

THE FUNCTIONS AND IMPORTANCE OF REPRESENTATION OF STATES IN THEIR RELATIONS WITH INTERNATIONAL ORGANIZATIONS OF A UNIVERSAL CHARACTER

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Article Info	Abstract
<p>Keywords: International organization of a universal character, States Representation, Cooperation.</p> <p>DOI: 10.25041/lajil.v4i2.2666</p>	<p><i>The development of international relations has accelerated rapidly since the signing of the Treaty of Westphalia in 1648. Relationships now extend not only between states but also involve public international organizations, or Inter-Governmental Organizations (IGOs). Following the Second World War, the establishment of the United Nations and its specialized agencies and other organs has significantly boosted international cooperation and the formation of treaties as a source of international law. The United Nations, along with its specialized agencies and other organs, is often referred to as an international organization of universal character. Both member and non-member states engage in cooperation with this universal organization. The presence of state representation in such a universal international organization is crucial for strengthening the ties between states and international organizations.</i></p>

A. Introduction

International relations have developed rapidly since the signing of the Treaty of Westphalia in 1648. The international treaty intended to end the thirty-year war is often cited as a milestone for modern international law and the emergence of the modern State system in Europe.¹ In general, international relations are based on the state's interests, yet the interests of two states cannot accommodate the interests of many other States. To form a common interest, states agree to establish international organizations. International organizations allow nations to accommodate the common interests of broader international scope.²

Since the middle 17th century, international organizations have been rapidly developing. International organizations have been manifested in various international conferences and institutionalized in various models: *commissions, unions, council, league, association, united-nations, commonwealth, community, cooperation*, and others.³ The progressive development of international organizations naturally encourages the dynamics of existing international

¹ J.G., Starke, 1984, *Introduction to International Law, Ninth Edition*, London: Butterworths, p.11-12.

² Sumaryo Suryokusumo, 1990, *Hukum Organisasi Internasional*, Jakarta : Penerbit Universitas Indonesia (UI Press), p.1.

³ *Ibid.* p.2.

relations. International organizations have created legal organizational norms within an agreement called the basic instrument or *constituent instrument*.

The status of international organizations as subjects of international law is now well-established, despite initial uncertainties. Organizations like the United Nations and its Specialized Agencies possess rights and obligations under international conventions. Initially, there was no clear affirmation that such entities were legal subjects in international law. However, this changed following the 1949 Advisory Opinion by the International Court of Justice in the *Reparation of Injuries* case⁴, which clarified the legal standing of the United Nations and Specialized Agencies under international law.

The role of multilateral diplomacy in international relations has grown significantly, particularly in the context of interactions between states and the responsibilities undertaken by the United Nations and its Specialized Agencies in the global community. This has led to many countries seeking closer cooperation with universally recognized international organizations. However, it is important to also recognize the contributions of regional organizations such as the European Union (EU), African Union (AU), Organization of American States (OAS), and the Association of Southeast Asian Nations (ASEAN). These entities continuously contribute to the development of international law and regional stability.⁵ Despite the importance of regional organizations, the influence of global international organizations is often considered more significant. This cooperation extends beyond interactions with international bodies to include engagements with other member states within these organizations, especially in pursuit of shared objectives. Such collaboration aligns with the purposes and principles of the United Nations Charter, which emphasizes the sovereignty equality of each country. This framework supports efforts to maintain international peace and security, foster cooperation and friendly relations among states, and address global issues in economic, social, cultural, and humanitarian realms. Moreover, it promotes and encourages respect for human rights and fundamental freedoms for all, irrespective of race, sex, language, or religion.⁶

The appointment of State representatives in international organizations of universal character such as the United Nations is evidence state members' commitment in strengthening the cooperation among the members to achieve the organizational goals. The appointment of representatives of these states will further enhance friendly relations and cooperation between them regardless of the political, economic and social systems of the state members.⁷ The novelty of this research is on the examination of state representatives' roles in international organizations. This research also analyzed the privileges and immunities of a country related to diplomatic affairs.

