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Kai S. Bruns

ABSTRACT
In 2014, the Vienna Convention on Diplomatic Relations celebrated its fiftieth anniversary since its coming into force in 1964. Setting out the privileges and immunities accorded to diplomats and diplomatic missions, the negotiations of this convention were part of the United Nations’ plan to strengthen the international rule of law. This article analyses the role of Britain, one of the major actors in the negotiation process. It explores how Britain’s negotiation position was shaped by diplomatic realities of the 1950s, and the strategies used to ensure Britain’s interests being reflected in the final convention. The focus will be on the overall political pressure that underlined Britain’s negotiation position, in order to reveal the general UK position on the codification of diplomatic privileges and immunities. Despite the remarkably friendly atmosphere at the 1961 Vienna conference, Britain could not press through all its amendments which, through the concluding legislation process, protracted Britain’s ratification process. The article shows while London was supporting the codification of international law, codification by convention was not its ultimate choice. Therefore, the subsequent legislation process was marked by an inter-departmental dispute between the Foreign Office and Treasury, inter alia, on the exemption of Scotch whisky from excise duties.

KEYWORDS
Britain; VCDR; United Nations; codification; diplomatic privileges and immunities

During the 1950s and up until the early 1960s, legal experts meeting in the annual sessions of the International Law Commission (ILC) and diplomatic delegations assembled at the 1961 United Nations Conference on Diplomatic Intercourse and Immunities negotiated a convention on diplomatic privileges and immunities. Widely known today as the 1961 Vienna Convention on Diplomatic Relations (VCDR), this agreement was part of the United Nations plan to strengthen the international rule of law by clarifying the extent of inviolability of resident missions and privileges and immunities for their staff. This article analyses the role of the United Kingdom, one of the major actors in the negotiation process leading to the VCDR. It explores how Britain’s interests were shaped by diplomatic realities of the 1950s, the strategies used to ensure that Britain’s interests were reflected in the final convention text, and how an interdepartmental dispute put a heavy burden on the national legislative and international ratification process. Emulating John Young’s earlier analysis of Britain’s role in the negotiation of the 1969 New York Convention on Special Missions, this article focuses on the ‘overall political thrust of the British
negotiation position’ to reveal the general UK position on the codification of diplomatic privileges and immunities.¹

In the early 1950s, the political atmosphere in the United Kingdom regarding the granting of privileges and immunities was, at best, tense. The reason for this was a number of legislative projects that the UK government had pushed through Parliament during the previous decade. Up to this time, the number of international actors was noticeably increasing, as was the number of staff members who enjoyed diplomatic immunity in London. The UK government, fulfilling its international obligations, started a series of legislative projects (the Diplomatic Privileges [Extension] Act 1941, the Diplomatic Privileges [Extension] Act 1944, the Diplomatic Privileges [Extension] Act 1946, and the Diplomatic [Extension] Act 1950), which led to Members of Parliament questioning the desirability of extending diplomatic privileges and immunities at all.² In addition to the appearance of international organisations on the diplomatic horizon, the two most common explanations for the expansion of London’s diplomatic corps were the growth in the number of diplomatic missions as well as the expansion of the size of the staff of these missions. While in 1913 London was home to nine embassies and thirty legations, in 1955 this number had almost doubled to fifty-five embassies and fourteen legations.³ Moreover, the European international society of states, shaken by the First World War, experienced a number of international initiatives and opportunities for international co-operation in the 1920s.⁴ This led to a change in the structure of diplomatic missions, whose subjects and methods of conducting modern diplomacy were increasingly growing more complex. Military, economic, and technical co-operation added working fields to the political character of the diplomatic process. Finally, technical innovations in advanced approaches in office work and the development of communication tools resulted in a natural requirement for more clerical staff in the mission offices.⁵ These factors contributed to a sharp increase in the number of members of London’s diplomatic corps from 543 in 1913, to some 4,049 foreigners who enjoyed diplomatic immunities in 1955.⁶

Within the Parliament, this increase caused disquiet and resulted in calls to ‘tighten up and to scrutinise carefully the occupations’ of those individuals who were not subject to the ordinary process of law. Meanwhile, another bone of contention was that, in some countries, protection granted to a UK mission was lower than international custom required or reciprocity would demand. Eventually, the Labour government in 1949 set up an interdepartmental committee under Lord Justice Somervell to investigate whether UK law regarding diplomatic immunities was wider than necessary or desirable. In 1951, the Committee recommended that a legal process should be started which empowered the Government to reduce diplomatic privileges and immunities, to correspond to the same level as those granted to UK missions abroad.⁷ To carry out the Somervell Committee’s recommendation, a diplomatic immunities restriction act was brought under way in 1955.

This national legislative process coincided with the start of international efforts to codify diplomatic privileges and immunities. In 1952, the United Nations General Assembly invited its scientific legal organ, the ILC, to give priority to the codification of diplomatic intercourse and immunities. In 1954, Sweden’s Emil Sandström prepared a report on diplomatic intercourse and immunity, setting out the scope of codification. His draft, together with a compilation of past codification attempts provided by the United Nations Secretariat, formed the basis for discussion during the 1957 and 1958 ILC sessions. While it was UK policy to support United Nations efforts at the codification of international law, current
national debates on diplomatic immunities made it clear that no extension would be permissible. The best way to avoid any need for legislation would be, therefore, to lobby for codification short of a binding international convention. And although Britain’s legal adviser and ILC commissioner made sure that the ILC took no hasty decision on the final form, the majority of commissioners was eventually in favour of, and recommended codification by, convention through an international conference of plenipotentiaries. Such a decision meant that the United Kingdom not only had to ensure that its comments on the 1958 draft found reflection in the final convention but also had to decide whether the VCDR should apply to Commonwealth affairs. While the Foreign Office (FO) and the Commonwealth Relations Office (CRO) slept through the problem until shortly before the conference, other Commonwealth nations such as Australia and Pakistan had a clear vision early on. Still others, such as Canada, looked to London for guidance. Eventually, only a couple of weeks before the start of the Vienna conference, Britain took the lead and instructed its High Commissioners to lobby for a common stance.

