

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>The development of International relations have rapidly since the signing of Westphalia Treaty in 1648. The relationship are not only between States but also by public international organizations (Inter Governmental Organizations). After the Second World War, the establishment of the United Nations and its Specialized Agencies and Other Organs has encouraged the intensive of international cooperation and the making of treaties as a source of international law. The United Nations and its Special Agencies and Other Organs is often called as an international organization of a universal character. Both States members and non-States members establish cooperation with this universal international organization. The existence of State representation in a universal international organization with a universal character is very important for strengthening the cooperation between States and international organizations.</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 generally, international relations are based on the interests of State, but the interests of two States alone cannot accommodate the will of many States.

In order to achieve of common interests, States develop the international organizations. By forming international organizations, States will try to achieve the goals of common interest, and these interests involve a very broad field of international life.²

Since the middle 17th century, the development of international organizations has been increasing rapidly. It has not only been manifested in various international conferences, but that it has been institutionalized in various models: *commissions, unions, council, league, association, united-nations, commonwealth, community, cooperation*, and others.³ The

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.

progressive development of international organizations, it naturally encourages the dynamics of existing international relations. The process of developing the international organization has created legal norms relating to the international organization itself, which forms an agreement called the basic instrument or *constituent instrument*. Thus, the contribution of international organizations to the development of international law is very important.

The position of international organizations as subjects of international law is nowadays no longer in doubt, although at the beginning it was uncertain. International organizations such as the United Nations and the *Specialized Agencies* have rights and obligations according to international conventions, even at the beginning no confirmation that The United Nations and similar organizations are legal subjects of international law. After the International Court of Justice gave an Advisory Opinion in the case of *Reparation of Injuries*⁴, since 1949 the position of the United Nations and the Specialized Agencies, as legal subjects according to international law became clear.

The increasing role of multilateral diplomacy in international relations between States as well as the responsibilities of the United Nations and its Specialized Agencies in the international community, it gives the impact that many countries are eager to get close cooperation with international organizations of universal character. Although it must be acknowledged that there are other types of international organizations like regional organizations such as the European Union (*EU*), African Union (*AU*), Organization of American States (*OAS*), Association of South East Asia nations (*ASEAN*) etc., whose play their role and give the contribution to the development of international law continuously and make a regional stability.⁵ But it was acknowledged that the role of universal international organizations can be said to be the greatest. This cooperation is not only with international organizations, but also with other States who are members of these international organizations, especially in the context of achieving common goals. This is in line with the Purpose and Principles of the United Nations Charter which highly upholds the equality of sovereignty of each country, in the context of maintaining international peace and security and encouraging cooperation and friendly relations between States, example: 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.⁶

The appointment of State representatives in international organizations of universal character such as the United Nations is evidence of efforts of State members joining the organization to be seriously strengthening the cooperation among themselves in line with the goals of the organization. In fact, it is believed that 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 Novelty in this study is to find

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, Ety 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

out the function of state representatives in a country in relation to international organizations, besides this research will analyze the privileges and immunities of a country related to diplomatic.

Initially, the appointment of State representatives in international organizations was based on customary international law and in its development, it is seen not enough. At the beginning of the establishment of the United Nations, General Assembly (GA) as the main organ of UN developed an International Law Commission was support the duties of GA. This commission for thirty years (in periodic 1949-1979) has explored 27 topics and subtopics of international law, and seven of them are related to diplomatic law and related issues, including the relationship between States and international organizations. These topics are recommended to be codified because there have been many problems involving diplomatic law, including the provisions governing the establishment of diplomatic missions, consular missions, special missions, prevention and punishment of crimes against internationally protected persons, including diplomatic agents, etc.⁸ Concerning the area of relationship between State with international organizations, it has been successfully codified into 1975 *Vienna Convention on The Representation of States in Their Relations with International Organizations of a Universal Character*. This Convention was used as the basis for regulating the posting of State representatives in relation to international organizations of a universal character, although it is possible that the rules of customary international law continue to govern questions not expressly regulated by the provisions of the present Convention.⁹ According to Government Indonesia, this convention is very important for giving a special protection for the representatives of another states was posted in Indonesia, particularly for strengthening the collaboration with international organizations who open or established the permanent secretariat or branch office in Jakarta. Based on Introduction, in this paper, several issues are raised:

1. What is the kinds and functions of State representation in international organizations of a universal Character?
2. Do State representatives who are accredited to international organizations of a universal character enjoy the privileges and immunities rights?
3. How does an international organization of a universal character guarantee the privileges and immunities rights?

