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## DOCUMENTATION

for the Lecture on "Diplomatic and consular law"  
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- \* Text of the Vienna Convention on Diplomatic Relations (Vienna, 1961)  
G.V. McClanahan, Diplomatic Immunity, London, 1989, pp. 187-202
- \* Text of the Vienna Convention on Consular Relations (Vienna, 1963)  
G.V. McClanahan, Diplomatic Immunity, London, 1989, pp. 203-229
- \* Vienna Convention on Diplomatic Relations  
G.E. do Nascimento e Silva, Encyclopedia of Public International Law, Vol. 9, Amsterdam etc., 1986, pp. 393-399
- \* Vienna Convention on Consular Relations  
E. Kussbach, Encyclopedia of Public International Law, Vol. 9, Amsterdam etc., 1986, pp. 388-393
- \* Diplomacy; Secret Diplomacy; Diplomatic Agents and Missions; Privileges and Immunities of Diplomatic Agents and Missions; Establishment and Severance of Diplomatic Relations  
Various Authors, Encyclopedia of Public International Law, Vol. 9, Amsterdam etc., 1986, pp. 78-102
- \* Consular Jurisdiction; Consular Relations; Consular Treaties; Consuls  
Various Authors, Encyclopedia of Public International Law, Vol. 9, Amsterdam etc., 1986, pp. 33-45



bited from exercising any professional or commercial activity for personal profit in the receiving State (Art. 57 of the Vienna Convention).

#### 4. Consular Functions

Undoubtedly there is an important difference between diplomatic and consular functions. Thus, while the former are of a general nature and have a political character, the latter, although numerous and varied, are, to a large extent, specific, as they are limited to those acts which are permitted by international law or by the domestic legislation of the receiving State.

Not only the competence of the diplomatic mission *ratione materiae* but also its competence *ratione loci* is general as it covers the whole territory of the State to which it is accredited, while the competence of the consular post is restricted within the limits of its consular district which will constitute only a part of the territory of the receiving State. It is for this reason that, as a rule, consuls communicate with the local authorities of their consular district rather than with the central authorities of the receiving State. Furthermore, only in exceptional cases may they exercise their functions outside their consular district and then only with the consent of the receiving State.

The following constitute the main consular functions:

##### (a) Protection of nationals

The protection of the sending State's nationals is the primary consular function and the direct or indirect goal aimed at by all the other consular functions as well.

Consuls are entitled within the limits of international law to protect the interests of the nationals of their country – whether natural or legal persons – against all arbitrary acts, and to defend such interests before the competent authorities of the receiving State. Consuls must also aid and assist the nationals of their country. Such aid and assistance can consist of providing their nationals with information and advice, helping them in their relations with the authorities of the receiving State by arranging for the assistance of a lawyer or interpreter, facilitating their → repatriation, etc.

Furthermore, consuls are entitled to safeguard the interests of minors and other persons lacking

full capacity who are nationals of the sending State, particularly where any issue of guardianship or trusteeship is involved. They also have the right to visit and assist the nationals of the sending State under detention or imprisoned in execution of a judicial sentence.

##### (b) Protection of the sending State's interests

Special emphasis was placed on this function by the Vienna Convention. Indeed, within the limits of international law, consuls must protect the interests of the sending State and promote the cooperation between that State and the receiving State, particularly in the commercial, economic, cultural and scientific areas. More specifically, it is their duty to see that the international agreements referring to these sectors which have been concluded between the sending State and the receiving State are properly applied. Finally, they keep their government informed on the developments in the commercial and economic life of the receiving State.

##### (c) Notarial and registration functions

Consuls may, as a rule, draw up contracts concluded between nationals of the sending State or even between foreign nationals when such contracts are intended to produce legal effects on the territory of the sending State. They may also receive or draw up wills or other unilateral acts for nationals of the sending State, legalize or certify documents issued by the authorities of the sending State or the receiving State as well as hold documents, money or other movable property deposited in their care by nationals of the sending State.

Consular officers may also act as registrars, registering the birth or death of nationals of the sending State and celebrating marriages provided that this is not contrary to the laws of the receiving State (→ Marriages Performed by Diplomatic and Consular Agents).

##### (d) Administrative functions

Consuls are also charged with the performance of certain administrative functions. Thus, for example, they keep registers of the nationals of the sending State living within their consular district. They also issue → passports or other travel documents to nationals of that State, and visas to persons wishing to travel to the sending State



(→ Tourism: → Aliens. Admission: → Immigration).

(e) *Judicial functions*

As a rule, consuls are not allowed to perform judicial functions since such functions belong exclusively within the competence of the receiving State. There are, however, certain exceptions to this rule. Thus, they may transmit judicial or extrajudicial documents or execute letters rogatory provided that this is in accordance with international agreements in force, or compatible with the laws and regulations of the receiving State (see the articles on → legal assistance between States). They may also on their own volition represent those nationals of the sending State who are absent or incapacitated before the courts or other authorities of the receiving State in order to safeguard their rights and interests. Furthermore, they often act as arbitrators to settle disputes between nationals of the sending State.

(f) *Succession and inheritance matters*

The functions in this respect are many and varied and are exercised in connection with the inheritances of nationals of the sending State who died within the consular district as well as in connection with inheritances of foreign nationals where nationals of the sending State have rights as heirs, legatees or in any other capacity. In such cases the consul is entitled to request the authorities of the receiving State to take measures for the purpose of safeguarding the inheritance, such as making an inventory or affixing seals. He is also entitled to represent of his own volition the nationals of the sending State.

(g) *Maritime affairs*

Consuls supervise and inspect vessels of maritime or inland navigation sailing under the sending State's flag and extend every assistance both to them and their crews. Thus, consuls may examine and inspect the ship's papers, draw up certificates and documents required by the legislation of the sending State in connection with the ship, the crew and its cargo, see that order and discipline be maintained on board, question the captain and members of the crew, etc. Consuls also facilitate the entry and departure of ships under the sending State's flag and, where such ships are

wrecked or damaged within the waters of the receiving State, they see that all the necessary measures for the protection of the ship, passengers, crew and cargo are taken (→ Salvage of Ships).

It is worth noting that the consular functions mentioned above are also exercised, *mutatis mutandis*, in respect of → aircraft.

(h) *Other functions*

Finally, it should be noted that consuls may also perform other functions, on condition that these are provided for either by the legislation of the sending State and their performance is not prohibited by the legislation of the receiving State or by the international agreements in force between the sending State and the receiving State. Furthermore, consuls may also perform diplomatic functions provided that these have been entrusted to them by their State, where the latter does not maintain a diplomatic mission and is not represented by the diplomatic mission of a third State in the receiving State. In these instances, which do not entail the granting of diplomatic privileges and immunities to the consul, the prior consent of the receiving State is required (→ Diplomatic Agents and Missions, Privileges and Immunities).

## 5. *Consular Privileges and Immunities*

Apart from the consular post itself the consular staff also enjoy certain privileges and immunities whose purpose is to accord them protection and independence in the receiving State for the unhindered and effective performance of their functions. Such privileges are therefore recognized in the interest of the functional needs of the consular post, i.e. in the last analysis, in favour of the sending State. This is the reason for granting the privileges, the aim of which is to exempt or, to a certain extent, release the consular staff from their obligation to be subjected to the legal order of the receiving State. The privileged régime thus afforded limits the sovereign rights of the receiving State in favour of the sending State. There is, however, in this case the element of → reciprocity, since every State acts in both capacities at the same time.