At the 1961 Vienna conference, Britain was careful to introduce the necessary amendments to make the final convention applicable to Commonwealth relations. Headed by the recently appointed FO legal adviser Francis Vallat, Britain’s well-briefed delegation networked successfully with other Commonwealth delegations. It managed to get most of its amendments through, thereby ensuring the VCDR would not contradict recent domestic efforts to restrict diplomatic immunities. The United Kingdom had to accept modifications to its diplomatic custom only regarding the granting of tax privileges, the free appointment of service attachés, and the freedom of diplomatic communication. After the Vienna conference and during the national ratification process particularly, the granting of the tax-free reimport of Scotch whisky was subject to much discussion between the FO and the Treasury, and this delayed the ratification process. Eventually, Britain ratified the VCDR on 1 September 1964, about two months after its coming into force on 24 June 1964.

**Diplomatic privileges and immunities**

The 1961 VCDR deals primarily with the regulation of diplomatic privileges and immunities. However, it does not provide any definition of these special rights. Diplomatic immunities entail a special legal position which exempts diplomats from the ordinary process of law in the receiving state.\(^8\) In the United Kingdom, such a particular legal position had been reflected since the days of Queen Anne in the Diplomatic Privileges Act of 1708, and it made clear that while diplomatic agents are not subject to the normal legal process, this does not mean that they float above the law. Such a principle is also reflected in the preamble of the VCDR, which contains a reminder that diplomatic immunities are aimed at protecting the diplomatic function, not ensuring the benefit of the individual. In terms of the essence of diplomatic immunities, the structure of the VCDR suggests a tripartite form. First, diplomatic immunity includes the inviolability of diplomatic missions and their staff. Second, it provides that diplomats enjoy freedom from criminal jurisdiction in the receiving state. Third, it ensures the granting of privileges such as exemption from dues, taxation, and custom duties.\(^9\)

The granting of personal diplomatic immunities is a practice that dates back to early times when messengers, who had the duty of transmitting unpleasant messages, often had to fear for their lives, which made the profession unattractive and diplomatic
communication difficult. With the intensification of European diplomatic relations between 1420 and 1530, the new institution of resident diplomatic missions (as opposed to visiting envoys) began to flourish in the Italian city-states. First treated with misgiving, the economic and safety benefits were such that continuous representation had become established practice by the late sixteenth century. Meanwhile, diplomatic premises were also granted special immunities from local criminal and civil jurisdiction. Such exclusions from local jurisdiction were justified by contemporary international lawyers such as Hugo Grotius for the simple reason that diplomats as well as permanent missions would be considered to be on foreign soil: the fiction of extraterritoriality was thus born and accepted as the legal justification for the inviolability of diplomatic mission premises until the nineteenth century.

By 1895 legal experts used the term ‘inviolability’ in the resolution of the Institute of International Law to denote the duty to protect the diplomat, by means of punishment, against offences, injuries or violence inflicted on him by citizens of the receiving state. Today, and even up to the time when the VCDR was negotiated, diplomats have not normally had to fear for their lives when engaged in the diplomatic process. Yet, at the Vienna conference it was commonly agreed that they needed protection in order to perform their duties with confidence and the necessary independence. Thus, while diplomats enjoyed immunity in both civil and criminal cases, administrative staff and private servants were granted only limited immunity. This is where the VCDR led to a reduction in diplomatic immunities compared to the diplomatic custom in Britain. Historically, immunity from civil jurisdiction was accorded in the United Kingdom to the entire staff of the mission, including clerks and typists. Likewise, subordinate officials and servants received immunity from criminal jurisdiction who would not be prosecuted except with the consent of the head of the mission concerned. This was because private servants were traditionally regarded as members of the ambassador’s suite, living within the mission premises, which made the execution of a court judgement difficult without his consent and would ‘infringe the inviolability of the residence of the diplomat’.

Yugoslavian discontent and Britain’s early perspective on codification

The practice of granting diplomatic immunities gathered the necessary momentum for codification because these protections were misused by Soviet governments. Although diplomatic immunities were included in the list of topics for codification, diplomatic practice was stable and codification was not a cause for urgency when the ILC took up its work in 1949. But with a cooling of diplomatic relations between former Second World War allies, political tensions started to be reflected in daily diplomatic practice. Eventually, a Yugoslavian complaint before the seventh United Nations General Assembly in 1952 about Soviet disrespect for diplomatic privileges and immunities led to a prioritisation of the codification of diplomatic immunities.

The Yugoslavian case gained momentum not only as a result of US support, for which such a case was a welcome moment of anti-Soviet propaganda, but also because other countries faced similar problems during the late 1940s in their relations with the Soviet Union. In London, for example, the Soviet mission had been accused of abusing its privileges by endeavouring, directly or indirectly, to intimidate refugees or to coerce them into illicit activities. But when in 1949 the Soviet Tass News Agency in London was accused
of libelling journalists, the Soviet Union claimed diplomatic immunity for its press agency, which, as claimed by the Soviet Ambassador at London, constituted ‘a department of the Soviet State’.18

In Britain, another cause for discontent with current diplomatic practice was the findings of the 1951 Somervell Committee, which indicated a distorted balance of reciprocity in the granting of immunities. Thus, the Somervell report pointed to serious restrictions in the diplomatic freedoms enjoyed by Britain’s diplomats in the Soviet Union and its satellite states. While in London domestic business such as renting mission premises and employing local staff was directly dealt with by the parties, in Moscow the UK mission was to conduct all its business through a special bureau. Such a bureau, however, levied ‘exorbitant charges for many of its essential services’, making procedures not only more expensive but also more time-consuming than Britain felt was necessary.19 However, even with valid entry visas, large areas of the Soviet Union and other satellite states such as Romania and Bulgaria remained closed to travel by members of Her Majesty’s missions. Travel restrictions for foreign diplomats applied to a radius of a few kilometres outside of Eastern capitals, and accredited diplomats were also required to obtain a special permit for every journey out of the Soviet Union. Thus, when British diplomats started their service, for instance, in Prague, the Czech government provided visas only for single journeys inside and outside the country. In contrast, Czech diplomats accredited to London were still granted a permanent return visa, which was valid for as long as they held an appointment in London.20 Britain’s current diplomatic practice with these states, therefore, was unsatisfying and some form of legislation was needed.