⁴ In this Advisory Opinion, the General Assembly request the International Court of Justice whether or not the United Nations has the legal capacity to a claim for compensation against the *de jure* or *de facto* government. In its conclusion, the International Court of Justice views that International Organizations as subjects of international law have international rights and obligations, and have the right to international claims. See further *Reparations for Injuries Suffered in The Service of The United Nations (Advisory Opinions)*, ICJ Report 1949. See also Mochtar Kusumaatmadja, Etty R.Agoes, 2003, *Pengantar Hukum Internasional*, Bandung: Alumni, p. 102-103.

⁵ Deidre M.Curtin., "European Legal integration : Paradise Lost?" , said the ultimate goal of the EU (previously the EC) may always have been political (ever closer union among the peoples of Europe), its immediate objectives economic and social, but the means and the techniques use to achieve it have traditionally been 'legal': the application and progressive development of common rules and enforcement procedures. Deidre M.Curtin, et.al, 2006, *European Integration And Law*, Antwerpen-Oxford : Intersentia-Metro,p.1.

⁶ See article 1 point (3), UN Charter. See D.W. Bowett, 1982. *The Law of International Institutions*, Fourth Edition, London: Stevens & Sons, p. 23.

⁷ See The Preamble of 1975 Vienna Convention, *Believing* that an international convention on the representation of States in their relations with international organizations of a universal character would contribute to the promotion of friendly relations and cooperation among States, irrespective of their political, economic and social systems.

The appointment of state representatives to international organizations was initially guided by customary international law, which was eventually deemed insufficient. Upon the establishment of the United Nations, the General Assembly created the International Law Commission to support its duties, exploring 27 topics related to international law from 1949 to 1979, including seven on diplomatic law and state interactions with international organizations.⁸ These areas were identified for codification due to recurring issues, leading to the 1975 Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character. This Convention now regulates the posting of state representatives to international organizations and acknowledges that customary international law may still apply to matters not expressly covered by the Convention⁹ The Government of Indonesia values this Convention for providing essential protections for foreign representatives in Indonesia and enhancing cooperation with international organizations that have established offices in Jakarta. This paper discusses several issues related to these developments, focusing on the evolution of diplomatic relations and legal frameworks based on the following research questions.

1. What are the types and functions of state representation in international organizations of a universal character?
2. Do state representatives accredited to international organizations of a universal character enjoy privileges and immunities?
3. How do international organizations of a universal character ensure the protection of privileges and immunities for accredited state representatives?

B. Discussion

1. International Organizations of a Universal Character

An international organization refers to an intergovernmental organization, while an international organization of universal character specifically includes the United Nations, its specialized agencies, the International Atomic Energy Agency, and any similar organizations with global membership and responsibilities.¹⁰

Sumaryo Suryokusumo highlighted that international organizations of universal character offer extensive opportunities to all member states, regardless of their size or power. He emphasized the principle of perfect equality among states, where each member possesses equal voting rights.¹¹ Organizations like the United Nations and its specialized agencies exemplify this category.¹² Henry G. Schremer outlined general criteria or characteristics for universal international organizations as follows.¹³

- a. *Universality*, the universal international organization operates in a wide scale of activities. This organization usually will not provide severe requirements for its membership and not imposing sanctions to expel its members.
- b. *Ultimate Necessity*, these organizations concern in various aspects of international life and needed by all countries such as weather, shipping, aviation and others. This organization is more technical as like as the United Nations Special Agencies.

⁸ Sumaryo Suryokusumo, 1995, *Hukum Diplomatik Teori Dan Kasus*, Bandung: Penerbit Alumni, p.11-12.

⁹ See Preamble of 1975 Vienna Convention, *Affirming* that the rules of customary international law continue to govern questions not expressly regulated by the provisions of the present Convention.

¹⁰ See Article 1, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

¹¹ Sumaryo Suryokusumo, 1993, *Studi Kasus Hukum Organisasi Internasional*, Bandung: Penerbit Alumni, p.47-48

¹² Sumaryo Suryokusumo, 1993, *Studi Kasus Hukum Organisasi Internasional*, Bandung: Penerbit Alumni, p.47-48

¹³ Henry G. Schremer, 1980, *International Institutional Law*, Netherlands, Rockville- Maryland, USA : Sijthoff & Noordhoff, p.21-22.

- c. *Heterogeneity*, the members of organizations will have different views both in politics, economic levels and different cultures. In its heterogeneous, Member states have a large and small population but they will have the same voting rights.