It must also be noted that the application of the privileged régime starts from the moment the



member of the staff of the consular post enters the territory of the receiving State, i.e. before he begins to exercise his functions, and normally ceases after his functions here come to an end, at the time of departure from the territory of that State. Thus, for the purpose of affording effective protection, the duration of the privileged régime exceeds that of the exercise of consular functions. Furthermore, the privilege of immunity from jurisdiction of consular officers and employees applies without time limitation in connection with acts performed during the exercise of their functions.

Below are listed those privileges of personal inviolability and immunity from jurisdiction which are of the greatest importance and which have an indisputably customary character (see → United States Diplomatic and Consular Staff in Tehran Case, ICJ Reports (1980) at p. 31), as well as the tax, excise and other exemptions granted to the staff of a consular post.

#### (a) *Personal inviolability*

Personal inviolability guarantees the personal freedom and security of the persons to whom the privilege is granted. Two separate legal obligations of the receiving State are derived from the principle of personal inviolability:

The first is an obligation to afford protection, which applies only to career and honorary consular officers. With regard to the former, the protection owed is greater than that generally due to every alien under international law (→ Minimum Standard) and the receiving State must take particularly drastic measures to prevent any attack on their persons, freedom or dignity (Vienna Convention, Art. 40). Undoubtedly, such measures vary according to the circumstances. The position of career consular officers is, in this instance, similar to that of the staff of a diplomatic mission.

The second obligation is to abstain from any act of violence or coercion such as arrest or detention pending trial. This second aspect of the meaning of personal inviolability is absolute for all acts, irrespective of their gravity, done during the performance of consular functions. This privilege is accorded to all consular officers, whether career or honorary, as well as to consular employees provided that they are not nationals of or permanently resident in the receiving State and do not carry on any private activity for personal gain.

Consuls also enjoy personal inviolability for their private acts, which means that they can be neither arrested nor detained pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority. The difference between consuls and diplomats lies, therefore, in exactly this exception, since the personal inviolability of the latter is, even for their private acts, absolute, apart from the case of legitimate self-defence, which is also valid in connection with consuls. The limited inviolability for private acts is enjoyed only by career consular officers on condition that they are neither nationals of nor permanently resident in the receiving State.

#### (b) *Immunity from jurisdiction*

While personal inviolability precludes the preventive measures of arrest and detention pending trial, immunity from jurisdiction precludes courts of the receiving State, whether criminal, civil or administrative from judging persons accorded that privilege, since such persons are exempt from their jurisdiction (→ Jurisdiction of States).

The immunity of consuls from criminal and administrative jurisdiction is limited as it covers only those acts which they perform in the exercise of their consular functions. There is, at this point, an important difference between consuls and diplomats, since the latter also enjoy immunity from jurisdiction for their private acts. Consuls do not enjoy immunity from jurisdiction for their private acts, as a result of which they can be tried by the courts of the receiving State and be imprisoned in execution of a judicial decision of final effect.

Similarly, the immunity from civil jurisdiction enjoyed by consuls covers only those acts which are performed in the exercise of their functions. The Vienna Convention, however, provides for three exceptions to this rule, thus restricting the extent of this privilege even further (Art. 43). In accordance with these exceptions, immunity from jurisdiction does not apply in respect of civil actions arising out of private contracts, civil actions arising from an accident caused by a vehicle, vessel or aircraft, and counter-claims directly connected with a principal claim of a consular officer on a matter where he enjoys immunity from jurisdiction.



Consular officers not enjoying the privileges mentioned above may be lawfully tried by the civil courts of the receiving State and have measures of execution imposed against them.

Immunity from criminal, civil and administrative jurisdiction is enjoyed by career and honorary consular officers and consular employees. If career and honorary consular officers are nationals of or permanently resident in the receiving State, the immunity from jurisdiction enjoyed by them is more limited since it covers only "official acts performed in the exercise of their functions" (Vienna Convention, Art. 71) whilst for the same acts consular employees who are nationals of or permanently resident in the receiving State do not enjoy any immunity from jurisdiction. Furthermore, the consular officers do not enjoy the privileges if they carry on an occupation for personal profit. It must be noted that the sending State – and not the consular officer – may waive the privileges and immunities and therefore the immunity from jurisdiction accorded to the members of the consular post (Art. 45). The → waiver of immunity must be express and should be communicated to the receiving State in writing.

Members of a consular post may be called upon to attend as witnesses in judicial or administrative proceedings. They are, however, under no obligation to give evidence concerning matters connected with the exercise of their functions. Consular officers constitute an exception to the rule obliging members of a consular post to give evidence in other matters, since if they decline to do so, no coercive measure or penalty may be applied against them (Art. 44).

Finally, it must be noted that recent consular agreements, as a rule, accord the full diplomatic régime to career consuls, principally with regard to the privileges of inviolability and immunity from jurisdiction.

#### (c) *Tax, customs duties and other exemptions*

Career consular officers and employees, as well as members of their families, are exempt, in the receiving State, from all taxes and dues apart from certain exceptions, namely, indirect taxes, taxes on private immovable property and private income (Art. 49).

Similarly, career consular officers and members of their families are exempt from customs duties

on articles for their personal use, including articles intended for their establishment, while consular employees enjoy the same exemption but only in respect of articles imported at the time they first take up their posts (Art. 50).

Members of a consular post are also exempt from social security provisions in force in the receiving State (Art. 48). Finally, such members are exempt from any obligations under the laws of the receiving State in regard to the registration of aliens and residence permits (Art. 46). Furthermore, they are exempt from all personal services, from all public services of any kind, as well as from all military obligations such as requisitions or contributions (Art. 52).

Vienna Convention on Consular Relations, April 24, 1963. UNTS. Vol. 596 (1967) 261–467.

J. ŽOUŘEK, Report[s] on Consular Intercourse and Immunities, ILC (1957 II) 71–103, (1960 II) 2–37, (1961 II) 57–78.

L.T. LEE, *Consular Law and Practice* (1961).

J. ŽOUŘEK, *Le statut et les fonctions des consuls*, RdC, Vol. 106 (1962 II) 357–496.

L.T. LEE, *Vienna Convention on Consular Relations* (1966).

A. MARESCA, *Le relazioni consolari* (1966).

G. ZAMPAGLIONE, *Diritto consolare*, 2 vols. (1970).

M.A. AHMAD, *L'institution consulaire et le droit international* (1973).

L.G. MARCANTONATOS, *Les relations consulaires aux termes de la Convention de Vienne du 24 avril 1963* (1974).

C. ECONOMIDÈS, *Inviolability and Immunity from Jurisdiction of Diplomatic Agents and Consular Officers* (1975) [in Greek].

CONSTANTINOS ECONOMIDÈS

## CONSULTATION

### 1. *Notion*

The term "consultation" comprises methods for prevention or resolution of disputes between or among States, international organizations and regional institutions, and also refers to fora for consensus-building on issues of common concern and interest. Its forms and functions are so varied that some publicists conclude that the term has no legal meaning. Increasingly frequent references to consultation in bilateral and multilateral agree-



Chapter 5

## DIPLOMATIC PRIVILEGES AND IMMUNITIES

The privileged position of diplomats in society is traditional but it is not for this reason that it continues to be respected; it is because representatives of a state can only carry out their diplomatic functions satisfactorily if they are utterly free from pressures, whether legal, physical or moral, that the state in which they are serving may be able to impose on them. In the majority of peaceful law-abiding countries the privileges and immunities to which they are entitled may appear pointless and excessive, and thus may cause resentment on the part of the host population; but in exceptional times and in exceptional countries it is only the recognition of mutually applicable privileges and immunities that enables diplomatic relations to be maintained.

