

Lecture 2

Subject: The Selection of the Head of the Diplomatic Mission

KEYWORDS:

*Head of Mission (HoM) | Embassy | Consulate | Department & Offices | Temporary Appointment | Sending State
| Host and Receiving State | Letter of Credence | Ministry of Foreign Affairs | Diplomatic Corps |*

Questions to be addressed:

- Practically, how states establish diplomatic relations?
- What are the main stages of Establishing Diplomatic Relations?
- Does the acceptance of the receiving state on HoM is crucial or not?
- How Head of Mission will be elected?
- When Credence letter will be renewed related to the HoM?

Practically, how states establish diplomatic relations?

After the agreement between two states or parties on carrying out diplomatic relations, there are two ways or methods to release and publish this initiative, either through;

1. Exchanging Diplomatic memorandum to express on their willingness to establish Diplomatic Relations, or;
2. Releasing joint Political statement or publishing a statement to in the press and Media after a visit held to the one of the authorities in the government; president, Prime Minister or Minister of Foreign affairs / (MFA).

Main Steps towards Establishing and conducting Diplomatic Representation

After exchanging the willingness to establish permanent diplomatic relations between 2 states or two parties, in the next Step, the sending state and host state needs to carry out the following steps on chronological order;

First: Selecting and identifying title & the Head of the Diplomatic Mission (HoM):

In this phase, the sending state is required to undertake the action by selecting rank and title of the head of the mission either it will appoint; ambassador or extraordinary ambassador, consul, plenipotentiary minister, or advisor ... etc. Additionally, the permanent diplomatic representation level in other words the diplomatic body. For example, the sending might plan and has the capacity to open either an embassy or consulate or department and offices.

Before moving to the features and criteria related to the selection of 'Head of the Mission', let's ask a question; who is head of the mission? Or how it can be defined?

In accordance with **Article (1,A) of** Vienna Convention on Diplomatic relations of 1961,

The 'head of the mission' (chef de mission) is the person charged by the sending state with the duty of acting in that capacity.

Therefore, the sending state is the related party to nominate and select head of the Mission. By adopting the following steps;

1. Choosing acceptable person to head the diplomatic mission:

Since the head of the mission will represent its own country in the host state and most precisely representing the president of the sending state, he or she need to enjoy good reputation. Plus, having educational background on the domain and knowledge and experiences on the (political system, Law, History, customs, language) of the host state. In the contemporary diplomatic world, diplomats will be appointed in the career after attending and taking an exam

and in some countries like United states of America, diplomats are attending trainings in advance then they will be ready to undertake and practice the task and career as profession diplomats. In this way, selection of the head of the mission in the first place is the right of the sending state and free choose the person to head the mission. Eventually, after nominating the candidate there should be agreement between both states on the selected HoM as clarified in **(Article 4,1)** of the Vienna Convention of Diplomatic relations of 1961 **'The sending State must make certain that the agrément of the receiving State has been given for the person it proposes to accredit as head of the mission to that State'**.

2.Nomination and selection of the head of the mission is the specialization of the national and internal law of the sending state.

Second: APPROVAL OF A HEAD OF MISSION BY THE HOST STATE

In the second step and after the sending state nominate the HoM. Approval of the Host State's approval is a must. In other words, the host state has the right to accept or refuse the proposed HoM. With reference to Vienna Convention on Diplomatic Relations the right of objection is granted to the host state and **'The receiving State is not obliged to give reasons to the sending State for a refusal of agrément'**. (Article 4.2).

In case the proposed HoM accepted by the receiving (host) state, the sending state required to share HoM's Name, diplomatic rank and Profile (CV for the purpose of review and approval by the host state. Usually, this process takes the duration of one month. The Host State's approval after review should be through Ministry of foreign affairs. If after more than one month the sending state did not receive any response that means the suggested Head of Mission is not accepted by the receiving state. Moreover, Changing HoD will be also through the current HoM by Submitting the new CV attached with Aide Memore or Acceptance Request.

Third: Providing Head of the Mission with Letter of Credence (Letter of Credentials)

When the process of selecting and approval regarding HoM completed in the preparation phase and agreement between both sides. The sending state through the president of the state provide the elected HoM with letter of credence. The issue of Credence letter is the right and authority of the President ONLY as the HoM is the representative of the president in the receiving state.