B. Discussion

1. International Organizations of a Universal Character

International organization means an intergovernmental organization and International organization of a universal character means the United Nations, its specialized agencies, the International Atomic Energy Agency and any similar organization whose membership and responsibilities are on a worldwide scale.¹⁰

Sumaryo Suryokusumo emphasized that international organizations of a universal character give more opportunities to their members as widely as possible regardless the States are big or small, strong or weak, and the principle of perfect equality of State is an important factor and the members have the same voting rights.¹¹ The United Nations and the Specialized

promotion of friendly relations and cooperation among States, irrespective of their political, economic and social systems.

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

Agencies can be classified in this type of organization.¹² Henry G. Schremer provides 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.
- c. *Heterogeneity*, the members of organizations will have different views both in politics, economic levels and different cultures. In its heterogeneous, States member 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.

¹² In The UN System the position of all members are equal. Today totally members of UN are 193 independence States.

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

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.

Referring to the matters as described before and taking into account 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 the United Nations Special Agencies are the most ideal examples for explore as universal international organizations.

The United Nations as a successor of the League of Nations is an international organization established by the Charter produced at the San Francisco Conference in 1945 based on proposals made at Dumbarton Oaks.¹⁶ The United Nations Charter was signed on June 26, 1945 is the constituent instrument of the organization and its consist of various aspects, both concerning of the purposes, principles, membership (including the conditions)¹⁷, organs of the United Nations¹⁸, including the *Statute of International Court of Justice*. Malcolm N Shaw said that the Charter of the United Nations is not only the multilateral treaty which created the organization and outlined the rights and obligations of those states signing it, it is also the constitution of the UN, laying down its functions and prescribing its limitations.¹⁹

In Chapter I Article 1 of UN Charter Stated Purposes 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:²⁰

- 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.

¹⁶ D.W.Bowett, *loc.cit.*p.23.

¹⁷ See Article 4, UN Charter.

¹⁸ See Chapter III Article 7 and Chapter IV, UN Charter.

¹⁹ Malcolm N. Shaw. 2003. International Law. Fifth Edition. New edition the leading textbook. Cambridge University Press. Cambridge. P.1083

²⁰ 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.

Furthermore Bursan Tsani said that for maintaining international peace and security, the United Nations also has a duty and function to prevent world wars, United Nations also plays a role in the development and implementation of international humanitarian law.²¹

In order to fulfill the administrative aspect, the United Nations has also made an agreement on the existence of a permanent secretariat with the United States of America Government, this agreement namely *the United Nations Headquarters in New York City, United States of America*. Likewise, in the legal aspect, the organs of the United Nations, both the main organs such as General Assembly, Security Council, and other organs as well as the Special Agencies, have produced many international legal instruments, including the codification of international law. Thus, the United Nations also belongs the criteria for legal personality as noted by Ian Brownlie:²²

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.*

In the area of taking legal actions as Stated in point 3, Ian Brownlie furthermore explained that it was indicated by:²³

- 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*²⁴, as well as agreements in relationship to the Specialized Agencies²⁵, 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 States member 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 1948.²⁶
- e. *Locus standi before international tribunals*, the United Nations, through its organs, can apply for an Advisory Opinion to the International Court of Justice.²⁷
- 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

²¹ 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.

²² Ian Brownlie, 1985, Principles of Public International Law. Third Edition, Oxford: Clarendon Press, p.679.

²³ Ibid, p.681-686.

²⁴ See Chapter XII, UN Charter.

²⁵ See Article 57 and 63, UN Charter.

²⁶ 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.

²⁷ See Article 33, UN Charter *juncto* Chapter IV Article 65, Statute of International Court of Justice.

i. *Getting recognition* from States member.

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 activities to carry out by the United Nations and the Special Agencies are so numerous. In generally, the activities will bring benefits to States member 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 types, namely:

- a. *Permanent Mission* means a mission of permanent character, representing the State, sent by a State member of an international organization to the Organization;²⁸
- 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.²⁹

Regarding of State representatives in international organizations of a universal character, both of the status of the permanent mission and the permanent observer mission sent by sending State, the international organization will notify the host State where the headquarter or permanent secretariat is located.³⁰

The difference of status of State missions accredited to international organizations of a universal character brings consequences for the mission function itself. The functions of the State representatives are classified 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. ensure 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. ensure 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 stressing that the functions and duties of the *permanent mission* in an international organization are different with a diplomatic mission. The main duties of permanent mission to international organizations is to coordinate national representatives in various organs in international organizations. Permanent Mission act as a service center for national activities in international organizations where it has accredited.³¹

²⁸ See Article 5 Paragraph 1, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

²⁹ 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 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*.

