

TEXTS IN DIPLOMACY

Dietrich Kappeler

Written texts are an essential element of diplomacy. Texts provide powers and accreditation for the diplomat. Texts contain his instructions and negotiating briefs. Texts are the main outcome of negotiations. For certain texts—or parts of texts—there exist stereotyped formulas: letters of accreditation, full powers, opening and final clauses of treaties, even diplomatic notes. For all texts that are meant to be shared with another party or other parties, there are traditional requirements of polite formulations. On the other hand, internal documents only follow the rules of the entity which employs them. For countries long active in international diplomacy, there used to be all sorts of regulations regarding the writing of dispatches, instructions, briefs, reports, etc. New forms and means of communicating have affected the manner in which documents of diplomacy are written today, be they internal or addressed to one or more external entities.

Documents exchanged between countries in the past were written in the single vehicular language then in use in Europe: Latin. In the 18th century French had become the generally accepted diplomatic language, so much so that even diplomatic notes addressed to the British Foreign Office by the Legation of the USA were written in that language. The 20th century saw a gradual emergence of English as a second and later even dominant diplomatic language. At the same time, a growing number of countries insisted on the use of their own language in diplomatic correspondence and joint diplomatic documents. As a result the United Nations admitted to five languages at its inception (Chinese, English, French, Russian and Spanish), to which Arabic has later been added by informal agreement. In the European Union, all twelve languages of the members are currently in use and their number is bound to grow as new members will be admitted. Translation and interpretation have therefore become a major element in present-day diplomatic life.

In this presentation, we will consider the issues of formal diplomatic documents, multi-language diplomatic texts, and the impact of information technology on diplomatic texts.

FORMAL DIPLOMATIC DOCUMENTS

Full powers were traditionally given by a proclamation addressed to no one in particular. Until recently at least, even the foreign secretary of the British government was provided with such powers by the queen, although practice and the Vienna Convention on Diplomatic Relations of 1961 have long admitted that a foreign minister, by virtue of his position, had all powers necessary to deal with foreign governments and to represent his government in international fora.

Letters of accreditation are always addressed to a specific destinator, head of state or government, foreign minister, secretary-general of an international institution, etc. Their content is stereotyped, stating the full confidence of the accrediting actor in the accredited person and expressing the hope that the actor of accreditation will accord full credence to that accredited person. Full powers for specific purposes may be written in the same manner.

Diplomatic notes addressed by one entity to another had stereotyped beginnings and endings: XXX presents its compliments to YYY and has the honour to...XXX avails itself of this opportunity to renew to YYY the expression of its highest consideration. Each entity had to be presented with its full name, e.g. "The Ministry of Foreign Affairs of the Republic of". In the operative text, shorter mentions, in particular "the Ministry", would be used. Courtesy of language had to be respected even if the subject-matter was a strong protest or the notification of a rupture. Today, in most notes much of the formality is omitted and the style used is more reminiscent of the Aide-Mémoire of yore. Even where an agreement is embodied in an exchange of notes, it is no longer required that each side fully reproduces the content. It is considered sufficient if the note containing the offer states all relevant clauses whereas the note expressing acceptance simply refers to the offer and then states the terms of acceptance.

Treaties used to be written with much formality as regards the opening and the final clauses. The title mentioned the parties (two or more) in full and this was followed by an introductory statement again mentioning the parties in full as well as their representatives by name and title. This was mostly followed by a preamble and only then came the substantive clauses. The content of the final clauses varied but the style remained

formal. For bilateral treaties there were two originals; each mentioning one of the parties first and being initialled and signed by the representative of that party on the left side. These originals were exchanged. Today, many treaties use simplified titles and mention of parties and omit the names of representatives altogether except at the bottom of the last page where the signatures have to be affixed.

Consent to be bound by a treaty other than by signature used to be expressed in a very formal document, known as an instrument of ratification or of accession (in the case of participation in a multilateral treaty by a non-signatory). Instruments of ratification of a bilateral treaty contained the full text of the national version followed by the statement of ratification. In the case of multilateral treaties the instrument was a proclamation of ratification or accession in stereotyped terms. It was handed over to the depository of the treaty in a formal ceremony. More recently, expression of consent to be bound has also been expressed by notification using the form of a diplomatic note. This possibility must be indicated in the final clauses of the treaty. The advantage of this approach is particularly evident in bilateral treaties, where it replaces the exchange of instruments of ratification by duly empowered representatives, an exchange that has to be minuted. Notification of consent to be bound can be forwarded by a diplomatic mission or even by mail.