As a founding member, it was the United Kingdom’s general policy to strengthen the work of the United Nations in the field of codification and the progressive development of international law. After the Second World War, and in the light of many states’ ignorance of their international obligations during the war, much scepticism prevailed among international legal experts concerning whether effective international law could be said to exist, let alone whether the codification of such weak norms would make sense.21 Cecil Hurst’s plea for the codification of international law along new lines before the British Grotius Society in 1946 helped change this view and greatly influenced Britain’s general perspective on the feasibility of the codification of international law.22 Hurst’s vision helped create an organisational framework for the progressive development and codification of international law, which had a scientific focus but was still responsive to the practical needs of a dynamic international community. In such a framework, the ILC as a legal-scientific body played a major role, leading the preparation of, in theory, a systematic codification of international law and collaborating with other permanent organs such as the Sixth Committee of the United Nations General Assembly or the United Nations Commission on International Trade Law.23 However, concerning the codification of diplomatic intercourse and immunities, Britain’s FO, fearing new domestic legislation, planned for a non-binding form of codification for which it lobbied within the ILC. While the political Cold War problems outlined here created enough momentum for the United Kingdom to support a restatement of the law on immunities, the FO’s legal experts feared an ‘unnecessary stiffening’ of the law if it were codified by an internationally binding convention.

In 1955, the FO’s chief legal adviser, Gerald Fitzmaurice, became a member of the ILC, replacing Hersch Lauterpacht, who had followed a call to become a judge at the International Court of Justice. In contrast to his predecessor, Fitzmaurice was not an academic
but rather a legal adviser ‘less immersed in theoretical issues’.  

Although as a member of the ILC he sat in a personal rather than professional capacity, of course, his position as FO legal adviser guided his position on the desirable form and content of codification. Under Fitzmaurice’s direction, Her Majesty’s Government (HMG) submitted comments on the 1957 set of provisional drafts outlining general British diplomatic practices. In contrast to other governments, HMG did not directly suggest improvements to the ILC draft because Fitzmaurice, until 1958, was hoping to keep codification within the limits of soft law as ‘no new ground had been broken’ nor ‘was there any obscurity’ to justify the recommendation of a conference (such as in the case of the Law of the Sea). His preferred choice would have been for the commission to recommend that governments take note of the set of draft articles included in the report of the ILC, leaving their interpretation and future use to the responsibility of governments. This way, if clarity were needed, states could orient themselves to the drafts, but no national legislation would be needed to translate the provisions into national law nor to adapt them to a potential extension of diplomatic immunities in Britain.

Britain and negotiations in the International Law Commission, 1954–8

The ILC, initially a group of fifteen legal experts representing the principal legal systems of the world, was responsible for preparing the draft articles on diplomatic intercourse and immunities. In 1954, based on the proposal of Lauterpacht of Britain, Emil Sandström of Sweden was appointed special rapporteur and assigned responsibility for the setting up of a first report on potential draft articles. Sandström’s initial report was important for the scope of the future convention as it bore an apolitical signature. Sandström was one of the original members of the ILC who reflected the ideals of the first hour: a legal expert of the highest rank but not directly affiliated with any government. Therefore, his report on the original twenty-eight draft articles concentrated on legal aspects, but did not draw on Cold War topics. As will be seen, these were only added later, following the discussions during the ILC sessions in 1957 and 1958. Additionally, Sandström kept the focus on diplomatic intercourse and immunities, deliberately excluding consular relations and immunity for agents of international organisations, both of which he considered separate topics. Finally, in his report, he started the tradition of keeping discussions on doctrines of diplomatic immunity separate from the articles in a commentary. This approach met particularly with Soviet agreement and helped to focus on practical problems, although sometimes at the cost of the coherence of applied doctrines.

When in 1957 the United Nations Secretary-General officially invited governments to comment on the provisional set of draft articles, HMG’s official response was handled exclusively by the FO and limited to a restatement of Britain’s diplomatic practice. The reasons for this were at least twofold. First, although sitting on the ILC in a personal capacity, Fitzmaurice was an influential and active member in the negotiations and was aware of Britain’s political interests. At the 1957 ILC meetings, Sandström’s draft articles were discussed and some eight articles were further added, many of which were closely related to Cold War issues. On the suggestion of Britain’s Fitzmaurice, the ILC discussed provisions on freedom of movement and the duty of the receiving state to ensure that suitable accommodation should be provided to a mission and its personnel. Both topics had led to increased friction in diplomatic relations between Britain and the Soviet Union in early
1950s. Second, while many commissioners worked on the assumption that the Commission’s draft would take the final form of an internationally binding convention, Fitzmaurice was not convinced about the practicality of a final convention. He feared that time constraints, potential changes suggested at such a conference, and subsequent reservations could complicate the codification. Instead, he favoured a model code, which would remain as the ILC had negotiated it - although non-binding in its legal character.

The ILC’s decision, taken one year later in 1958, to recommend codification via a convention was a game-changer in terms of Britain’s approach to the draft articles. The majority of ILC commissioners considered diplomatic practices settled enough to be codified by convention. Special rapporteur Sandström, together with many other commissioners, had throughout stressed that they had worked with the assumption in mind that the final text would be recommended for codification as hard law. Changing these premises would mean having to go over the draft articles again to adapt their wording. Given the ILC’s tight working schedule, however, this was impractical. But most importantly, as Commissioner Jaroslav Zourek of Czechoslovakia pointed out: ‘There was no reason to suspect that the adoption of a convention would occasion much difficulty to [s]tates.’ His statement not only reflected the general view among commissioners that, unlike the 1958 United Nations Law of the Sea conference, which required much specialist knowledge and involved hard political bargaining, diplomatic immunity was essentially a technical matter and that the ILC was mainly codifying established diplomatic practice. Moreover, the relevant General Assembly Resolution 685 (VII) of 5 December 1952 asked the ILC to give priority to the codification of diplomatic intercourse and immunities without making any reference to its progressive development.

Defining Britain’s position and the Commonwealth dilemma, 1958–61

In preparing for the 1961 Vienna conference, the legal adviser to the FO played the lead role thanks to the nature of the subject matter and because of the legal adviser’s direct involvement in the preparatory negotiations as a member of the ILC. Thus, during most of the preparatory negotiations, Fitzmaurice sat on the ILC on behalf of Britain until his appointment to the bench of the International Court of Justice in 1960. He was succeeded by Vallat, who had been his deputy since 1954 and would later head Britain’s delegation at the 1961 Vienna conference.