According to Sumaryo Suryokusumo, an international organization always has three aspects, namely: administrative aspects, philosophical aspects and legal aspects.¹⁴

- a. *The administrative aspect* concerns to the need of establishment a *permanent secretariat* whose location is in the territory of its member States which is determined through an agreement between the international organization and the host State (*Headquarters Agreement*). In addition, it is also necessary to have personnel staffs as *international civil servants*. In carrying out their duties, they will not obtain or receive instructions from any government or from any other authority outside the organization. They should limit themselves to take actions that could affect their position as international civil servants and only responsible to the organization.
- b. *Philosophical aspects*, the establishment of international organizations will be influenced by the philosophy of life of the nations in the certainty area. Likewise, the issues of peace or other themes can be used for the basis establish of the international organization.
- c. *Legal aspects*, international organizations are formed through an agreement from three or more States as parties. An organization is essentially a unit which is legally separated from every other organization and consists of one or more bodies. These bodies are a collection of various powers grouped under one name. The international agreement to establish the international organization is a *constituent instrument* that consist of the principles and purposes, structure and working systems of the organization. In some international organizations is possible to act as a law-making body (*treaty-making powers*) that create the principles of international law in various legal instruments.

Every international organization, including the international organization of a universal character according to Leroy Bennett¹⁵, has the following characteristics:

- a. A permanent organization to perform a set of functions,
- b. Membership is voluntary character,
- c. Have the main instrument (*constituent instrument*) that contain the purposes, structure and systems of the organization,
- d. Have an assembly body,
- e. Have a permanent secretariat that carries out administrative, research and information functions.

Referring to the matters previously discussed and considering the provisions of the 1975 Vienna Convention on The Representation of States in Their Relations with International Organizations of a Universal Character, the United Nations and its Special Agencies serve as prime examples of universal international organizations.

The United Nations, which succeeded the League of Nations, was established by the Charter that emerged from the 1945 San Francisco Conference, building on proposals from the Dumbarton Oaks discussions. The Charter, signed on June 26, 1945, is the foundational document of the organization, detailing its purposes, principles, membership conditions, and the structure of its various organs, including the Statute of the International Court of Justice^{16, 17}. Malcolm N. Shaw described the UN Charter as not only a multilateral treaty that established

¹⁴ Sumaryo Suryokusumo, 1993, *op.cit.* p.49-51 and see Sumaryo Suryokusumo, 1990, *op.cit.* p.8.

¹⁵ Leroy Bennet, A., 1979, *International Organization*, London: Prentice Hall, Inc. p.3.

¹⁶ See Chapter III Article 7 and Chapter IV, UN Charter.

¹⁷ See Article 4, UN Charter.

the organization and defined the rights and obligations of its signatory states, but also as the constitution of the UN, specifying its functions and setting its boundaries.¹⁸

In Chapter I Article 1 of UN Charter, the Objectives of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a center for harmonizing the actions of nations in the attainment of these common ends.

According to F. Sugeng Istanto, based on Article 1 of UN Charter can be said that the purposes of UN are:¹⁹

- a. Maintaining peace and security;
- b. Developing friendly relations between nations;
- c. Seeking international cooperation to solve economic, social, cultural and humanitarian issues as well as to promote and encourage respect for human rights and basic human freedoms;
- d. Harmonizing the actions of nations in achieving these common purposes.

Furthermore, Bursan Tsani noted that in its role of maintaining international peace and security, the United Nations not only functions to prevent world wars but also plays a pivotal role in the development and implementation of international humanitarian law.²⁰

Administratively, the United Nations has established a permanent secretariat through an agreement with the United States Government. This agreement led to the establishment of the United Nations Headquarters in New York City, United States. Legally, the organs of the United Nations, including principal bodies like the General Assembly and Security Council, as well as various Special Agencies, have been instrumental in producing numerous international legal instruments, including the codification of international law. Consequently, according to Ian Brownlie, the United Nations also meets the criteria for possessing legal personality as follows.²¹

1. *Permanent association of States, with lawful objects, equipped with organs;*
2. *A distinction, in terms of legal powers and purposes, between the organization and its member States*
3. *The existence of legal powers exercisable on the international plane and not solely within the national systems of one or more States.*

¹⁸ Malcolm N. Shaw. 2003. International Law. Fifth Edition. New edition the leading textbook. Cambridge University Press. Cambridge. P.1083

¹⁹ F.Sugeng Istanto, 1994, Hukum Internasional, Yogyakarta: Penerbit Universitas Atma Jaya Yogyakarta, p.129-130. See M.N.Shaw, 1991, International Law, Third Edition, Melbourne: Grotius Publications, Cambridge University Press, p.748.

