CHAPTER IV

PRIVILEGES AND IMMUNITIES OF REPRESENTATIVES OF MEMBER STATES TO THE SPECIALIZED AGENCIES OF THE UNITED NATIONS AND CERTAIN OTHER INTERNATIONAL ORGANIZATIONS

In our preceding chapter we discussed privileges, immunities, and exemptions of the international official who is a servant of the international organization in true sense of the term and acts in its name. In this chapter we shall deal with privileges, immunities, and exemptions of representatives of Member States to international organizations. Generally speaking, the expression “representatives of members” includes all representatives, alternate representatives, advisers, technical experts, and secretaries of delegations. In order to understand the nature of privileges and immunities accorded to the representatives, it should be made clear at the outset that they are accredited to the international organization in question and not the government of the host State. In their position as representatives they are, at one and the same time, national representatives and persons identified with international organizations. After the Second World War, when the practice of according diplomatic privileges and immunities to international officials was discontinued, it was retained in respect of the representatives. Nevertheless, there are instances where, as we shall see, the diplomatic privileges and immunities granted to the representatives are not so far-reaching as is true of diplomatic agents.

With the exception of the WMO, UNESCO, Fund, and the Bank, the headquarters agreements and other relevant legal instruments of the specialized agencies of the United Nations contain detailed provisions with respect to privileges and immunities of the representatives. Article 15 of the WMO Headquarters Agreement merely states that the representatives of Member States to the WMO and the members of its Executive Committee called to Switzerland due to their functions, shall enjoy there, the same privileges and immunities as are accorded to the representatives of Members to the

United Nations. Therefore, our reference to privileges and immunities of the representatives to the United Nations would impliedly include the representatives of the WMO.

Article 18 (1) of the UNESCO Headquarters Agreement provides that the representatives of Member States to the UNESCO, at sessions of its various organs and at conferences and meetings convened by it, along with members of the Executive Board and alternates, shall enjoy such privileges, immunities, and facilities as are accorded to diplomats of equal rank belonging to foreign diplomatic missions accredited to the Government of the French Republic during their stay in France on official duty. According to Article 18 (2), these privileges and immunities shall also extend to their spouses and children under twenty-one years. Although it is clearly implied in Article 18 (1), Article 18 (3) of the UNESCO Headquarters Agreement reiterates that only heads of delegations of Member States to the General Conferences of the UNESCO and the chairman of the Executive Board shall be assimilated to heads of diplomatic missions. Presumably, this has been done for the sake of emphasis.

As far as the Fund and the Bank are concerned, the situation is somewhat involved. Section 8 of Article 9 and Article 7 of the Articles of Agreement of the Fund and the Bank respectively, deals with privileges and immunities of all governors, executive directors, alternates, officers, and employees of the Organizations. Unlike the Specialized Agencies Convention and the headquarters agreements and other relevant legal instruments of the specialized agencies, the Articles of Agreement of the Fund and the Bank do not distinguish between "representatives" of Member States and "officials" of the Organizations. However, a governor or alternate of the Fund may be considered as the representative of a Member State since he is appointed by and receives instructions from the government of a Member State; and he may vote on Fund matters on behalf of the Member State appointing him. At the same time, the governors and alternate governors may be considered collectively as organs of the Fund. The same applies mutatis mutandis to the Bank.

1 As stated in chapter two, the Fund and the Bank have not concluded a formal headquarters agreement with the Government of the United States as yet. According to Section 11 of the Bretton Woods Agreements Act, Article 9 (Sections 2 to 9, both inclusive) of the Articles of Agreement of the Fund and Article 7 (Sections 2 to 9, both inclusive) of the Articles of Agreement of the Bank, have full force and effect in the United States and its Territories and possessions. These Sections deal with privileges and immunities of the two organizations. Moreover, U. S. Public Law 291 also applies. See supra, pp. 53–54.

2 Letter received on November 20, 1959, from the Legal Department of the Fund.