³⁰ See Article 5 Paragraph 3, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

³¹ Sri Setianingsih Suwardi, 2004, *Pengantar Hukum Organisasi Internasional*, Jakarta : Penerbit Universitas Indonesia, p.217

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.

The sending State may accredit the same person as head of mission to two or more international organizations of a universal character or appoint a head of mission as a member of the diplomatic staff of another of its missions.³² The sending State may accredit a member of the diplomatic staff of the mission as head of mission to other international organizations or appoint a member of the staff of the mission as a member of the staff of another of its missions.³³ This phenomenon can be said as the *multiple accreditation* or *appointment* in the international organization law.

In generally, the person who will be accredited to international organizations of a universal character, a State government has the freely to appoint them. The size of the mission shall not exceed what is reasonable and normal, having regard to the functions of the organization, the needs of the particular mission and the circumstances and conditions in the host State.³⁴ The sending State has an obligation to notify the host State the arrival or returning of mission members to international organizations.

Besides a permanent mission or permanent observer mission, a State is possible to send a delegation to attend in a conference organized by an international organization's organ. The provisions of sending a delegation to attend conferences organized by international organizations are in line with the provisions on the state representatives to international organization. It is concerns both the size of delegation, their arrival and departure and the composition of the delegation.

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 is always supported with the 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, this convention to explore the provision of Article 105 of the United Nations Charter. This organizations, in the territory of each member, enjoy the privileges and Immunities rights to achieve their goals. These 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, 1947.³⁵ The privileges and Immunities rights are similar to diplomatic and consular missions as a whole. Basically, the purpose of privileges and

³² See Article 8 Paragraph 1, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

³³ See Article 8 Paragraph 2, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

³⁴ See Article 14, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

³⁵ Boer Mauna, 2005, Hukum Internasional, Pengertian Peranan Dan Fungsi Dalam Era Dinamika Global, Edisi ke-2, Bandung: Alumni, p.498

immunities contained in the present Convention is not to benefit individuals but to ensure the efficient performance of their functions in connection with organizations and conferences, but also to achieve the goals of the organization.

International organizations will also enjoy the privileges and immunities rights not only concern to the inviolability of the headquarters or permanent secretariat only, but also includes archives, documents, freedom of communication and exemption from all taxation of the receiving State.³⁶ In addition, international organizations also have an immunity from jurisdiction of the receiving State. This is very important for international organizations to be free from the domestic court jurisdiction of the receiving State as stated in the second chapter of the UN Convention above.³⁷

b. The privileges and Immunities of Officials

The status of international organization officials are derive from the international organization in the host State. Both of them would be said to be *international civil servants*, because they are fully working for international organization. Privileges and Immunities rights granted to international organization staffs have the basic reasons as granted to organizations. The privileges and immunities rights for international organization staffs to ensure the efficient performance of their functions in connection with the host State and to achieve the goals set by the organization.³⁸

In order to explore the provisions of Article 104 and Article 105 of UN Charter, the United Nations has made several headquarter agreements with the United States, Netherlands, Switzerland and Austria where there are UN headquarters or offices. In the *headquarter agreement* between the Dutch Government and the International Court of Justice (*ICJ*), it has been specifically regulated the privileges and immunities rights enjoyed by international judges and other persons related to the work and duties of the Court, for example: registrar.³⁹

The United Nations also made treaties for the granting of privileges and immunities in *non-member countries*, such as the *Interim Arrangement* agreed by United Nations with the Government of Switzerland on July 1, 1946.⁴⁰ The arrangement not only contained provisions regarding the explicit recognition of legal personality United Nations in Geneva, but including the privileges and immunities of the building and also for representatives of States members and international civil services who are working there.⁴¹

The international organization officials enjoy immunity rights, especially immunity from local courts, from the activities carried out in the official functions. However, the immunity can be waived by the organization itself. These officials also have fiscal immunity, which is exempt from paying the taxes on their salaries. In fact, within the global framework for the experts appointed by the organization's subsidiary organs, also enjoy privileges rights as decided by the *ICJ*.⁴²

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), 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character stated that

³⁶ Sumaryo Suryokusumo, 1995, *op.cit.* p.70

³⁷ Boer Mauna, *op.cit.* p.499

³⁸ *ibid.* p.500

³⁹ Sumaryo Suryokusumo, 1990, *op.cit.* p.115

⁴⁰ 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

⁴¹ Sumaryo Suryokusumo, 1990, *op.cit.* p.116

⁴² Boer Mauna, *op.cit.* p.501

permanent mission means a mission of permanent character, representing the State, sent by a State member of an international organization to the Organization. In Article 1 point (8), 1975 Vienna Convention stated *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. For supporting their function, the head of mission and the staff members of permanent mission or permanent observer missions will be granted with privileges and immunities rights.