In October 1958, shortly after the ILC had finalised its work on the draft articles with a recommendation to the United Nations General Assembly to codify diplomatic privileges and immunities through a binding convention to be negotiated at an international conference, the FO sent a circular letter to all departments concerned asking for their views in order that they might be taken into account in preparing a brief for the conference delegation. The departmental feedback made it clear that, in their current form, the draft articles would require major legislation. Given the general air of hostility to diplomatic immunities, Parliamentary approval of any changes to current practices, let alone an extension of diplomatic immunities, was highly unlikely. Therefore, the FO received detailed instructions from the Lord Chancellor’s Office, the Home Office, and the Revenue departments concerning how to adapt the current draft convention in order to avoid future legislation.
Another crucial aspect given the importance at that time of the Commonwealth to Britain and her Commonwealth brethren was whether the future convention would apply to Commonwealth relations. The CRO was engaged late in the preparatory process, but it played a crucial role in the preparations for the Vienna conference. Two months before it opened, FO assistant legal adviser Christopher Lush thought that Commonwealth aspects had been ‘largely overlooked’. However, this was not entirely correct. During discussions in the ILC, Fitzmaurice had seen no need to mention the special relationship that existed between Commonwealth countries. This was because he did not perceive any need for it, and it was, accordingly, not mentioned in the draft convention.31 However, Britain was now faced with having to decide whether the convention would apply to intra-Commonwealth relations. In 1957, the governments of Pakistan and Australia had actually told the ILC that the draft VCDR should apply to Commonwealth relations. When Canada contacted the CRO in early 1961 suggesting some amendments, Britain had to move fast or lose the lead in defining a common policy, or even worse, forfeit a common Commonwealth position.32 Making the draft articles applicable to the more intimate, and sometimes particular, Commonwealth practices led the FO to think in terms of obtaining an appropriate amendment to the non-discrimination clause in draft Article 44 (final VCDR Article 47) as well as other points in the draft convention where Commonwealth practices might not be safeguarded. Britain’s proposals were transmitted to all British heads of mission in Commonwealth countries (the High Commissioners) and they were asked to lobby their receiving governments.

The United Nations conference on diplomatic intercourse and immunities, 2 March–18 April, 1961

In accordance with Resolution 1450 (XIV) of the 1959 General Assembly, the delegations of eighty-one states met in Vienna in March 1961 for a six-week conference of plenipotentiaries on diplomatic intercourse and immunities. At first glance, according to media reports, the timing could not have been worse.33 In spring 1960, the second United Nations conference on the Law of the Sea, in which topics such as the breadth of the territorial sea and fishery limits were discussed, had been a troublesome experience. Meanwhile, the general political climate was tense due to a series of Cold War confrontations between the East and West. The 1956 Hungarian Revolution, the fallout from the Congo crisis, the 1960 U-2 incident in which a US spy plane was shot down in Russian airspace, and the United States severing diplomatic relations with Cuba cast long, dark shadows over the start of the Vienna conference. Another Cold War battlefield was predicted34, but it was proved completely wrong as reported by conference delegates after the meeting was concluded. Indeed, Vallat observed a ‘remarkable’ absence of Cold War divisions, and the Irish delegation said it was an ‘unusually constructive’ atmosphere which was disturbed only twice by political interventions.35

The two incidents to which the Irish referred occurred at the opening of the plenary conference, when all delegates were given a chance to address the conference and at the beginning of the Committee of the Whole, which was the main working committee of the conference. After the official opening of the conference, the Soviet head of delegation, Grigory Tunkin, protested the absence of delegations from the (Communist) German Democratic Republic, the Mongolian People’s Republic, and the (Communist) People’s
Republic of China. In contrast, he criticised the presence of the delegation of the Taiwanese Nationalist Government. Although delegations from both sides of the Iron Curtain engaged in the succeeding debate, as compared to the 1958 *Law of the Sea* conference, these interventions were not heated and were essentially for the sake of form.

During the first meeting of the Committee of the Whole, the Belgian delegate drew attention to the burning of his country’s embassy in Cairo during a demonstration arising out of events in the Congo, Belgium’s former colony. Although receiving states had a duty to protect the inviolability of the premises of a diplomatic mission, the Egyptian authorities had not only taken a remarkably passive line but had also appeared to show little displeasure with the violent rioting. Fears that this issue might come up again during later negotiations were unfounded. All North Atlantic Treaty Organization delegations supported Belgium, but they wanted at all costs to avoid political argumentation and maintain the general atmosphere of friendly co-operation.36

An important early indication that delegations wanted not only to avoid conflict but also to work co-operatively was the appointment of Poland’s Manfred Lachs as a third vice-president of the Committee of the Whole. His selection was surprising because during the run-up to the conference, Lachs had failed to win its presidency, as the United States did not want a Communist to hold that office. At Vienna, however, the US delegation agreed to amend the rules of procedure to allow for a third vice-president. This was seen as a starting point for the positive momentum, which kept up its pace during the following six weeks.

East–West brushes also failed to materialise owing to the excellent preparatory work of the ILC. As predicted by Zourek of Czechoslovakia at the end of the ILC sessions, delegations had had little difficulty agreeing on most of the ILC draft articles, which already included acceptable compromises on sensitive East–West issues. Not only that, the Soviet and British delegations repeatedly referred to the ‘wisdom of the ILC’ to avoid reopening the debate on particular issues; for example, during the discussions on the draft Article 10 (final Article 11), related to the size of missions, Vallat reminded delegates that the article had been subjected to careful consideration and represented a just balance of potentially conflicting interests.37 His view was supported not only by natural allies such as the United States, but also by Romania and the Soviet Union. Such support was vital for the success of the conference because it created a general trust in the quality of the ILC draft and contributed to the withdrawal or early dismissal of many of the approximately 332 amendments and proposals submitted during the forty-one meetings of Committee of the Whole.38

**Britain’s conference influence and the Commonwealth network**

Britain’s delegation greatly influenced the conference work partly because the team was thoughtfully put together. Although the eight-man-strong delegation was smaller than those Britain had sent to previous United Nations conferences (such as the *Law of the Sea* conferences), it did not need much by way of technical experts, and Vallat accepted Fitzmaurice’s recommendation of appointing mainly legal experts rather than experienced diplomats because the majority of practical, Cold War problems had been settled in the ILC sessions. This turned out to be a wise decision, and it gave Britain’s delegation leverage over the others, such as that of the United States, which had fewer leading legal
experts. While the US delegation was represented in all major official conference organs and remained strong on political aspects, its amendments were often outvoted; this led to a feeling that it had not prepared the necessary legal and diplomatic groundwork. The lack was particularly obvious when the delegation was compared to the composition of other leading delegations, all headed by senior legal experts and when looking at the regional group meetings that were held in preparation for the official conference sessions - none of which was headed by any US delegate.39

While the British delegation, too, influenced the direction of conference negotiations through active participation in the official conference organisation, a great deal of its leadership materialised in regional group meetings that ran parallel to the main conference proceedings. In regional group meetings Britain could lobby and seek support and lay down strategies for sponsoring proposals. In other words, these meetings were used to unify voting policies and to clarify intentions. Britain’s delegation was a member of two regional groups, the West European and Commonwealth groups, both of which were chaired by Vallat. While his leadership in the Commonwealth might have been expected, his leading role in the West European group was at first glance more surprising but, at the second, explicable.