Privileges and immunities are applicable both to the diplomatic mission and its functions, and to the individual.

The privileges and immunities accorded to diplomatic missions and their functions are also applicable to the United Nations and its functions under the 1946 Convention on the Privileges and Immunities of the United Nations, though the application of the Convention varies in different states.

The following is a summary of the principles contained in the 1961 Vienna Convention on Diplomatic Relations which has been accepted by an overwhelming majority of the members of the United Nations as representing an internationally agreed codification of modern diplomatic law.

### PRIVILEGES AND IMMUNITIES IN RESPECT OF THE MISSION AND ITS FUNCTIONS

#### INVIOABILITY AND IMMUNITY OF PREMISES AND PROPERTY

The premises of a mission and the private residence of the head of a

#### *Privileges and immunities in respect of the mission and its functions*

mission are inviolable, as are those of members of the diplomatic and administrative and technical staff of the mission provided that they are not nationals or permanent residents of the host state. They may not be entered by agents of the host state without the permission of the head of mission concerned; the host state is obliged to ensure that all appropriate steps are taken to protect such premises against intrusion or damage, and to prevent any disturbance of the peace of the mission or impairment of its dignity. The premises, together with their contents and the means of transport belonging to the mission, are immune from search, requisition, legal attachment or execution. Motor vehicles belonging to members of the diplomatic and administrative and technical staff enjoy the same immunity.

#### INVIOABILITY OF RECORDS, DOCUMENTS, CORRESPONDENCE AND ARCHIVES

The records, documents, correspondence and archives of a mission are inviolable at any time and wherever they may be.

#### FREEDOM AND INVIOABILITY OF COMMUNICATIONS

A diplomatic mission is entitled to communicate freely for all official purposes and to have access to every facility for this in the state in which it is situated. It may use any appropriate means including couriers and messages in code or cypher to communicate with its own government and with any of its government's missions and consulates wherever they may be situated. A wireless transmitter, however, may be installed and used only with the consent of the host government.

#### THE DIPLOMATIC BAG, POUCH OR VALISE

This is a sealed bag or container clearly marked as such, containing only official documents and articles for official use. A diplomatic bag usually falls into one of two categories depending on the importance of its contents: accompanied or unaccompanied. The diplomatic bag is inviolable: it may not be opened or detained, and every facility must be given for its swift despatch. It may be carried by a *diplomatic courier* who is entitled to the protection of the state which he is visiting or in which he is serving in the performance of his functions. He enjoys personal inviolability, and is not liable to any form of arrest or detention. A diplomatic courier is usually a full-time employee of a Ministry of Foreign Affairs, and on every journey



must be provided by his Ministry or head of mission with a document indicating his status and the number of packages constituting the diplomatic bag. Where there is no regular diplomatic courier a state or mission may designate an individual – often an official of appropriate nationality who is making the journey for other reasons – as a diplomatic courier for a specific journey. Provided that he is furnished with the appropriate documents by his Ministry or head of mission he will be granted the same immunities and personal inviolability as a regular courier until such time as he has delivered the diplomatic bag in his charge. In exceptional circumstances a diplomatic bag may be entrusted to the captain of an aircraft, provided he enters or leaves the country through an authorised place of entry. A member of the mission concerned is entitled to hand the bag directly and freely to the captain, and similarly to receive it from him. The captain concerned must be provided with a document stating the number of packages constituting the bag; but he himself is not considered as being a diplomatic courier.

When communications between a state and its diplomatic mission have to pass through a third state, that state must furnish the same inviolability as is accorded by the receiving state. Diplomatic bags properly identified are inviolable while in transit through third states, as are diplomatic couriers. Couriers must however obtain any appropriate visas.

#### EXEMPTION FROM TAXATION

A diplomatic mission is exempt from all national, regional and municipal dues and taxes in respect of the mission premises, whether owned or leased, except for those charges which represent payment for specific services rendered (e.g. water, electricity, refuse collection). This exemption does not extend to persons entering into contracts with a head of mission or his government – for which reason such contracts usually stipulate that it is the head of mission or his government who are responsible for any rates or taxes on the premises.

A diplomatic mission is also exempt from dues and taxes in respect of any fees and charges that it levies as part of the normal functions of a mission.

#### RIGHT TO IMPORT, AND EXEMPTION FROM CUSTOMS DUTIES

A diplomatic mission is entitled to import (subject to existing laws) articles for the official use of the mission, and is exempt from customs and other similar duties in respect of such articles. It is not

exempt from charges for related services, e.g. storage or cartage. Goods imported duty free may not be sold or otherwise disposed of in the host state except in accordance with the conditions laid down by the state.

## PERSONAL PRIVILEGES AND IMMUNITIES

### GENERAL PROVISIONS

*Full diplomatic privileges and immunities* are applicable to (a) diplomatic agents, and (b) members of their families forming part of their household provided they are not nationals or permanent residents of the state in which the diplomatic agent is serving.

The interpretation of the term 'family' varies between states. The spouse and minor children of the diplomat are always included. Normally a diplomatic agent who is a bachelor or widower or not accompanied by his wife would be entitled to count his mother or sister as part of the family if they are living with him; sons and daughters for whom the diplomatic agent is legally responsible are included, as are widowed mothers.

*Limited diplomatic privileges and immunities* are afforded to three categories of members of the staff of a mission: those who are nationals or permanent residents of the state in which they are serving; members of the administrative and technical staff; and private servants of members of the mission.

As a counterpart to the enjoyment of immunity a diplomatic agent may not practice for profit any professional or commercial activity in the state in which he is serving. For the position of the diplomat's spouse and family see p.43.

It is customary (but not universally accepted) practice for members of diplomatic missions to be issued with diplomatic identity cards by the host state. These carry the photograph and signature of the holder, together with whatever instructions the host state may see fit to add for the benefit of its officials with regard to the privileges, facilities and immunities which should be accorded to the bearer.

The immunity granted to a diplomatic agent and members of his family by the host state does not exempt them from the jurisdiction of their own state.

### DURATION OF PRIVILEGES AND IMMUNITIES

Personal privileges and immunities apply from the moment the member of a mission enters the host country to take up his post or, if



## *Diplomatic privileges and immunities*

already in the country, from the moment his appointment is notified to the appropriate Ministry. Privileges and immunities come to an end when he leaves the country on the conclusion of his functions, or (if he does not leave immediately) after a reasonable interval of time (e.g. 4-6 weeks in the UK); but immunity from jurisdiction in respect of acts carried out in the course of his official duty has no limit in time. Immunity from jurisdiction in respect of any act carried out in a private capacity, however, does not continue after the conclusion of the diplomat's functions. In the event of the death of a member of a mission, the members of his family continue to enjoy the privileges and immunities to which they were entitled for a reasonable period of time sufficient to enable them to leave the country.

## FULL PRIVILEGES AND IMMUNITIES

### PERSONAL INVIOABILITY AND PROTECTION

All diplomatic agents enjoy personal inviolability, and members of their family forming part of their household similarly enjoy inviolability provided that they are not nationals or permanent residents of the host state. A state which accepts the establishment of a foreign diplomatic mission is bound to ensure complete protection to all members of that mission and to their families against physical violence whatever its source, and from attacks on their dignity and freedom.