MULTI-LANGUAGE DOCUMENTS

Except between countries using the same national or vehicular language, diplomatic documents, these days, tend to be written in two or more languages. In bilateral relations a difference is made between authentic languages and unofficial translations. If two languages are both authentic, the interpretation problems have to be solved by reference to both. Unofficial translations on the other hand have no value of authenticity. Sometimes, the unofficial translation is in the language of one party which is not used in international relations. Thus Israel used to insist that an unofficial translation in Hebrew be attached to bilateral agreements for which English would be used for the Israeli version. China on the other hand insists that all diplomatic documents emanating from it be written in Chinese, but accepts that an unofficial translation into English be attached to them.

The writing of treaties in several languages is a complex task, especially if one or more of these languages are not used during the actual negotiation. Versions in working languages are based on the records of simultaneous interpretation. Versions in other languages have to be prepared separately. All have to go before the drafting committee which therefore needs at least one member for each language. Preferably however members of a drafting committee should master two or more of the languages used so as to ensure proper concordance of texts. The drafts submitted to the committee are prepared by the secretariat of the negotiating body, which must check recordings of simultaneous interpretation and produce versions in languages which were not used as working languages. The complexity of the task of a drafting committee explains why, in some cases, it will re-convene after the treaty has already been authenticated, with the express competence of making linguistic adjustments between the various versions.

Problems akin to those encountered with multilingual texts may arise with diplomatic texts negotiated and written in a single language when two or more countries are involved. For German speakers from Austria, Germany and Switzerland the same word may not have exactly the same meaning. This is even more pronounced among countries using English as a vehicular language, or Spanish, whereas in the case of French the meaning attributed by France tends to be generally accepted.

THE IMPACT OF INFORMATION TECHNOLOGY

Information technology allows for working on a text which is displayed on computer screens or projected on a wall screen from a computer if the negotiation takes place in a conference room. This text can be directly amended, including by inserting versions in brackets on the display, or proposed amendments can be written into hypertext links. This last approach is particularly useful in multilateral negotiations conducted on the Internet, either in real time encounters or, even more, when negotiators can make their input in their own time and the secretariat from time to time sums up the situation.

The recourse to information technology is probably going to modify the presentation of bilateral agreements. These are likely to be written in a single version and no longer put down in two original documents. The lengthy mention of parties with their full names and the names of negotiators is likely to disappear. Consent to be bound may be expressed by notification over the Internet.

Multilateral treaties are always written in a single original, so recourse to information technology will not change anything in this regard. But ratification and accession can be notified over the Internet just as in the case of bilateral treaties.

Information technology is also likely to help with multilingual texts. There already exists software for translation, although this can at best produce a very rough draft that will have to be carefully edited. By working on texts accessible over the Internet, translators from various countries will be able to compare notes and thus help to produce better adjusted versions in the various languages of the treaty.

Information technology however also presents potential problems regarding the finalisation of an agreed text, in particular if this takes place over the Internet. Safeguards will have to be found to prevent a party from tampering with a finally agreed version.

SOME FINAL REMARKS REGARDING THE GENERAL IMPORTANCE OF LANGUAGE

We are living in a time when attention to good use of language tends to lapse. Media often use deplorable language, both spoken and written, and there is a definite danger that future diplomats will no longer master properly even their own mother tongue, let alone vehicular languages like English, French or Spanish. This will create additional difficulties in the implementation of existing agreements. As is well known, unclear language is often used to mask divergencies under the appearance of agreement. When these divergencies re-appear as a result of differing interpretation by the parties concerned, it is essential that those who may be entrusted with proposing solutions to such disputes fully master the language(s) concerned.

Information technology could provide help in solving insufficient mastery of languages. Interactive teaching can force the student to really grapple with the language he is learning and thus to achieve more than just superficial fluency. New texts negotiated with recourse to information technology can be better understood because all successive versions and the reactions to them remain documented. Hopefully this will lead to a newly enhanced linguistic culture in diplomacy.