The US delegation was headed by Harrison Freeman Matthews, a career diplomat and, at the time of the Vienna conference, US Ambassador to Austria. His vice-chairman was Warde Cameron, an assistant legal adviser for diplomatic and consular affairs. While Cameron was an excellent international legal expert, at the time of the VCDR negotiations he was not yet of the same senior rank as his Soviet or British counterparts. Hence, he lacked their experience and insight into the ILC negotiations and the personal relationships the latter two countries had built up over the years. Moreover, many ILC commissioners were leading delegates or well-connected international scholars with the highest credentials, such as the head of the Yugoslavian delegation, Milan Bartos, or the Austrian Alfred Verdross, the president of the Vienna conference. Therefore, Cameron just could not match the calibre of Vallat, who had served as deputy legal adviser for seven years and exemplarily chaired the regular meetings of the West European group.

But the success of the UK delegation could not be explained solely based on Vallat’s experience and outstanding quality as a legal expert. The group’s influence also derived from a mixture of familiarity with previous discussions and excellent communications with other actors, particularly those from the Commonwealth. From the start of the conference Britain was able to call on ‘a fund of goodwill’ in other Commonwealth delegations, using its diplomatic leverage within and outside the official conference structure.40

The political and personal lobbying of the young political CRO officer George Cunningham represented effective conference diplomacy. While Vallat was chairing the regular Commonwealth meetings, Cunningham kept in touch with other Commonwealth delegations. After having come late to recognising the potential problems that the VCDR posed for intra-Commonwealth diplomacy, Britain’s delegation now worked hard at bringing Commonwealth delegations in line with proposed amendments and identifying which delegation would be most suitable for submitting proposals that would pass most easily. It was deemed vital to maintain good, close relationships with these delegations.

Maybe because there was, among some Commonwealth delegations, a deep desire to make the VCDR applicable to intra-Commonwealth affairs, Commonwealth delegations played a highly active role within the conference structure and in providing individual
leadership. Arthur Lall, the chairman of the Indian delegation, was the Afro-Asian group’s unanimous candidate for chairmanship of the Committee of the Whole. At the conference’s end, he was universally praised for the ‘experience, skill, adroitness and logical clarity’ with which he led the often complex and long Committee debates. Delegates from Ceylon (present-day Sri Lanka) and Ghana provide two other examples of Commonwealth influence at Vienna. Serenat Gunewardene, who enjoyed an excellent legal reputation and was Ceylon’s Ambassador at Washington and head of delegation, had been a contender for chairing the Committee of the Whole. At Vienna he chaired the Afro-Asian group meetings and the prestigious Drafting Committee, which was one of the most important conference organs because it had direct influence on the wording of the final articles. However, this meant Gunewardene had to work long hours, sometimes almost the entire night, in order to reformulate adopted texts or to find a compromise that reflected the spirit of the debate that had taken place in the Committee. Next to Gunewardene, the head of Ghanaian Legal Division, Emmanuel Dadzie, and Vallat sat in the twelve-man-strong Drafting Committee, helping to ensure that Commonwealth needs were adequately represented in the final text.

As a result, Britain got most of its amendments introduced. Most importantly, owing to their concerted efforts and the positive atmosphere in Vienna, the final provisions of the VCDR meant existing Commonwealth practices could be maintained. Also, because they focused on protecting the diplomatic process rather than the diplomat, the final convention would lead to a welcome decrease in the number of members of a mission who enjoyed full immunity. The only major catches were that the receiving state had the final say in determining the size of a mission (including the categories of appointments) and restrictions in the freedom to use ‘diplomatic wireless’.

Britain’s relationship with other Commonwealth delegations, however, took a battering when the CRO decided it could no longer spare Cunningham and recalled him to London halfway through the conference. This meant there was less intra-Commonwealth consultation, which led to misunderstandings and frustration about Vallat’s leadership style. The disagreement came to the fore during the negotiations over Article 37 when the conference had difficulty agreeing on the extent of immunity for administrative staff. During the discussions, and in an attempt to mediate between two competing proposals, Vallat made a suggestion aimed at rescuing negotiations. Without the twenty-nine-year-old Cunningham keeping delegations up to date with Britain’s intentions and without time to hold a Commonwealth meeting at which Vallat could have explained his proposal, his Commonwealth brethren were taken by surprise. The disgruntled Ceylonese and Ghanaian delegates did not follow Vallat’s lead, and this contributed to the failure to adopt Vallat’s proposal initially.

Conference debates and compromises

As Vallat pointed out, the main division on the more important issues was not between East and West but between major and minor powers of the North and South. Both camps were, with equal intensity and for different reasons, much concerned with the extent of diplomatic immunity. For example, Britain, with its well-established network and large diplomatic service, was very concerned about the safety of its staff abroad. Minor powers, however, rallied against what they saw as foreign missions being used as a base for
interfering in their internal affairs and wanted to limit the extent to which diplomats were protected.

Meanwhile, the British delegation sometimes had to face opposition not only from a majority of delegations of minor powers of the South but also from within Whitehall. Taking a more inward-looking perspective, the Lord Chancellor’s Office wanted to restrict the number of agents living in London ‘above the law’ to a necessary minimum, and the Treasury took a close interest in restricting tax privileges to foreign diplomats. While Britain’s delegation did its best to protect HMG’s interests as a sending and receiving power, it had to make compromises. This was not an exclusively British phenomenon. As the chief Swiss delegate, Rudolf Bindschedler, put it, generally speaking, balancing the interest of a sending and receiving state simultaneously was the main difficulty at Vienna.45

But also Britain’s diplomatic practice, which sometimes differed from general diplomatic practice and sometimes tried to stretch the balance of reciprocity too much in its own favour, limited the possibility of it getting its way. For example, draft Article 7 permitted receiving states to insist on the submission for approval of the names of proposed military, naval, or air attachés. This restriction on the free appointment of attachés had formerly been contested by Britain. Although debated in full, the substance of the final text is the same as the original draft article because, on Ghana’s initiative, the conference approved the ILC draft before any HMG amendment could be voted on.