²⁰ Mohd.Burhan Tsani, 2003, Peran PBB Dalam Perkembangan Dan Implementasi Hukum Humaniter Internasional, Edisi Khusus, Mimbar Hukum, Majalah Fakultas Hukum UGM, Nomor 44/VI/2003, p.1.

²¹ Ian Brownlie, 1985, Principles of Public International Law. Third Edition, Oxford: Clarendon Press, p.679.

In the area of taking legal actions as Stated in point 3, Ian Brownlie furthermore mentioned the parameters as follows.²²

- a. *Making international agreements (the treaty making power)*, although not all constituent instruments provide direct authority for international organizations to make international agreements, sometimes it can be interpreted from the existing constituent instruments as a whole based on *the doctrine of implied powers (infra)*. United Nations can make the *trusteeship agreements*²³, as well as agreements in relationship to the Specialized Agencies²⁴, including headquarters agreements with its member States as well as cooperation with other international organizations.
- b. *Having the rights of privileges and immunities*, international organizations always have the right of privileges and immunities concerning security, assets, headquarters, and representatives of Member states accredited to the organization.
- c. *Having the capacity to espouse international claims*, as has happened in the *Reparation Case* decided by the International Court of Justice
- d. *Functional protection of agents and persons entitled through them*, this can be seen in the killings of the United Nations mediator Count Folke Bernadotte and his aide Colonel Serot who were carrying out their duties during the disputed Palestinian territories in 1948.²⁵
- e. *Locus standi before international tribunals*, the United Nations, through its organs, can apply for an Advisory Opinion to the International Court of Justice.²⁶
- f. *Having responsibility*, the United Nations can expand its functions other than making treaties, carrying out administrative functions in certain territories, using armed forces (in the function of force keeping or peace keeping) and providing technical assistance.
- g. *Carrying out administrative functions* in certain areas
- h. *Having the right to carry out organizational missions or activities* in the territory of its member countries
- i. *Getting recognition* from States members.

2. The Representation of States to International Organizations of a Universal Character

Based on the purpose of the United Nations in the Charter of United Nations, the United Nations and the Special Agencies are obligated to conduct various programs that bring benefits to Member states and even non-States member. In order to establish a harmonious relationship, States will send their representatives and accredited to international organization of a universal character. Based on *1975 Vienna Convention on The Representation of States in Their Relations with International Organizations of a Universal Character*, the representation of States are grouped into two:

- a. *Permanent Mission* means a mission of permanent character, representing the State, sent by a State member of an international organization to the Organization;²⁷
- b. *Permanent Observer Mission* means a mission of permanent character, representing the State, sent to an international organization by a State not a member of the Organization.²⁸

²² Ibid, p.681-686.

²³ See Chapter XII, UN Charter.

²⁴ See Article 57 and 63, UN Charter.

²⁵ The case was occurred in 1948 got a response from UN Secretary General Trygve Lie as "a very grave and unprecedented insult to the authority and dignity of the United Nations". See Sumaryo Suryokusumo, 1990, *op.cit.*p.120-128.

²⁶ See Article 33, UN Charter *juncto* Chapter IV Article 65, Statute of International Court of Justice.

²⁷ See Article 5 Paragraph 1, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

²⁸ See Article 5 Paragraph 2, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character. A permanent observer mission sent by non-State members as the consequences that not all countries in the world could be members of the United Nations, this is caused

Regarding state representatives in international organizations of a universal character, the status of the missions can be either as a permanent mission or as a permanent observer mission, as designated by the sending state. The international organization is responsible for notifying the host state, where the headquarters or permanent secretariat is located.²⁹

The different status of State missions accredited to international organizations of a universal character brings consequences on the functions of the mission that are categorized into:

1. The function of the *Permanent Mission* as Stated in Article 6 of the 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character are:
 - a. ensuring the representation of the sending State to the Organization;
 - b. maintaining liaison between the sending State and the Organization;
 - c. negotiating with and within the Organization;
 - d. ascertaining activities in the Organization and reporting thereon to the Government of the sending State
 - e. ensuring the participation of the sending State in the activities of the Organization;
 - f. protecting the interests of the sending State in relation to the Organization;
 - g. promoting the realization of the purposes and principles of the Organization by co-operating with and within the Organization.