Note: for your kind consideration a sample of the credence letter demonstrated at the end of the first lecture).

4. Submitting letter of Credence or Known as 'diplomatic credentials' to the Host State.

At the final stage, when the HoM provided with Letter of Credence the sending state required to inform the receiving state about the arrival of the HoM. Then, the sending will send a staff member from Ministry of foreign affairs (MFA) to receive and welcome HoM from the airport or at the boarder on his arrival day. on the Next day, HoM required to submit and hand in unsealed copy of the Letter of credence to the MFA to be notified about it and starting preparation and organization for the official ceremony for the HoM on submitting Sealed copy (original copy) of the Credentials letter to the president of the host state. The attendance of this diplomatic ceremony could be Prime minister, Minister of Foreign Affairs, member of Diplomatic Corps, HoM Representatives of the other States.

In which cases, or When the Letter of Credence will be renewed related to the HoM?

There are some cases that requires the renewal of the Letter of Credence;

- Death of the Head of the mission.
- Compromise.
- Resignation.
- Under the pressure and request either Host or Sending state.
- Promotion of the rank of the HoM.
- sending temporary HoM if the actual HoM is not available (absent, or Sick) attached with (Temporary appointment Letter).
- Change in the state (Unification, Division).

Head of Missions; Date of Assumption of Functions:

A head of mission of ambassadorial rank is considered to have taken up his functions in the state to which he is accredited when he has presented his credentials to the Head of State. In a few states (notably the UK) he is considered to have taken up his functions when he has notified the appropriate ministry (usually the Ministry of Foreign Affairs) of his arrival and has presented them with a working copy (Unsealed Copy) of his credentials. The ceremonies for the formal acceptance of heads of mission are held strictly in the order that they arrived to take up their functions.

Usually, head of Missions will be appointed in the position for the duration of 3 years. After the end of the ceremony and submission of the credence letter, the HoM will inform the by official letter the other Diplomatic missions of states on his arrival as head of Mission of specified states and share with them his/her business card. In addition, HoM can pay visits to the other HoMs starting from the receiving states' diplomatic corps. However, sometimes based on the strong position of the HoM's sending state the other HoMs will visit the new appointed HoMs at his office. But if the mission of such state is not that important to the sending state or not have similar diplomatic rank and mission it is enough to only inform them by official letter or sharing the business card.

NATIONALITY OF A HEAD OF MISSION

A head of mission will, save in most exceptional circumstances, have the nationality of the state he is representing; but this requirement does not necessarily apply to his spouse. In many diplomatic services officers may be given special permission to marry foreign nationals provided the circumstances and the particular nationality involved are such that they do not in any way interfere with the officer's career. In Arab countries it is the general rule that diplomats may not marry foreigners, though in certain instances the Head of State may authorize marriage to other Arabs.

NATIONALITY OF MEMBERS OF THE DIPLOMATIC STAFF

The members of the diplomatic staff of a mission should in principle be nationals of the state they serve, but in exceptional cases they may be nationals of the state in which the mission is situated; in this event, the

specific approval of the host state must be obtained, and it may be withdrawn at any time. Such diplomats will enjoy only limited privileges and immunities.

THE SEAT OF A DIPLOMATIC MISSION

A diplomatic mission is established in the capital of a state; additional offices forming part of the mission may only be established in other parts of the state if special permission is given by that state. In a few instances, e.g. the Netherlands, the diplomatic capital (The Hague) is different from the capital of the country (Amsterdam). Also in South Arabia is the same case (Riyadh and Jeddah).

THE SIZE OF A MISSION

The size of diplomatic missions may be agreed on a reciprocal basis; alternatively, a state may require that the number of members of a mission should be kept within reasonable limits taking into consideration the circumstances and conditions in the host state and the needs of the mission. Within such limits, and provided that the principle of representation by its own nationals is adhered to, a state should be free to appoint whomsoever it wishes to any of its diplomatic missions. A state may also refuse to accept officials of a particular category, provided that the restriction is applied on a non-discriminatory basis to all diplomatic missions in the state.