Next, Britain’s amendments were difficult to push if delegations of minor powers of the South (mainly from Africa and Asia) felt the balance of reciprocity was disturbed in favour of the sending state. Article 27 concerning the protection of communications proved the most controversial of all the articles for the British delegation. Because minor powers, which often could not afford expensive technology, were united by the fear that missions might misuse diplomatic wireless for propagandistic and subversive purposes, the draft article provided for the installation of diplomatic wireless being subject to approval by the receiving state. Despite Britain’s serious attempt to remove this requirement, and although the wording was changed slightly, the provision remained. Broadly speaking, it was a case of ‘users against non-users’, which ended in favour of the latter.46

Additionally, the general priority given to defining the boundaries of diplomatic immunity appeared to have taken away momentum from concerns raised by finance ministries over potential increases in financial privileges. While this result satisfied points raised by the Home and the Lord Chancellor’s Office, it presented difficulties for Britain’s delegation, which had received Treasury instructions to push for an amendment to Article 36 regarding exemptions of custom duties and duties, particularly for non-diplomatic staff. That any British-based diplomat could import tax-free Scotch whisky from Ireland, which was in line with the original ILC draft, horrified the Board of Customs and Excise. Evan Maude, a Treasury adviser who was temporarily attached to Britain’s delegation, pushed for an amendment which would make it clear that all goods exempted from excise duty had to have been produced outside the receiving country. But with time running out, and with more attention being paid to immunities, there was a general unwillingness to engage in a detailed discussion on privileges, let alone nit-pick British points. Thus, Britain had no chance of getting Maude’s amendment accepted. While the provision did not prevent the receiving state from limiting, by its own laws, the principle of customs exemptions, Maude, having in mind Britain’s aim of avoiding subsequent domestic legislation, lamented the defeat as ‘a regrettable failure’.47
Britain’s assessment of conference results

Although the Vienna conference approved the VCDR on 18 April 1961 almost unanimously (only Tunisia abstained), Vallat described the codification process as ‘a hazardous task’ with a ‘pretty satisfactory result’. Vallat, aware of the potential and incalculable risks inhabiting a codification by means of a binding convention negotiated at a separate international conference by eighty-one delegations, a third of which came from newly independent states, judged that, on balance, the outcome had been positive. With decolonisation in full swing and the emergence of a more diverse global diplomatic community, it was of practical benefit to have a convention which provided a clear road map for all states regardless of their social and political ethics or their collective experience of diplomatic practice. It was also a satisfactory outcome for a number of other reasons. The final VCDR text accommodated all vital Commonwealth practices. This was a remarkable achievement because just weeks before the start of the Vienna conference, it was far from clear how the VCDR draft could best be adapted as Commonwealth aspects were ignored during the preparatory work in the ILC. From a general perspective and with an eye on future codification efforts, Vallat also noted that the ‘high quality’ of the ILC’s preparatory work had enhanced the ILC’s reputation.

However, although the convention represented a ‘fair codification of existing law’, it also contained some elements of progressive development that would involve some unwelcome ‘significant modifications’ for the British diplomatic practice. First, giving receiving states the final say on the size of missions and the categories of officials attached to them, Article 11 represented a breach of the previous custom where the sending states determined the size and composition of their mission. While it could be expected that in most cases reciprocity would likely provide protection against the arbitrary application of the article, Vallat suspected there would be problems with Iron Curtain and newly independent countries, especially from Africa. Second, the terms of Article 27 (requiring the consent of the receiving states for the installation of wireless) were due to the emerging Third World front of Afro-Asian and Latin American countries which overcame the combined opposition of the leading powers, Britain, the Soviet Union, and the United States. Not only that, despite extensive lobbying in capitals and at the conference, they had been unable even to organise the blocking third which was needed to prevent the conference from adopting the provision. This was a remarkable development.

Britain’s legislation process and ratification of the Vienna Convention

After six weeks of tough negotiations, the conference concluded its work rather quickly in a final, plenary meeting on 14 April 1961, with a general feeling of having succeeded against all odds thanks to the quality of the ILC’s preparatory work and the organised efforts of conference officials and delegations. On 18 April 1961, Vallat and his deputy, Thomas Glasse, signed the summary protocol, the so-called final act. However, they signed neither the convention itself nor the other documents produced by the conference, namely the optional protocols concerning acquisition of nationality and the compulsory settlement of disputes and two resolutions on special missions and the consideration of civil claims. The main reason for signing only the final act was that Vallat’s team had been unable to achieve all the objectives set out in their instructions. Another reason was that
there was no need to sign the convention immediately. The VCDR and the two optional protocols would remain open for signature in Vienna for six months and then in New York, at the United Nations headquarters, for another five months. This way, there would be plenty of time for interested Whitehall departments to consider and have their say on the treaty before the legislation process required for ratification would begin.

Vallat thought that, on balance, Britain would gain from adhering to the convention. It accorded with its standing as a leading United Nations member which emphasised the importance of international law; Britain had played a leading role at Vienna, and the convention would gradually establish itself as an authoritative source of international law on privileges and immunities. Codification and the convention’s emphasis on the doctrine of functionality would lead to a reduction in the number of diplomats enjoying full immunity, and little was required by way of ‘fresh legislation’.51

Nevertheless, new law was required. Eventually, the Diplomatic Privileges Act of 1964 repealed, in full, the Queen Anne Act of 1708 (formally the Diplomatic Privileges Act 1708) and revised other legislation introduced in the 1950s and 1960s, including parts of the International Organizations (Immunities and Privileges) Act 1950, the Diplomatic Immunities (Commonwealth Countries Republic of Ireland) Act 1952, the Diplomatic Immunities Restriction Act 1955, the Ghana Independence Act 1957, the Diplomatic Immunities (Conferences with Commonwealth Countries and Republic of Ireland) Act 1961, and the Commonwealth Immigrants Act 1962.52 But the new Diplomatic Privileges Act’s introduction was delayed by an interdepartmental dispute between the FO and the Treasury, both of which took their stands on grounds of principle: the balance of revenue considerations on the one hand and considerations of international policy and practice on the other.53