Sri Setianingsih Suwardi highlighted that the functions and duties of the *permanent mission* in an international organization are different from diplomatic mission. The main duties of permanent mission to international organizations is to coordinate national representatives in various organs in international organizations. Permanent Mission acts as a service center for national activities in international organizations where it has accredited.³⁰

2. The function of the *permanent observer mission* as Stated in Article 7 of the 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character are:
 - a. ensuring the representation of the sending State and safeguarding its interests in relation to the Organization and maintaining liaison with it;
 - b. ascertaining activities in the Organization and reporting thereon to the Government of the sending State;
 - c. promoting co-operation with the Organization and negotiating with it.

A sending state has the flexibility to accredit the same individual as head of mission to two or more international organizations of a universal character or to appoint a head of mission as a member of the diplomatic staff of another one of its missions.³¹ Similarly, a member of the diplomatic staff of a mission may be accredited as head of mission to other international organizations, or appointed as a staff member of another mission³² This practice is known as multiple accreditation or appointment in international organization law.

Generally, a state government has the discretion to appoint whoever it chooses to be accredited to international organizations of a universal character. However, the size of the

these States are considered unable to fulfil the conditions in Article 4 of the United Nations Charter, these States are often referred to be *micro-States*.

²⁹ See Article 5 Paragraph 3, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

³⁰ Sri Setianingsih Suwardi, 2004, Pengantar Hukum Organisasi Internasional, Jakarta : Penerbit Universitas Indonesia, p.217

³¹ See Article 8 Paragraph 1, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

³² See Article 8 Paragraph 2, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

mission should not exceed what is reasonable and normal, taking into account the functions of the organization, the needs of the specific mission, and the circumstances and conditions in the host state.³³ The sending state is also obligated to notify the host state about the arrival or departure of mission members.

In addition to establishing a permanent mission or observer mission, a state may send a delegation to participate in a conference organized by an organ of an international organization. The guidelines for sending delegations to such conferences align with those for state representatives to international organizations, covering aspects like the size of the delegation, and the procedures for their arrival, departure, and composition.

3. The Privileges and Immunities of International Organizations

a. The privileges and Immunities of Organizations

International organizations as subjects of international law have an international personality have specific privileges and immunities rights. These rights are not only granted to the organization but also to the officials of the international organization. In 1946, the United Nations adopted *the Convention on the Privileges and Immunities of the United Nations* which was accepted by General Assembly on 13 February 1946. The privileges and Immunities rights are also applied for Special Agencies based on *the Convention on the Privileges and Immunities of Specialized Agencies* which accepted by General Assembly on November 21, 1947.³⁴ The privileges and Immunities rights are similar to diplomatic and consular missions as a whole. The privileges and immunities granted by the present Convention are not designed to benefit individuals personally but to ensure the efficient performance of their functions related to organizations and conferences, as well as to facilitate the achievement of the goals of the organization.

International organizations enjoy privileges and immunities that extend beyond merely the inviolability of their headquarters or permanent secretariats. These rights also include the protection of their archives and documents, freedom of communication, and exemption from all forms of taxation imposed by the host state. Furthermore, international organizations possess immunity from the jurisdiction of the host state. This immunity is crucial as it ensures that international organizations remain free from the domestic court jurisdiction of the host state, a principle that is underscored in the second chapter of the UN Convention.³⁵

b. The privileges and Immunities of Officials

The status of international organization officials is derived from their roles within the organization in the host state. They are considered international civil servants because they are entirely dedicated to working for the international organization. The privileges and immunities granted to the staff of international organizations are fundamentally for the same reasons they are granted to the organizations themselves. These privileges and immunities are crucial to ensure the efficient performance of their functions in relation to the host state and to facilitate the achievement of the organization's objectives.³⁶

To elucidate the provisions of Articles 104 and 105 of the UN Charter, the United Nations has entered into several headquarters agreements with the United States, the Netherlands, Switzerland, and Austria, where UN headquarters or offices are located. For instance, the headquarters agreement between the Dutch Government and the International Court of Justice

