall not, solely by the operation of the law of the receiving State, acquire the nationality of that State.

Article III

The present Protocol shall be open for signature by all States which may become Parties to the Convention, as follows : until 31 October 1961 at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March 1962, at the United Nations Headquarters in New York.

Article IV

The present Protocol is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article V

The present Protocol shall remain open for accession by all States which may become Parties to the Convention. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article VI

1. The present Protocol shall enter into force on the same day as the Convention or on the thirtieth day following the date of deposit of the second instrument of ratification or accession to the Protocol with the Secretary-General of the United Nations, whichever date is the later.

2. For each State ratifying or acceding to the present Protocol after its entry into force in accordance with paragraph 1 of this Article, the Protocol shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article VII

The Secretary-General of the United Nations shall inform all States which may become Parties to the Convention :

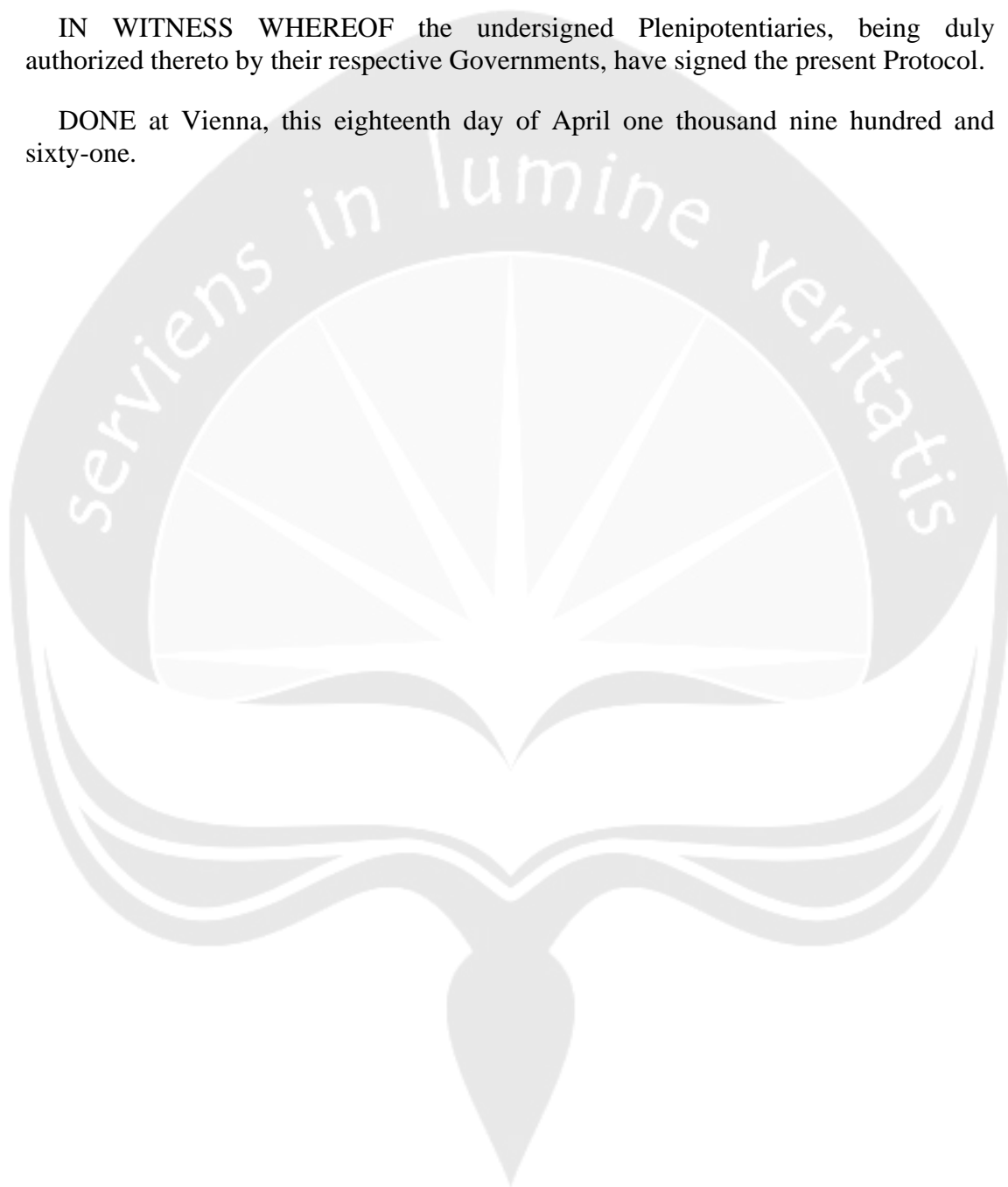
- (a) of signatures to the present Protocol and of the deposit of instruments of ratification or accession, in accordance with Articles III, IV and V;
- (b) of the date on which the present Protocol will enter into force, in accordance with Article VI.