### IMMUNITY FROM CRIMINAL JURISDICTION

A diplomatic agent and members of his family forming part of his household (provided that they are not nationals or permanent residents of the host state) are immune from the criminal jurisdiction of the host state.

### IMMUNITY FROM CIVIL AND ADMINISTRATIVE JURISDICTION

A diplomatic agent and members of his family forming part of his household (provided they are not nationals or permanent residents of the host state) are immune from civil and administrative jurisdiction in the host state except in the case of:

- (a) a real action (i.e. an action to claim ownership or possession) relating to private immovable property situated in the host state, unless he holds it on behalf of the state he serves for the purposes of the mission;

- (b) an action relating to succession in which he is involved as executor, administrator, heir or legatee as a private person and not on behalf of the state he serves;
- (c) an action relating to any professional or commercial activity exercised by him in the host state outside his official function. This limitation applies in practice to his spouse and family.

## WAIVER OF DIPLOMATIC IMMUNITY

The immunity from jurisdiction of an individual entitled to such protection may be waived only by his government. A waiver of immunity from civil or administrative proceedings does no more than allow the person concerned to stand trial; a second and specific waiver is required before the judgement can be put into effect.

## COUNTERCLAIMS

If legal proceedings are started by a person enjoying diplomatic immunity he is not entitled to claim immunity from jurisdiction in respect of any counterclaim directly connected with the principal claim.

## INVIOABILITY OF CORRESPONDENCE

The papers and correspondence of a diplomatic agent and of members of his family forming part of his household (provided that they are not nationals or permanent residents of the host state) are inviolable.

## INVIOABILITY OF PROPERTY

The property of a diplomatic agent and of members of his family forming part of his household (provided that they are not nationals or permanent residents of the host state) is inviolable.

## EXEMPTION FROM LIABILITY FOR PUBLIC SERVICE

A diplomatic agent and members of his family forming part of his household (provided that they are not nationals or permanent residents of the host state) are exempt from all personal and public services and from military obligations such as requisitioning, billeting or military contributions and from jury service.



## EXEMPTION FROM LIABILITY TO SERVE AS A WITNESS

A diplomatic agent and members of his family forming part of his household (provided that they are not nationals or permanent residents of the host state) are not obliged to give evidence as witnesses (but in many cases do so in order to assist justice).

## EXEMPTION FROM NATIONAL AND LOCAL TAXATION

A diplomatic agent and members of his family forming part of his household (provided that they are not nationals or permanent residents of the host state) are exempt from all dues and taxes, personal or real, national, regional or municipal, except for:

- (a) Indirect taxes of a kind normally incorporated in the price of goods or services, e.g. value-added tax (though in some instances a refund of such taxes and excise duties is made on a reciprocal basis or to promote sales of goods manufactured in the receiving state).
- (b) Dues and taxes on private immovable property situated in the territory of the host state, unless it is held on behalf of the sending state for the purposes of the mission.
- (c) Estate, succession or inheritance duties levied by the host state, subject to the provisions referred to in Article 39 of the Vienna Convention. Generally speaking, such duties are not levied on an individual's movable property provided that its presence in the receiving state could reasonably be related to his official functions, and provided that he or she was not a permanent resident or national of the state concerned.
- (d) Dues and taxes on private income originating in the host state, and capital taxes levied on commercial undertakings in that state.
- (e) Charges levied for specific services rendered. (In UK practice this covers one-quarter approximately of local authority rates or taxes relating to services such as roads, street lighting and refuse collection from which a diplomat is deemed to derive direct benefit).
- (f) Registration, court or record fees, mortgage dues and stamp duty in respect of immovable property (except for immovable property required as part of the premises of the mission in which case fees and dues are payable only in respect of specific services rendered).

## EXEMPTION FROM CUSTOMS DUTIES

A diplomatic agent and members of his family forming part of his household (provided that they are not nationals or permanent residents of the host state) are entitled (in accordance with local regula-

tions, which must not defeat diplomatic privilege) to import articles for their personal use, including articles required for the upkeep of their establishment, and are exempt from customs and other similar duties in respect of such articles. They are, however, liable to related charges for services, e.g. storage and cartage; and must comply with the regulations of the host state in respect of any articles imported duty-free that they subsequently sell or otherwise dispose of.

## EXEMPTION FROM SOCIAL SECURITY PROVISIONS

A diplomatic agent and members of his family forming part of his household (provided that they are not nationals or permanent residents of the host state) are exempt from the social security provisions of the host state. Private servants in the sole employ of a diplomatic agent are also exempt, provided that they are not nationals or permanent residents of the host state and that they are covered by the social security provisions of their own state; and a diplomatic agent is obliged to comply with the social security provisions in force in respect of any person he employs who is not so exempt. In some states he may be permitted to participate in their social security scheme if he so wishes; and in others his position may be covered by an existing agreement between the host state and his own state.

## EXEMPTION FROM INSPECTION OF PERSONAL LUGGAGE

A diplomatic agent and members of his family forming part of his household (provided that they are not nationals or permanent residents of the host state) are exempt from the inspection of personal luggage, unless there are serious grounds for believing that it contains articles that do not come within the scope of the privileges permitted, or illegal imports or exports. In this event the inspection is conducted only in the presence of the diplomatic agent or of his authorised representative.

## FREEDOM OF TRAVEL

All members of the staff of a diplomatic mission are, in theory, entitled to travel freely and without restriction in the state in which they are serving, except in those areas to which access is limited on grounds of national security. This principle is not always adhered to, and certain states limit the freedom of certain diplomats to special travel zones; and in such cases a policy of reciprocity is usually adopted.



## TRAVEL THROUGH A THIRD STATE

Provided that they have any necessary visas, diplomatic agents and members of their family, whether travelling with them or separately, are entitled to inviolability and all other immunities necessary to ensure a safe journey when passing through a third state on their way to or from a post. To ensure this they should be provided by their Ministry with a letter (preferably in the language of the third state or states) giving the purpose of their journey; or with a diplomatic visa issued by a diplomatic or consular representative of that state. It is not normal for their luggage to be inspected, and the authorities should have very good reasons before doing so.

## RECIPROCAL DUTIES OF DIPLOMATS

The granting of privileges and immunities by a state implies the acceptance of a high standard of responsibility and integrity on the part of the recipient. He may not interfere in the internal affairs of that state nor allow official premises to be put to any purpose other than their proper and recognised function; and he should not take advantage of his immunity from the jurisdiction of the courts to disregard its laws in such matters as motor-car accidents, speeding and parking. He is under a duty to respect these laws.

## DIPLOMATIC PASSPORTS

Diplomatic passports are issued by most states (but not the UK) to those of their nationals who are entitled to diplomatic immunity. They are usually taken not as evidence of entitlement to immunity (this being a function *prima facie* of the Diplomatic List), but as evidence of appointment only; they nevertheless often serve a useful purpose. Identity cards may be issued by the receiving state for the same purpose.

## REPRESENTATIVES TO INTERNATIONAL ORGANISATIONS

In certain cases resident (and sometimes non-resident) representatives of states to international organisations are entitled to the same privileges and immunities as diplomatic agents. Representatives to the United Nations and its Specialised Agencies normally receive a wide range of privileges and immunities under the 1946 Convention on the Privileges and Immunities of the United Nations and the similar Convention regarding the Specialised Agencies. The few most senior officers on the staffs of these organisations are entitled to the full

range of diplomatic privileges and immunities (unless they are nationals or permanent residents of the receiving state); the other staff members of the organisations enjoy more limited privileges and immunities. In the case of other organisations, such matters are normally included in the Agreement establishing the organisation or in an Agreement concluded between the host state and the international organisation before the latter is set up. Special provisions apply in Switzerland and the USA where such organisations are numerous.