³³ See Article 14, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

³⁴ Boer Mauna, 2005, *Hukum Internasional, Pengertian Peranan Dan Fungsi Dalam Era Dinamika Global*, Edisi ke-2, Bandung: Alumni, p.498

³⁵ Boer Mauna, *op.cit.*p.499

³⁶ *ibid.*p.500

(ICJ) specifically regulates the privileges and immunities enjoyed by international judges and other key personnel such as the registrar.³⁷

Moreover, the United Nations has also negotiated treaties to grant privileges and immunities in non-member countries, such as the Interim Arrangement agreed with the Government of Switzerland on July 1, 1946.³⁸ This arrangement not only includes provisions recognizing the legal personality of the United Nations in Geneva but also extends privileges and immunities to the buildings, representatives of member states, and international civil servants working there.³⁹

International organization officials enjoy immunity rights, particularly from local courts for activities carried out in their official functions. However, this immunity can be waived by the organization itself. These officials also benefit from fiscal immunity, exempting them from paying taxes on their salaries. Furthermore, experts appointed by the organization's subsidiary organs also enjoy privileges as decided by the ICJ.⁴⁰

4. The Privileges and Immunities of the Representation of States to an International Organizations of a Universal Character

a. Permanent Missions and Permanent Observer Missions

Based on Article 1, point (7) of the 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character, a "permanent mission" is defined as a mission of a permanent nature, representing a State, sent by a member state of an international organization to that organization. Furthermore, Article 1, point (8) defines a "Permanent Observer Mission" as a mission of permanent character, representing a State, sent to an international organization by a State that is not a member of that organization. To support their functions, both the head of the mission and the staff members of permanent missions or permanent observer missions are granted privileges and immunities.

The details regarding the privileges and immunities rights for state representatives are not specified in the headquarters agreement between the United Nations and the United States government. However, the Interim Arrangement agreed between the Swiss government and the United Nations on July 1, 1946, explicitly states the granting of privileges and immunities rights for representatives of member states. Similarly, the agreement signed between the United Nations and the government of the Republic of Austria on April 13, 1967, concerning the establishment of the UNIDO headquarters in Vienna, also provides immunities and privileges for the representatives of its members, including permanent representatives of member states.⁴¹

The privileges and immunities rights granted to missions include both collective rights for the mission as a whole and individual rights applicable to diplomatic staff in general. Essentially, the host state, in cooperation with the organization, guarantees and assists in providing all necessary facilities for the successful functioning of the mission, such as securing locations for the mission and residences for its staff members. Permanent missions of the sending state are entitled to use their national flag and emblem, though this must be in accordance with the laws, regulations, and customs of the host state.⁴²

The privileges and immunities enjoyed by the mission generally include immunity of premises, immunity of archives and documents, exemption from taxation, as well as freedom

³⁷ Sumaryo Suryokusumo, 1990, *op.cit.* p.115

³⁸ The Arrangement signed between UN with the Government of Switzerland before to be State member of UN. Starting in 1990, Switzerland become the UN members in 2002. See www.un.org

³⁹ Sumaryo Suryokusumo, 1990, *op.cit.* p.116

⁴⁰ Boer Mauna, *op.cit.* p.501

⁴¹ Sumaryo Suryokusumo, *op.cit.* p.115-116

⁴² See article 19, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

of movement and communication.⁴³ Personal immunities for individuals include exemption from the criminal, civil, and administrative jurisdiction of the host state, immunities for their residence and property.⁴⁴ Additionally, privileges include exemption from social security regulations and services, all taxes and levies, customs inspections, and all forms of inspections by the host state.⁴⁵

However, the application of these privileges and immunities must respect the laws and regulations of the host state and must not be used in ways that are incompatible with the functions of the mission. Another critical aspect is the prohibition against heads of missions and mission members engaging in professional activities unrelated to their roles, as outlined in Article 39 of the 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

b. Delegations to Organs and to Conferences

A State may send a delegation to an organ or to a conference in accordance with the rules of the Organization. Delegation, in the context of international relations and law, refers to a group of representatives sent by a state to participate in the activities of an organ of an international organization or a conference. The delegation of a state can be divided into several types, each serving different functions and purposes.