Article VIII

The original of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in Article III.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Protocol.

DONE at Vienna, this eighteenth day of April one thousand nine hundred and sixty-one.



OPTIONAL PROTOCOL¹
TO THE VIENNA CONVENTION
ON DIPLOMATIC RELATIONS,² CONCERNING
THE COMPULSORY SETTLEMENT OF DISPUTES.

Done at Vienna, on 18 April 1961

The States Parties to the present Protocol and to the Vienna Convention on Diplomatic Relations,² hereinafter referred to as "the Convention", adopted by the United Nations Conference held at Vienna from 2 March to 14 April 1961,³

Expressing their wish to resort in all matters concerning them in respect of any dispute arising out of the interpretation or application of the Convention to the compulsory jurisdiction of the International Court of Justice, unless some other form of settlement has been agreed upon by the parties within a reasonable period,

Have agreed as follows :

Article I

Disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice and may accordingly be brought before the Court by an application made by any party to the dispute being a Party to the present Protocol.

¹ In accordance with article VIII (1), the Protocol came into force on 24 April 1964, the date of entry into force of the Vienna Convention on Diplomatic Relations, in respect of the following States, on behalf of which the instruments of ratification or accession (a) were deposited with the Secretary-General of the United Nations on the dates indicated :

Tanganyika.....	5 November 1962	Argentina.....	10 October 1963
Laos.....	3 December 1962 (a)	Iraq.....	22 November 1963
Yugoslavia.....	1 April 1963	Panama.....	4 December 1963 (a)
Madagascar.....	31 July 1963 (a)	Dominican Rep.....	13 February 1964

Subsequently, the Protocol came into force for Gabon on 2 May 1964 and for Liechtenstein on 7 June 1964, the instruments of accession having been deposited on behalf of these States on 2 April and 8 May 1964 respectively. Furthermore, the instrument of ratification was deposited on behalf of Japan on 8 June 1964, to take effect on 8 July 1964.

² See p. 95 of this volume.

³ *United Nations Conference on Diplomatic Intercourse and Immunities, Official Records, Vols. I and II (United Nations Publication, sales Nos. : 61.X.2 and 62.X.1).*

Article II

The Parties may agree, within a period of two months after one Party has notified its opinion to the other that a dispute exists, to resort not to the International Court of Justice but to an arbitral tribunal. After the expiry of the said period, either party may bring the dispute before the Court by an application.

Article III

1. Within the same period of two months, the Parties may agree to adopt a conciliation procedure before resorting to the International Court of Justice.

2. The conciliation commission shall make its recommendations within five months after its appointment. If its recommendations are not accepted by the Parties to the dispute within two months after they have been delivered, either Party may bring the dispute before the Court by an application.

Article IV

States Parties to the Convention, to the Optional Protocol concerning Acquisition of Nationality,¹ and to the present Protocol may at any time declare that they will extend the provisions of the present Protocol to disputes arising out of the interpretation or application of the Optional Protocol concerning Acquisition of Nationality. Such declarations shall be notified to the Secretary-General of the United Nations.

Article V

The present Protocol shall be open for signature by all States which may become Parties to the Convention, as follows : until 31 October 1961 at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March 1962, at the United Nations Headquarters in New York.

Article VI

The present Protocol is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article VII

The present Protocol shall remain open for accession by all States which may become Parties to the Convention. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

¹ See p. 223 of this volume.

Article VIII

1. The present Protocol shall enter into force on the same day as the Convention or on the thirtieth day following the date of deposit of the second instrument of ratification or accession to the Protocol with the Secretary-General of the United Nations, whichever day is the later.

2. For each State ratifying or acceding to the present Protocol after its entry into force in accordance with paragraph 1 of this Article, the Protocol shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article IX

The Secretary-General of the United Nations shall inform all States which may become Parties to the Convention :

- (a) of signatures to the present Protocol and of the deposit of instruments of ratification or accession, in accordance with Articles V, VI and VII;
- (b) of declarations made in accordance with Article IV of the present Protocol;
- (c) of the date on which the present Protocol will enter into force, in accordance with Article VIII.

Article X

The original of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in Article V.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Protocol.

DONE at Vienna, this eighteenth day of April one thousand nine hundred and sixty-one.