## MEMBERS OF VISITING DIPLOMATIC MISSIONS

It is customary for states to grant privileges and immunities to visiting representatives of foreign states who, although not accredited as diplomatic agents to any state, are exercising quasidiplomatic or representative functions. Within this category come Heads of State or their representatives whether on a state occasion or on an informal visit, members of arbitration tribunals and government delegates to conferences or congresses. The New York Convention on Special Missions has now been drawn up to regulate the privileges and immunities given to such temporary special missions sent with the agreement of the receiving state.

## LIMITED PRIVILEGES AND IMMUNITIES

### NON-DIPLOMATIC STAFF OF A MISSION WHO ARE NOT NATIONALS OR PERMANENT RESIDENTS OF THE STATE IN WHICH THEY ARE SERVING

*Members of the administrative and technical staff* of a mission and members of their families forming part of their household (provided that they are not nationals or permanent residents of the state in which they are serving) are entitled to the full immunities given to a diplomatic agent except that immunity from civil and administrative jurisdiction does not extend to acts performed outside the course of their duty; and to full diplomatic privileges except that they are not exempt from the inspection of their luggage, and exemption from customs duties is limited to articles imported at the time of their arrival in the state to take up their appointment there; nor are they entitled to privileges and immunities while travelling through third states to take up an appointment, though such states are obliged not to hinder their passage.

*Members of the domestic ('service') staff* of a mission who are not nationals or permanent residents of the state in which they are serving



### *Diplomatic privileges and immunities*

are entitled to immunity in respect of acts performed in the course of their duties, exemption from dues and taxes on the emoluments they receive in respect of their employment, and exemption from social security provisions in respect of their employment with a diplomatic mission provided that they are covered by the social security provisions of their own country.

*Private servants of members of the diplomatic staff* of a mission who are not nationals or permanent residents of the state in which they are serving are exempt from dues and taxes on the emoluments they receive in respect of their employment, but are not otherwise entitled to any privileges or immunities other than those that the host state may choose to grant; it is, however, bound to exercise its jurisdiction over them in such a manner as not to interfere unduly with the performance of the functions of the relevant mission.

### DIPLOMATIC AGENTS AND OTHER MEMBERS OF THE STAFF OF A MISSION WHO ARE NATIONALS OR PERMANENT RESIDENTS OF THE HOST STATE

Diplomatic agents who are nationals or permanent residents of the state in which they are serving are entitled only to immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, though other privileges and immunities may be granted in particular states. Other (non-diplomatic) members of the staff of a mission and private servants who are nationals or permanent residents of the state in which they are serving enjoy only those privileges and immunities that the host state considers appropriate. Any limitations placed on persons in these categories, however, must be such as not to interfere unduly with the performance of the functions of their mission.

### Chapter 6

## CONSULAR OFFICERS AND CONSULAR POSTS

### THE ESTABLISHMENT OF CONSULAR POSTS

The establishment of diplomatic relations between states implies agreement in principle to the establishment of consular relations unless the contrary is specifically stated; but the severance of diplomatic relations does not automatically signify the severance of consular relations.

The establishment of a consular post requires the prior approval of the host state, which may ask to be provided with details of the location and status of the post (i.e. Consulate-General, Consulate, Vice-Consulate or Honorary Consulate) and its area of consular jurisdiction. Its prior approval must also be obtained for any subsequent changes in these particulars, and also for the establishment of any subsidiary consular offices elsewhere in the consular area.

### CONSULAR FUNCTIONS

Consular functions are described in general terms in the 1963 Vienna Convention on Consular Relations as follows:

- (a) protecting in the receiving state the interests of the sending state and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;
- (b) furthering the development of commercial, economic, cultural and scientific relations between the sending state and the receiving state and otherwise promoting friendly relations between them in accordance with the provisions of the Convention;
- (c) ascertaining, by all lawful means, conditions and developments



- in the commercial, economic, cultural and scientific life of the receiving state, reporting thereon to the Government of the sending state and giving information to persons interested;
- (d) issuing passports and travel documents to nationals of the sending state, and visas or appropriate documents to persons wishing to travel to the sending state;
  - (e) helping and assisting nationals, both individuals and bodies corporate, of the sending state;
  - (f) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving state;
  - (g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending state in cases of succession *mortis causa* in the territory of the receiving state, in accordance with the laws and regulations of the receiving state;
  - (h) safeguarding, within the limits imposed by the laws and regulations of the receiving state, the interests of minors and other persons lacking full capacity who are nationals of the sending state, particularly where any guardianship or trusteeship is required with respect to such persons;
  - (i) subject to the practices and procedures in force in the receiving state, representing or arranging appropriate representation for nationals of the sending state before the tribunals and other authorities of the receiving state, for the purpose of obtaining, in accordance with the laws and regulations of the receiving state, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests;
  - (j) transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending state in accordance with international agreements in force or, in the absence of such agreements, in any other manner compatible with the laws and regulations of the receiving state;
  - (k) exercising rights of supervision and inspection provided for in the laws and regulations of the sending state in respect of vessels having the nationality of the sending state, and of aircraft registered in that state, and in respect of their crews;
  - (l) extending assistance to vessels and aircraft mentioned in (k) above and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and without prejudice to the powers of the authorities of the receiving state, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the

- master, the officers and the seamen in so far as this may be authorised by the laws and regulations of the sending state;
- (m) performing any other functions entrusted to a consular post by the sending state which are not prohibited by the laws and regulations of the receiving state or to which no objection is taken by the receiving state or which are referred to in the international agreements in force between the sending state and the receiving state.

These functions may, with the consent of all governments concerned, be exercised by a consular officer on behalf of a third state.

It will be noted that in a substantial number of cases the right to act is not absolute, but dependent on the law of the receiving state. Also, despite the quasi-legal nature of many of his functions, a consul is not a substitute for a lawyer or other specialist.

More detailed provisions are included in many bilateral conventions, and a comprehensive outline of consular functions may be found in the Council of Europe, *European Convention on Consular Functions*.

A consular officer whose government has no diplomatic representative in the state in which he is serving and is not represented diplomatically by a third state may, with the authority of his host state, and without affecting his consular status, be authorised to perform certain diplomatic acts, including the representation of his state at intergovernmental organisations.

## CONSULAR OFFICERS, CONSULAR EMPLOYEES AND MEMBERS OF THE SERVICE STAFF

*Consular officers* are persons designated as such and responsible for the exercise of consular functions. They hold the rank of Consul-General, Consul or Vice-Consul and are divided into two categories:

- (a) *career consular officers* who are full-time servants of their government and are appointed by their Head of State or Foreign Minister;
- (b) *honorary consular officers* who are non-career officials for whom consular functions are usually a part-time occupation.

Career officers may not normally carry on for personal profit any professional or commercial activity in the host state, and should in principle have the nationality of the country they serve; the appointment of a national of the host state may only be made with that government's permission which may be withdrawn at any time. An honorary consular officer, on the other hand, though often a national of the country whose interest he serves, need not necessarily be so.



*Consular employees* are members of a consular staff who are not responsible for the exercise of consular functions but who are employed in an administrative or technical capacity.

*Members of the service staff* are those employed as chauffeurs, cleaners, domestics, etc. Persons falling within these categories are usually local residents.

