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Articles 62 bis, 64 ter, 67 bis,
70-B, 72 bis, 72 ter, 72 quater,
and 73 to 76

Relations between States and international organizations

DRAFT ARTICLES ON REPRESENTATIVES OF STATES TO
INTERNATIONAL ORGANIZATIONS

Part IV - Delegations of States to organs and to conferences

Text of articles 62 bis, 64 ter, 67 bis, 70-B,
72 bis, 72 ter, 72 quater and 73 to 76
adopted by the
Drafting Committee

Article 62 bis

Size of the Delegation

The size of a delegation to an organ or to a conference shall not exceed what is reasonable or normal, having regard to the functions of the organ or, as the case may be, the tasks of the conference, as well as the needs of the delegation and the circumstances and conditions in the host State.

Article 64 ter

Acting Head of the Delegation

1. If the head of a delegation to an organ or to a conference is absent or unable to perform his functions, an acting head may be designated from among the other representatives in the delegation by the head of the delegation or, in case he is unable to do so, by a competent authority of the sending State. The name of the acting head shall be notified to the Organization or to the conference.
2. If a delegation does not have another representative available to serve as acting head, another person may be designated as in paragraph 1 of this article. In such case credentials must be issued and transmitted in accordance with article 65.

Article 67 bis

Precedence

Precedence among delegations to an organ or to a conference shall be determined by the alphabetical order used in the host State.

Article 70-B

Inviolability of the premises

1. The premises where a delegation to an organ or to a conference is established shall be inviolable. The agents of the host State may not enter the said premises, except with the consent of the head of the delegation or, if appropriate, of the head of the permanent diplomatic mission of the sending State accredited to the host State. Such consent may be assumed in case of fire or other disaster that seriously endangers public safety, and only in the event that it has not been possible to obtain the express consent of the head of the delegation or of the head of the permanent diplomatic mission.
2. The host State is under a special duty to take all appropriate steps to protect the premises of the delegation against any intrusion or damage and to prevent any disturbance of the peace of the delegation or impairment of its dignity.

3. The premises of the delegation, their furnishings, other property used in the operation of the delegation and its means of transport shall be immune from search, requisition, attachment or execution.

Article 72 bis

Freedom of communication

1. The host State shall permit and protect free communication on the part of a delegation to an organ or to a conference for all official purposes. In communicating with the Government of the sending State, its diplomatic missions, consular posts, permanent missions, permanent observer missions, special missions and delegations, wherever situated, the delegation may employ all appropriate means, including couriers and messages in code or cipher. However, the delegation may install and use a wireless transmitter only with the consent of the host State.
2. The official correspondence of the delegation shall be inviolable. Official correspondence means all correspondence relating to the delegation and its functions.
3. Where practicable, the delegation shall use the means of communication, including the bag and the courier, of the permanent diplomatic mission, of the permanent mission or of the permanent observer mission of the sending State.
4. The bag of the delegation shall not be opened or detained.
5. The packages constituting the bag of the delegation must bear visible external marks of their character and may contain only documents or articles intended for the official use of the delegation.
6. The courier of the delegation, who shall be provided with an official document indicating his status and the number of packages constituting the bag, shall be protected by the host State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.
7. The sending State or the delegation may designate couriers ad hoc of the delegation. In such cases the provisions of paragraph 6 of this article shall also apply, except that the immunities therein mentioned shall cease to apply when the courier ad hoc has delivered to the consignee the delegation's bag in his charge.
8. The bag of the delegation may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. The captain shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a courier of the delegation. By arrangement with the appropriate authorities, the delegation may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

Article 72 ter

Personal inviolability

The persons of the representatives in a delegation to an organ or to a conference and of the members of its diplomatic staff shall be inviolable. They shall not be liable to any form of arrest or detention. The host State shall treat them with due respect and shall take all appropriate steps to prevent any attack on their persons, freedom or dignity.

Article 72 cuater

Inviolability of the private accommodation

1. The private accommodation of the representatives in a delegation to an organ or to a conference and of the members of its diplomatic staff shall enjoy the same inviolability and protection as the premises of the delegation.
2. Their papers, their correspondence and, except as provided in paragraph ... of article 73, their property shall likewise enjoy inviolability.

Article 73

Immunity from jurisdiction

ALTERNATIVE A

1. The representatives in a delegation to an organ or to a conference and the members of its diplomatic staff shall enjoy immunity from the criminal jurisdiction of the host State.
2. They shall also enjoy immunity from the civil and administrative jurisdiction of the host State, except in the case of:
 - (a) a real action relating to private immovable property situated in the territory of the host State, unless the person concerned holds it on behalf of the sending State for the purposes of the delegation;
 - (b) an action relating to succession in which the person concerned 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 person concerned in the host State outside his official functions;
 - (d) an action for damages arising out of an accident caused by a vehicle used outside the official functions of the person concerned.
3. The representatives in the delegation and the members of its diplomatic staff are not obliged to give evidence as witnesses.

4. No measures of execution may be taken in respect of a representative in the delegation or a member of its diplomatic staff except in the cases coming under subparagraph (a), (b), (c) and (d) of paragraph 2 of this article and provided that the measures concerned can be taken without infringing the inviolability of his person or his accommodation.

5. The immunity from jurisdiction of the representatives in the delegation and of the members of its diplomatic staff does not exempt them from the jurisdiction of the sending State.

ALTERNATIVE B

1. The representatives in a delegation to an organ or to a conference and the members of its diplomatic staff shall enjoy immunity from the criminal jurisdiction of the host State.

2. (a) The representatives and members of the diplomatic staff of the delegation shall enjoy immunity from the civil and administrative jurisdiction of the host State in respect of all acts performed in the exercise of their official functions.

(b) No measures of execution may be taken in respect of a representative or a member of the diplomatic staff of the delegation unless the measures concerned can be taken without infringing the inviolability of his person or his accommodation.

3. The representatives and members of the diplomatic staff of the delegation are not obliged to give evidence as witnesses.

4. The immunity from jurisdiction of the representatives and the members of the diplomatic staff of the delegation does not exempt them from the jurisdiction of the sending State.

Article 74

Waiver of immunity

1. The immunity from jurisdiction of the representatives in a delegation to an organ or to a conference, of the members of its diplomatic staff and of persons enjoying immunity under article .. may be waived by the sending State.

2. Waiver must always be express.

3. The initiation of proceedings by any of the persons referred to in paragraph 1 of this article shall preclude them 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 judgement, for which a separate waiver shall be necessary.

Article 75

Exemption from dues and taxes

The representatives in a delegation to an organ or to a conference and the members of its diplomatic staff 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 host State, unless the person concerned holds it on behalf of the sending State for the purposes of the delegation;
- (c) estate, succession or inheritance duties levied by the host State, subject to the provisions of article ...;
- (d) dues and taxes on private income having its source in the host State and capital taxes on investments made in commercial undertakings in the host State;
- (e) charges levied for specific services rendered;
- (f) registration, court or record fees, mortgage dues and stamp duty, subject to the provisions of article 71;
- [(g) excise duties on sales tax.]

Article 76

Exemption from customs duties and inspection

1. Within the limits of such laws and regulations as it may adopt, the host State shall 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 a delegation to an organ or to a conference;
- (b) articles for the personal use of the representatives in the delegation and the members of its diplomatic staff.

2. The personal baggage of the representatives in a delegation to an organ or to a conference and of the members of its diplomatic staff 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 host State. In such cases, inspection shall be conducted only in the presence of the person concerned or of his authorized representative.