As Maude had emphasised in Vienna and the Chancellor of Exchequer, Selwyn Lloyd, had repeated later in Cabinet, the Treasury stood firm on the basic revenue principle that no goods liable to excise duty should be consumed within the United Kingdom without tax having been paid. Lloyd’s concern referred particularly to the potential tax-free reimport of Scotch whisky and cigarettes to London for which the VCDR gave room. If he conceded this point, there might be no foreseeable end to such an exemption, which had great potential for misuse by diplomats. A second aspect, tax exemptions for private servants, involved a considerable encroachment on the principle that all UK residents should be equal before the law: even, or particularly, if it came to the payment of income tax. The VCDR, however, stipulated that the salaries of private servants of diplomats should be exempted from taxation. Concerning this, Selwyn Lloyd was particularly concerned about the increasing number of persons who would benefit from such a provision and the ‘serious’ practical consequences that such an exemption would mean for revenue. In addition to the financial damage, such legislation would be controversial, putting a heavy burden on the forthcoming legislative session. Hence, he sought Britain to withdraw unilaterally from the concerned provisions and demanded reservations be submitted to the VCDR.54

The FO, however, opposed attaching any reservations to multilateral conventions and questioned the propriety of seeking unilateral actions. On behalf of HMG, the VCDR was not signed on the spot but only on 11 December 1961 with the concurrence of all departments concerned, including the Treasury and the Revenue departments. The VCDR was an international effort at standardising diplomatic practice and strengthening the regulations of international law, both of which would be undermined if countries placed unilateral reservations a posteriori. While a more restricted exemption would have been
preferable to Britain, the conference delegation on both Treasury points had done what it
could to push through domestic diplomatic revenue principles, but while these issues
were fully discussed, respective British amendments were outvoted on both points. In the
view of the FO, the principles codified in the VCDR were to become the diplomatic custom
of other states, whether or not Britain ratified the convention. However, Britain found it
highly desirable to take advantage of the benefits the convention conferred.\textsuperscript{55} For this
purpose, unlike the Treasury, which had contemplated a comprehensive bill replacing all
existing statutes passed since the 1708 Diplomatic Privileges Act, the Secretary of Foreign
Affairs, the Earl of Home, suggested a smaller amending bill might be preferable.

Both departments felt strongly enough to carry the matter to the cabinet, which event-
tually was the case an entire year after the white paper on the VCDR had been circulated
in May 1961. The interdepartmental dispute on ‘the excise issue’ was dealt with on 29
May 1962 in cabinet, with the result that, after a short discussion, the matter was referred
to the Cabinet Secretary, Sir Norman Brook, to draft a report. After the summer recess, in
October, Sir Norman presented his report, which concluded that ratifying the VCDR
required proper legislation in the form of a new bill on diplomatic privileges and immuni-
ties. As to the interdepartmental dispute, the report favoured the FO position. While the
Brook report agreed that tax concessions for diplomats might undermine the position of
excise duties, little revenue was at stake. Most problematic, however, was the Treasury’s
proposed solution to submit reservations after signature of the VCDR. This went against
the standing UK principle of not making any reservation unless a vital national interest
was at stake. With an expected loss in customs revenue of about £290,000 per year, Sir
Norman could hardly see this being the case.\textsuperscript{56}

The Treasury was not moved by this argument, and as long as the question of reserva-
tion was not disposed of, the start of Britain’s ratification process was on hold. As a result,
in late 1962 another effort was made via a cabinet committee chaired by the Lord Privy
Seal, Edward Heath, to mediate between the departments. Through a series of meetings
and letter exchanges with the FO and the Treasury he succeeded in bringing to an end
the interdepartmental dispute. First, he convinced the new Chancellor of the Exchequer,
Reginald Maudling, that the Treasury’s position threatened larger plans for London as an
international city and, second, he reassured Maudling that Britain could take a narrow
legal interpretation of Article 36, finding ‘an own solution’ separate from the issue of
ratification.

In the early 1960s London’s financial situation was not bright, with revenues decreasing
dramatically. Its balance of payments had fallen from a healthy surplus of £291 million in
1958 to a £51 million surplus in 1951 and to a worrying £344 million deficit in 1960.\textsuperscript{57} Meanwhile, trade with Commonwealth countries was declining as well. Because Heath
was appointed Lord Privy Seal, his plan was to kick-start trade and to lobby for London to
serve as a commercial, internationally open capital. The Chancellor of the Exchequer’s
insistence on taxing goods that were widely used for diplomatic entertainment, however,
jeopardised this plan. In his mind, the likely cost of additional privileges was by far out-
weighed by the costs in terms of reputational damage to the city of London as the only
major European capital where diplomats were to be charged duty on goods considered
fundamental to diplomatic entertainment.\textsuperscript{58}

Tipping the balance, however, was the reinterpretation of the reason why HMG’s
amendment was rejected at Vienna. Faced with a legal problem, Vallat was doing what
legal advisers do in such moments: he was looking for a possibility that would allow an interpretation of Article 36 that would satisfy the Treasury, namely to avoid revenue losses from tax exemptions on reimported goods such as cigarettes and Scotch whisky. While reading through the conference proceedings he noticed that, while Britain had not had its way on Article 36 (exemption from customs duties), other conference delegations agreed with Britain’s interpretation that customs duties be levied on goods of foreign origin only. Thus, the exemption from paying customs duties would not apply to goods produced within the receiving country because such duties would be called by a different name. To support this view, Vallat referred to Article 36.1, in which the keyword was ‘entry’ of goods. If goods with the origin of the receiving state had been the target of customs-duty exemptions, the correct wording would have been ‘re-entry of goods’. This, however, was not the case. On 7 June 1963, in a letter to the Treasury, Heath explained the above, confirming that such an interpretation allowed the ‘whisky question’ to be settled on its own merits, without the submission of any reservation and apart from the issue of ratification. Maudling, in a letter of reply dated 3 July 1963, agreed that the reinterpretation of Article 36 was ‘most helpful’ and said that he was glad that accommodation in this ‘most troublesome’ matter was found.59