*Consular agents and pro-consuls* are appointed by certain states but there is no standard definition of the terms. Generally they refer to consular employees with limited responsibilities ranking below vice-consul, but their precise status and functions vary considerably in different states.

## THE APPOINTMENT OF CONSULAR OFFICERS

It is traditional practice for the head of a consular post to be provided by his government with a written authority in respect of each appointment showing his full name, consular rank, consular district and post. This document (a *Commission*) is sent through diplomatic channels to the host government who, if they have no objection, issue a corresponding document (an *Exequatur*) authorising the appointment. In the rare event of its declining to issue an Exequatur, a government need give no reasons for its action. A similar procedure is normally adopted in respect of officers appointed to the consular staff; but, alternatively, a simple notification of relevant details in advance may be acceptable, and the granting of formal Exequaturs, though customary, is not obligatory.

The UK practice follows the Vienna Convention on Consular Relations, Article 12(1), whereby 'the Head of a Consular post is admitted to the exercise of his functions by an authorisation from the receiving State termed an exequatur whatever the form of this authorisation'. Pending the arrival of the officer's Commission, and on notification from the sending mission, the officer is granted the Secretary of State's Exequatur, thus enabling him to perform consular functions (Article 12(3)). If and when the officer's Commission is sent, the Queen's Exequatur is issued. This arrangement also applies to all officers performing consular functions.

On arrival at his post, the head of a consular post informs the Dean of the Consular Corps accordingly, and makes calls on the local authorities and on the other heads of consular posts.

As soon as a head of a consular post is admitted to his functions, and even though the formalities of his appointment may not have been completed, the host government notifies the official authorities in

the consular district concerned and ensures that all necessary facilities are provided for him to carry out his functions. Customs and immigration authorities are also advised of the arrival and departure of a consular officer and members of his family so that appropriate arrangements can be made.

In the absence of the head of a consular post (whether through illness, or the post falling temporarily vacant) the position may be held provisionally by a diplomatic agent or consular officer or, if the host state has no objection, by some other person. In any event the name of the acting head of post must be furnished to the host government, advance notification usually being required.

A consular officer may at any time and without explanation be declared *persona non grata*. In this event he is recalled by his government; failing which his Exequatur is cancelled and he ceases to be considered a consular officer.

## SEVERANCE OF CONSULAR RELATIONS

In the event of consular relations being broken off, the consular premises, property and archives must be respected and protected by the host state; and the business of the consulate, together with the property and archives, may be entrusted by the appointing state to a third state acceptable to the host state.

## PRIVILEGES, FACILITIES AND IMMUNITIES

The Vienna Convention on Consular Relations was drawn up in 1963 with the aim of providing the basis for a uniform practice in respect of consular privileges and immunities; but many states with wide consular interests have preferred to conclude bilateral agreements to suit their particular requirements, and these usually accord a more liberal scale of privileges, though not usually of immunities. Some states such as the United Kingdom are parties both to the Vienna Convention and to prior and subsequent bilateral Conventions. In case of any conflict they apply the more generous treatment in matters of privileges and immunities, on being assured of reciprocity. Nevertheless the advantages of a standard practice are self-evident and the following are the main provisions of the Vienna Convention.



# 1. CAREER CONSULAR OFFICERS AND POSTS HEADED BY THEM

## RELATING TO THE CONSULAR POST

The facilities granted by the host state to a consular post are those necessary to ensure the effective fulfilment of its functions: the premises used exclusively for consular purposes are (with minor exceptions such as an emergency requiring prompt action on the premises) inviolable and may not be entered except with the permission of the head of the consular post or the head of the diplomatic mission of the country concerned; the host state is obliged, where necessary, to help in the finding of suitable premises for the consular post (and accommodation for staff) and to ensure that all appropriate steps are taken to protect the premises from damage or insult; the consular archives and official correspondence are inviolable; there is freedom of movement for members of the post (save in generally restricted zones) and freedom and inviolability of communication by bag and other recognised means, although wireless transmitters may be used only with the permission of the host government; furthermore the host government may ask for a bag to be opened if it has serious reason to believe that its contents are unauthorised (if, however, the sending state refuses to do this the bag shall be returned to its place of origin); and the head of post has the right to fly his national flag and display his national coat of arms on his premises and residence, and fly his flag on his car, boat or aircraft when on official business.

The consular premises, including the residence of the head of the post but not those of other members of the staff, are not directly liable to taxation (though this exemption does not apply to the vendor or lessor of the premises if he is liable under the law), but charges for services, e.g. refuse collection, must be met.

In addition, consular fees and charges may be levied for services rendered, e.g. the granting of visas, certification of documents; these are exempt from all dues and taxes in the host state.

## RELATING TO CONSULAR DUTIES

### *Right of access to nationals who are detained*

In view of a consular officer's particular responsibility within his consular district towards nationals of his own state (and those of any other state or states whose interests he represents) he must be free to visit and communicate with them; and such individuals, conversely, have the right to communicate with and have free access to their consular officer. Moreover, if the authorities detain a foreign national they must inform him that he is free to communicate with his con-

sular officer, who must be given the appropriate facilities to visit the national if the latter so wishes. If a consular officer makes enquiries as to whether an individual for whom he is responsible has been detained, he must be given an immediate reply and be permitted, where he considers it necessary and with the concurrence of the person concerned, to arrange for appropriate legal representation.

### *Right of access to information in cases of death, guardianship or trusteeship, wrecks and air accidents*

The appropriate authorities have the duty to notify a consular officer without delay of any incident of which they are aware occurring within his district and affecting individuals for whom he is responsible, such as a death, a case where the appointment of guardians or trustees is needed, or a wreck or accident occurring to a ship or aircraft registered in his state.

### *Right of access to appropriate authorities*

In the exercise of his official functions a consular officer is entitled to communicate with the competent local authorities in his consular area; and in exceptional cases with the central authorities if custom and circumstances permit.

## PERSONAL PRIVILEGES AND IMMUNITIES

### *General*

The privileges to which a career consular officer is entitled under the 1963 Vienna Convention on Consular Relations are similar to those of members of the diplomatic staff of a mission. The extent of his immunity from jurisdiction and personal inviolability, however, is considerably less except where specific agreements provide otherwise. Privileges and immunities apply from the moment he enters the host state to take up his appointment or, if already in the country, from the moment he takes up his duties. They terminate when he leaves the country or (if he does not leave immediately) a reasonable time after he relinquishes his appointment.

### *Personal protection*

The host state is obliged to treat a consular officer with due respect and must take all appropriate steps to prevent any attack on his person, freedom or dignity.

### *Personal inviolability and immunity from jurisdiction*

A consular officer or consular employee is not liable to the jurisdiction (judicial or administrative) of the host state in respect of acts performed in the exercise of his consular functions. It is expressly



made clear that his immunity does not apply to civil actions by third parties, (i) for damage arising within the state from an accident caused by a vehicle, vessel or aircraft or (ii) arising out of any contract that he concluded if he did not contract expressly or impliedly as an agent of the state which he was serving at the time. His government may, if it sees fit, waive his immunity.

He must, however, appear before the competent authorities if criminal proceedings are brought against him, and he is liable to imprisonment if convicted by the competent judicial authorities. In the event of his being accused of a grave crime (but only in such an event) he may be detained pending trial.

It is, nevertheless, some consolation for him to know that proceedings will be carried out with the minimum delay, with due respect to him by reason of his official position, and, if the charge is not serious, with the minimum interference to his consular functions; and that the head of his consular post must be informed of his predicament unless he himself holds that position, in which case his government will be informed immediately through diplomatic channels.