1. *Delegation to an organ* means the delegation sent by a State to participate on its behalf in the proceedings of the organ;
2. *Delegation to a conference* means the delegation sent by a State to participate on its behalf in the conference;
3. *Observer delegation* means the observer delegation to an organ or the observer delegation to a conference.

The authority to send a delegation to an organization, conference, or as an observer rests solely with the state government. This decision should adhere to the organization's established rules, including maintaining a reasonable and appropriate size for the delegation, consistent with the objectives and functions of the respective bodies.

Upon deploying its delegation, the state is required to inform the organization about the delegation's composition, as well as their dates of arrival and departure. This information is crucial as the organization will relay it to the host state.⁴⁶

To facilitate the delegation's activities, they are granted certain privileges and immunities. The host state is responsible for ensuring that all necessary facilities are provided to support the delegation's functions, including the effective exercise of their privileges and immunities as follows.⁴⁷

1. Premises of Delegations will be exempted from host State taxes;
2. Immunities of archives and documents;
3. Freedom of movement or travel;
4. Freedom of communication;
5. Personal immunities from the criminal, civil and administrative jurisdiction of the host State, including not being arrested or detained.

⁴³ See Articles 23,24,25,26, and 27, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

⁴⁴ See Articles 28, 29 and 30 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

⁴⁵ See Articles 32, 33, 34 and 35, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

⁴⁶ See Chapter III, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

⁴⁷ See Chapter III, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

6. Exempt from the host State social security provisions as well as social service duties;
7. Exempt from all levies and taxes;
8. Exempt from customs inspection or other inspections.

Article 69 of 1975 Vienna Convention highlights the privileges and immunities the functions of the head of delegation or of any other delegate or member of the diplomatic staff of the delegation shall come to an end

1. on notification of their termination of the mission by the sending State to the Organization or the conference;
2. upon the conclusion of the meeting of the organ or the conference.

c. Observer Delegations to Organs and to Conferences

The role of international organizations as subjects of international law is increasingly significant within the global community. This prominence is why non-state actors seek to establish close relations with these organizations. One common method of engagement involves sending delegations of observers to the organization's bodies or conferences, in line with the organization's rules. Under the 1975 Vienna Convention, the status of an observer is divided into two categories.⁴⁸

1. *Observer delegation to an organ* means the delegation sent by a State to participate on its behalf as an observer in the proceedings of the organ.
2. *Observer delegation to a conference* means the delegation sent by a State to participate on its behalf as an observer in the proceedings of the conference.

Members of the observer delegation will enjoy privileges and immunities necessary for the performance of their duties. This includes those who are members of diplomatic or consular missions, who will also be granted privileges and immunities under the 1975 Vienna Convention.

To support the implementation of these rights, cooperation between the sending and host states is crucial, particularly concerning the immunity of premises, property, and personal immunity for state delegates, whether part of permanent missions, observer missions, or delegates to organs and conferences. Consequently, all delegates are obligated to respect the laws and regulations of the host state and must not engage in activities that are incompatible with the mission's functions as defined by the current Convention, other general international law, or any specific agreements between the organizations and the host state.

D. Conclusion

Referring to the legal issues and analysis, the conclusions are drawn as follows.

1. The representation of state in their relations with international organizations of a universal character can be grouped into three types, namely:
 - a. *Permanent mission* sent by a State member and *Permanent Observer Mission* sent by a State not a member of the Organization.
 - b. *Delegation to an organ* in the proceedings of the organ; *Delegation to a conference* to participate on its behalf in the conference; and *Observer delegation* to a conference.
 - c. *Observer delegation to an organ* and *Observer delegation to a conference*

In generally, the function of representations of States in their relations with international organizations of a universal character are strengthening the cooperation between States and International organizations and for non-State members are giving the benefits to their States related to the activities of these international organizations.

⁴⁸ See Articles 1 points (13) and (14), 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

2. Based on the agreements made by the United Nations or the Specialized Agencies and State member regarding the existence of *headquarter or permanent secretariat*, the international organizations, international civil servants and representations of States who are accredited to international organizations are granted the privileges and immunities rights like diplomatic mission.
3. The implementation of the privileges and immunities rights granted by the *host State* based on bilateral treaty between the Organization and the *host State* and its needed supporting by the organizations, the sending State and the *host State*.

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