The privileges and immunities rights for state representatives is not detail regulated in the *headquarter agreement* between the United Nations and the United States of America government, but in the *Interim Arrangement* agreed between the Switzerland government and the United Nations on July 1, 1946, it explicitly states the granting of privileges and immunities rights for representatives of States member. Likewise, in the agreement signed between the United Nations and the government of the Republic of Austria on April 13, 1967 regarding the *existence of the UNIDO headquarters* in Vienna, it has provided the immunities and privileges rights for the representatives of its members, including permanent representatives of States members.⁴³

The privileges and immunities rights are consists of the mission as a whole and the individual as applicable to diplomatic mission and the staffs in general. Basically, the host state in cooperation with the organization will guarantee and assist all the facilities for the purpose of the mission, namely; assisting in providing mission locations, residences and accommodations for its staff member. Permanent missions of the sending State shall have the right to use the national flag and emblem of their State, although it should be in harmony with the laws, regulations, and usages of the host State.⁴⁴

The privileges and immunities rights enjoyed by the mission, in generally are immunity of premises, immunity of archives and documents and the privilege of exemption from taxation, freedom of movement and freedom of communication.⁴⁵ The personal immunities enjoyed by personal are exempt from criminal, civil and administrative jurisdiction of the host State, immunities for his residence and property.⁴⁶ The privileges rights are exempt from the regulations of social security and services, all taxes and levies, customs inspection and all forms of inspection in the host State.⁴⁷

The privileges and immunities enjoyed by the mission and its officers of the sending State, in the application of it shall due to respect the provisions of the laws and regulations of the host State and must not be used in any manner incompatible with the functions of the mission. The other fundamental thing is the prohibition for heads of missions and members of missions to carry out professional activities as stated 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 means, as the case may be, the delegation to an organ or the delegation to a conference. Delegation of State can be divided into:

⁴³ Sumaryo Suryokusumo, *op.cit.*p.115-116

⁴⁴ See article 19, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

⁴⁵ 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.

⁴⁶ See Articles 28, 29 and 30 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

⁴⁷ 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.

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, as the case may be, the observer delegation to an organ or the observer delegation to a conference.

The sending of delegation to an organ, to the conference or observer is fully the authority of the State government by taking into account the rules that applicable within the organization, including the size of members of the delegation that must always be reasonable and normal, in line with the goals and functions of the organs and conferences.

When sending its delegation, the State shall notify the organization regarding its composition, arrival and departure from the sending State. This notification is important because the organization will forward it to the host State.⁴⁸

In order to support the functions of the State delegation, the privileges and immunities rights are also granted. The host state will assist and guarantee all facilities are needed for supporting the functions, including the exercise of privileges and immunities rights.

The privileges and immunities rights are.⁴⁹

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.
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 stressing 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, inter alia:

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 becomes important in international communities, it is why non-State members try to make close relations with the organization. The model of relationship was done by sending a delegation of observers to the organization's organs or to the conferences in accordance with the rules of the Organization. In 1975 Vienna Convention the status of observer divide into two categories:⁵⁰

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.

⁴⁸ See Chapter III, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

⁴⁹ See Articles 51-65, 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

⁵⁰ 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.

Members of the observer delegation will enjoy privileges and immunities in the performance of their function, including if they are members of a diplomatic or consular mission, they will also enjoy privileges and immunities under the 1975 Vienna Convention.

For supporting the implementation of privileges and immunity rights for state delegates (permanent mission, permanent observer mission or delegates to organs and delegates to conferences and observer delegations), it is necessary to have mutual cooperation between the sending State and the host State, especially regarding the immunity of premises or residence, the properties and personal immunity. For this reason, all existing delegates have an obligation to respect all laws and regulations in the host State, including 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 organizations and the host State.

D. Conclusion

Referring to the legal issues and analysis, the conclusions are:

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.
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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