*Proceedings initiated by a consular officer or consular employee*

If a consular officer or consular employee initiates proceedings, he loses any immunity from jurisdiction in respect of any counterclaim directly connected with the main claim to which he would otherwise have been entitled.

*Liability to give evidence*

No member of a consular post is obliged (unless his government waives the immunity) to give evidence on official matters or to produce official correspondence and documents concerning matters connected with the exercise of his functions; nor is he bound to give evidence as an expert witness with regard to the law of his state. In other matters he may be called on to attend as a witness at judicial or administrative proceedings and would normally do so. If a consular officer (as opposed to a consular employee or member of the service staff) should decline to do so, however, no penalty or coercive measure may be applied to him.

*Residence permits, work permits, and registration as aliens*

Career consular officers, consular employees (provided that they are permanent employees of the state they serve and are not engaged in any gainful occupation in the state in which they are serving) and members of their families forming part of their household are exempt from local regulations concerning residence permits, the registration of aliens and the employment of aliens.

*Social security*

Career consular officers and other members of the consular post (i.e. consular employees and members of the service staff) together with members of their families forming part of their household are exempt from social security requirements in force in the host state in respect of their official duties. They may, however, be permitted to participate voluntarily; and if they have any individuals in their private employ, they are responsible for complying with the social security requirements in respect of such persons.

*Taxation*

Career consular officers and consular employees and members of their families forming part of their household, provided that they do not carry on any private gainful occupation in the host state, are exempt from all national and local taxes, except:

- (a) indirect taxes of a kind normally incorporated in the price of goods or services;
- (b) dues or taxes on private immovable property in the territory of the host state (this provision does not apply to the premises of a career consular post or to the residence of the head of such post);
- (c) estate, succession or inheritance duties and duties on transfers levied by the host state (this provision does not normally apply to movable property of a deceased person which is sent out of the country);
- (d) dues and taxes on private income (including capital gains) originating in the host state, and capital taxes on investments in commercial or financial undertakings in the host state;
- (e) charges levied for specific services rendered;
- (f) registration, court or record fees, mortgage dues and stamp duties (this provision does not apply to the premises of a career consular post or to the residence of the head of such post).

Members of the service staff are exempt from dues and taxes on the wages that they receive for their services.

*Customs duties and inspection*

Exemption from all customs duties, taxes and related charges (other than those for storage, cartage, etc.) and unrestricted right of entry (except for articles generally restricted by law) are granted in respect of:

- (a) articles for the official use of the *consular post*.
- (b) articles for the personal and domestic use of a *consular officer* and members of his family (forming part of his household) in reasonable quantities;
- (c) articles for the personal and domestic use of a *consular employee*



### *Consular officers and consular posts*

and members of his family (forming part of his household) imported at the time of his first arrival to take up his duties.

#### *Insurance against third-party risks*

All members of a consular post must comply with national and local legislation concerning third party insurance in respect of any vehicle, vessel or aircraft.

## 2. HONORARY CONSULAR OFFICERS AND POSTS HEADED BY THEM

### RELATING TO THE CONSULAR POST

A certain number of the facilities and immunities granted to career posts (with the same provisos as to their use exclusively for consular functions) are granted to consular posts headed by honorary consuls:

- (a) full facilities for the performance of the functions of a consular post;
- (b) the right to display the national flag and emblem at the consular post and consular residence and on a vehicle when on official business;
- (c) assistance in the acquisition of premises and accommodation;
- (d) freedom of movement and travel of all members of the consular post (save in generally restricted areas);
- (e) freedom and inviolability of communication (including the right of communication through third states); but the exchange of consular bags between two consular posts headed by honorary consular officers in different states is not permitted without the consent of the two host states concerned;
- (f) the right to levy consular fees and charges, and their exemption from taxation in the host state;
- (g) more limited protection by the host state of the consular premises against intrusion, damage, disturbance and impairment of its dignity;
- (h) exemption from all forms of taxation of the consular premises of which the sending state is owner or lessee except for those representing the payment for specific services rendered: but this exemption does not extend to the individual who leases or sells the premises to the sending state if he is liable to pay under the law;
- (i) inviolability of consular archives and documents at all times and wherever they may be, provided that they are kept separate from other papers and documents and, in particular, from the private

### *Honorary consular officers and posts headed by them*

correspondence of the head of a consular post and of any person working with him, and from the materials, books or documents relating to their profession or trade;

- (j) exemption from customs and other similar duties on coats-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending state to the consular post provided that they are for official use.

### RELATING TO CONSULAR DUTIES

- (a) the right of access to nationals for whom the post is responsible;
- (b) the right of access to information in cases of deaths, the need for guardianships or trusteeships, wrecks and air accidents;
- (c) the right of access to the appropriate authorities in the host state.

### FACILITIES, PERSONAL PRIVILEGES AND IMMUNITIES

An honorary consular officer enjoys a certain number of the facilities, privileges and immunities enjoyed by a career consular officer in connection with the performance of his functions, though, as with career officers, they may be waived by the government he serves; and if he himself initiates legal proceedings he loses the immunity (see below) in respect of a counterclaim directly connected with a principal claim.

They start the moment the officer enters the territory of the state to take up his post, or if he is already in the territory, the moment that he takes up his duties, and come to an end when he leaves the territory or (if he does not do so immediately) a reasonable period thereafter.

These facilities, privileges and immunities are as follows:

- (a) The obligation of the host state to notify his consular or diplomatic representative in the event of his being arrested, detained or prosecuted.
- (b) Immunity from jurisdiction in respect of acts performed in the exercise of his consular functions except for civil actions (i) in respect of third-party claims arising from an accident caused by a vehicle, vessel or aircraft, or (ii) arising out of a contract not expressly or impliedly carried out as an agent of the state which he, as an honorary consular officer, serves. The immunity is of indefinite duration, i.e. it does not necessarily cease on the termination of the officer's period of duty.
- (c) Freedom from the obligation to give evidence or to produce



### *Consular officers and consular posts*

official correspondence or documents on matters connected with the exercise of his consular functions; and the right to decline to give evidence as an expert witness with regard to the law of the state he serves.

The following additional provisions also apply to an honorary consular officer:

- (d) If criminal proceedings are instituted against him he must appear before the competent authorities. He is, however, treated with the respect due to his official position; proceedings are instituted with the minimum of delay; and unless under detention, his ability to carry on his consular functions is hampered as little as possible.
- (e) He is exempt from all obligations in the host state in regard to the registration of aliens and residence permits provided that he does not engage there in any professional or commercial activity for personal profit.
- (f) He is exempt from all dues and taxes on the remuneration and emoluments that he receives from the government of the state he serves in respect of the exercise of his consular functions.
- (g) He is exempt from all personal and public services and military contributions in the state in which he is serving.
- (h) He is entitled to receive from the host state such protection as is needed on account of his official position; and in return must undertake to respect the laws of that state and not to interfere in its internal affairs.
- (i) Privileges and immunities granted to an honorary consular officer do not apply to members of his family, nor to the family of a consular employee in a post headed by an honorary consul.