Eventually, the Diplomatic Privileges Bill could be prepared and scheduled for the new legislative year 1963–4. As had been expected by the FO, both houses were sceptical about any legislation on diplomatic immunities, and so it came as little surprise that Lord Molson, in the House of Lords, moved right away to bring an amendment asking to have some six months for the reading and detailed discussion of the bill. Of course, this was the conventional method of rejecting a bill. Lord Carrington, up to that time leader of the House of Lords, conducted the second reading and was confronted with the scepticism of a House that had to discuss, allegedly yet again, another attempt to widen diplomatic privileges. In his speech Lord Silkin, for example, was puzzled by how much wider exemptions should go. He considered it ‘monstrous’ that all privileges and immunities should be extended to the members of the family living in the same household. Lord Molson, furthermore, stressed that the planned income-tax exemption for private servants had no possible justification.60

But Lord Molson’s amendment gathered momentum only for a short while. Although Lord Carrington’s argument, which was that the increased privileges were to be understood as a quid that Britain had to give for the quos that it had gained in other clauses, only managed to convince those who already supported the bill, his calculation of the reduction in the number of diplomats with full diplomatic immunity broke the resistance. He calculated that in 1964, approximately 5,039 total staff of mission enjoyed full diplomatic immunity in Britain. Under the new Diplomatic Privileges Act, however, the total number of diplomats with full immunity would be only 1,439 (with some more limited immunity enjoyed by 2,794 administrative staff and even to a lesser extent by 552 service personnel).61 This considerable decrease, together with the acknowledgement of the VCDR’s value in protecting Britain’s own diplomatic personnel abroad, not only overcame the general suspicion of the bill but also motivated Lord Molson to withdraw his amendment, thus making way for a still critical but successful ratification process. Eventually, the final Diplomatic Privileges and Immunities Act 1964 came into force on 2 September 1964 - one day after Britain had deposited its instruments of ratification of the Vienna
Conclusion

The Vienna Convention established a remarkably stable regime around diplomatic privileges and immunities. Following its speedy ratification, the VCDR, within three years of its signature, became the authoritative legal reference for which the delegates at Vienna had hoped. With sixty signatories and 190 parties (at the time of writing in September 2015), the VCDR is still today one of the greatest success stories of the codification efforts made under the auspices of the United Nations. As a ‘cornerstone of the modern international legal order’, it is a reminder, binding on the virtual totality of United Nations Member States, that diplomatic privileges and immunities are intended not to benefit individuals but to protect the diplomatic function within the international society of states. The consequence of this primarily functional approach to the granting of diplomatic immunities was a scaling of diplomatic immunities according to the role of the diplomatic agent or member of staff, which led to a decrease in the number of diplomats enjoying full immunity. In Britain, this reduction, despite some national legislation, tipped the balance in favour of a successful ratification of the VCDR and the agreement to pass national legislation in the form of the Diplomatic Privileges and Immunities Act 1964.

Indeed, the sharp increase in the number of diplomatic missions and diplomats in London during the 1940s and 1950s led to great scepticism toward any further extension of diplomatic immunities. Thus, initially, the legal adviser to the FO at the time, Fitzmaurice, pushed during the preparatory meetings of the ILC for codification in the form of a non-binding draft code as he feared that a codification conference might result in Britain’s having to make unwanted concessions of which, subsequently, Parliament would not have approved. These circumstances, however, only materialised to a certain extent. The final convention, above all, was a means by which old states helped incorporate many of the newly independent ones into a system of long-standing diplomatic customs. Codification promised advantages to all involved parties: on the one hand, it secured the upholding of diplomatic practice that had grown over centuries and would not be corrupted by partisan practices of new international actors. On the other, the VCDR provided, in black and white, a standardised legal guide as to the basic, yet historical, rules of diplomacy, thus providing guidance to the many new states that had emerged out of a post-Second World War wave of decolonisation.

But the 1950s and 1960s were not only marked by the process of decolonisation. These years were also a time in which Britain’s standing was declining, although it remained a significant but ‘second rank’ power. The conference negotiations, however, showed the extent to which Britain’s standing as a soft power, and her ability to wield influence at the conference table, remained undimmed: the delegation leader obtained everything he considered essential and possible, especially in the still important realm of intra-Commonwealth diplomacy. He played a leading role in the conference, chairing meetings of the West European Group and, together with the CRO representative, led and, usually successfully, co-ordinated Commonwealth delegations whose leaders also played an important role in the conference. Britain’s experience at Vienna also underlined the importance of liaison officers for maintaining contact with allies, friends, and co-sponsors of
amendments. This was particularly evident during the last conference days when Cunningham’s departure, combined with time pressure and delegates’ physical exhaustion, made it difficult to keep in close touch.

As to British politics, in hindsight, there are two intriguing details that the negotiation history of the VCDR reveals. First, for a long time during the preparatory negotiations not a word was said about the potential effect the VCDR might have on future Commonwealth practices. These could have been immense, not to say disastrous, for the evolution of the Commonwealth as well as for Britain’s pivotal role within the Commonwealth. One reason for this neglect was that Fitzmaurice, on behalf of Britain, expected to steer negotiations within the ILC to codification short of a binding convention, which would not have had any mandatory bearing on the particularities of Britain’s ‘diplomacy with a difference’. Yet it is striking to find out that there was, for a good while, no plan B.64 The second insight, and a particularity of Britain’s negotiation history of the Vienna convention, is that successful ratification of this agreement - which, fifty years after its coming into force, has become a bedrock convention of modern diplomacy - almost fell through due to an inter-departmental dispute between the FO and the Treasury over something as trivial as looming tax exemptions for reimported Scotch whisky.

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Notes


29. Ibid., 88.


33. Nelson Iriniz Cásás, member of the delegation of Uruguay and one of three Vice-Presidents of the Vienna Conference, interviewed 5 Sep. 2014 at the 50 Years VCDR conference organised by the Law School of the University of Edinburgh.


36. K. Bruns, A Cornerstone of Modern Diplomacy, 120.
41. Report of Canadian delegation to the UN conference on diplomatic intercourse and immunities.
43. Ibid.
47. Maude to Raymond, undated report of discussion on fiscal points, [Kew, United Kingdom National Archives, Public Record Office,] T[reasury Records,] 320/675.
49. Ibid.
50. Ibid.
51. Ibid.
55. Glasse, Department Brief for forthcoming Cabinet meeting, 8 Jan. 1963, FO 372/7814.
56. Parliamentary question of Mr R. Gresham Cooke to the Chancellor of the Exchequer (Reginald Maudling) on 21 Feb. 1963, FO 372/7814.
61. Ibid.
62. See Preamble of the VCDR. Terminology borrowed from Denza, Diplomatic Law, 1.
64. Lloyd, Diplomacy with a Difference, title.