# A

## Vienna Convention on Diplomatic Relations

*Done at Vienna on 18 April 1961*

*Entered into force on 24 April 1964, in accordance with  
article 51*

*The States Parties to the present Convention,  
Recalling that peoples of all nations from ancient times have recognized the  
status of diplomatic agents,  
Having in mind the purposes and principles of the Charter of the United  
Nations concerning the sovereign equality of States, the maintenance of  
international peace and security, and the promotion of friendly relations  
among nations,  
Believing that an international convention on diplomatic intercourse, privi-  
leges and immunities would contribute to the development of friendly rela-  
tions among nations, irrespective of their differing constitutional and social  
systems,  
Realizing that the purpose of such privileges and immunities is not to bene-  
fit individuals but to ensure the efficient performance of the functions of  
diplomatic missions as representing States,  
Affirming that the rules of customary international law should continue to  
govern questions not expressly regulated by the provisions of the present  
Convention,  
Have agreed as follows:*

### *Article 1*

For the purpose of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

- (a) the "head of the mission" is the person charged by the sending State with the duty of acting in that capacity;
- (b) the "members of the mission" are the head of the mission and the members of the staff of the mission;
- (c) the "members of the staff of the mission" are the members of the diplomatic staff, of the administrative and technical staff and of the service staff of the mission;
- (d) the "members of the diplomatic staff" are the members of the staff of the mission having diplomatic rank;
- (e) a "diplomatic agent" is the head of the mission or a member of the diplomatic staff of the mission;
- (f) the "members of the administrative and technical staff" are the

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*Sources:* United Nations, *Treaty Series*, vol. 500 pp. 95ff. U.S. Department of State, *United States Treaties and Other International Agreements*, TIAS 7502. Ratifications, accessions, and successions from *Multilateral Treaties Deposited with the Secretary-General*, Status as at 31 December 1985 (New York: United Nations, 1986), pp. 52-53.



members of the staff of the mission employed in the administrative and technical service of the mission;

- (g) the "members of the service staff" are the members of the staff of the mission in the domestic service of the mission;
- (h) a "private servant" is a person who is in the domestic service of a member of the mission and who is not an employee of the sending State;
- (i) the "premises of the mission" are the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purposes of the mission including the residence of the head of the mission.

#### Article 2

The establishment of diplomatic relations between States, and of permanent diplomatic missions, takes place by mutual consent.

#### Article 3

1. The functions of a diplomatic mission consist *inter alia* in:
  - (a) representing the sending State in the receiving State;
  - (b) protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;
  - (c) negotiating with the Government of the receiving State;
  - (d) ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State;
  - (e) promoting friendly relations between the sending State and the receiving State, and developing their economic cultural and scientific relations.
2. Nothing in the present Convention shall be construed as preventing the performance of consular functions by a diplomatic mission.

#### Article 4

1. 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. The receiving State is not obliged to give reasons to the sending State for a refusal of *agrément*.

#### Article 5

1. The sending State may, after it has given due notification to the receiving States concerned, accredit a head of mission or assign any member of the diplomatic staff, as the case may be, to more than one State, unless there is express objection by any of the receiving States.
2. If the sending State accredits a head of mission to one or more other States it may establish a diplomatic mission headed by a *chargé d'affaires ad interim* in each State where the head of mission has not his permanent seat.
3. A head of mission or any member of the diplomatic staff of the mission may act as representative of the sending State to any international organization.

#### Article 6

Two or more States may accredit the same person as head of mission to another State, unless objection is offered by the receiving State.

#### Article 7

Subject to the provisions of Articles 5, 8, 9 and 11, the sending State may freely appoint the members of the staff of the mission. In the case of military, naval or air attachés, the receiving State may require their names to be submitted beforehand, for its approval.

#### Article 8

1. Members of the diplomatic staff of the mission should in principle be of the nationality of the sending State.
2. Members of the diplomatic staff of the mission may not be appointed from among persons having the nationality of the receiving State, except with the consent of that State which may be withdrawn at any time.
3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

#### Article 9

1. The receiving State may at any time and without having to explain its decision, notify the sending State that the head of the mission or any member of the diplomatic staff of the mission is *persona non grata* or that any other member of the staff of the mission is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission. A person may be declared *non grata* or not acceptable before arriving in the territory of the receiving State.
2. If the sending State refuses or fails within a reasonable period to carry out its obligations under paragraph 1 of this Article, the receiving State may refuse to recognize the person concerned as a member of the mission.

#### Article 10

1. The Ministry for Foreign Affairs of the receiving State, or such other ministry as may be agreed, shall be notified of:
  - (a) the appointment of members of the mission, their arrival and their final departure or the termination of their functions with the mission;
  - (b) the arrival and final departure of a person belonging to the family of a member of the mission and, where appropriate, the fact that a person becomes or ceases to be a member of the family of a member of the mission;
  - (c) the arrival and final departure of private servants in the employ of persons referred to in sub-paragraph (a) of this paragraph and, where appropriate, the fact that they are leaving the employ of such persons;
  - (d) the engagement and discharge of persons resident in the receiving State as members of the mission or private servants entitled to privileges and immunities.
2. Where possible, prior notification of arrival and final departure shall also be given.



## Article 11

1. In the absence of specific agreement as to the size of the mission, the receiving State may require that the size of a mission be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the receiving State and to the needs of the particular mission.
2. The receiving State may equally, within similar bounds and on a non-discriminatory basis, refuse to accept officials of a particular category.

## Article 12

The sending State may not, without the prior express consent of the receiving State, establish offices forming part of the mission in localities other than those in which the mission itself is established.

## Article 13

1. The head of the mission is considered as having taken up his functions in the receiving State either when he has presented his credentials or when he has notified his arrival and a true copy of his credentials has been presented to the Ministry for Foreign Affairs of the receiving State, or such ministry as may be agreed, in accordance with the practice prevailing in the receiving State which shall be applied in a uniform manner.
2. The order of presentation of credentials or of a true copy thereof will be determined by the date and time of the arrival of the head of the mission.

## Article 14

1. Heads of mission are divided into three classes, namely:
  - (a) that of ambassadors or nuncios accredited to Heads of State, and other heads of mission of equivalent rank;
  - (b) that of envoys, ministers and internuncios accredited to Heads of State;
  - (c) that of *chargés d'affaires* accredited to Ministers for Foreign Affairs.
2. Except as concerns precedence and etiquette, there shall be no differentiation between heads of mission by reason of their class.

## Article 15

The class to which the heads of their missions are to be assigned shall be agreed between States.

## Article 16

1. Heads of mission shall take precedence in their respective classes in the order of the date and time of taking up their functions in accordance with Article 13.
2. Alterations in the credentials of a head of mission not involving any change of class shall not affect his precedence.
3. This article is without prejudice to any practice accepted by the receiving State regarding the precedence of the representative of the Holy See.

## Article 17

The precedence of the members of the diplomatic staff of the mission shall be notified by the head of the mission to the Ministry for Foreign Affairs or such other ministry as may be agreed.

## Article 18

The procedure to be observed in each State for the reception of heads of mission shall be uniform in respect of each class.

## Article 19

1. If the post of head of the mission is vacant, or if the head of the mission is unable to perform his functions, a *chargé d'affaires ad interim* shall act provisionally as head of the mission. The name of the *chargé d'affaires ad interim* shall be notified, either by the head of the mission or, in case he is unable to do so, by the Ministry for Foreign Affairs of the sending State to the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.
2. In cases where no member of the diplomatic staff of the mission is present in the receiving State, a member of the administrative and technical staff may, with the consent of the receiving State, be designated by the sending State to be in charge of the current administrative affairs of the mission.

## Article 20

The mission and its head shall have the right to use the flag and emblem of the sending State on the premises of the mission, including the residence of the head of the mission, and on his means of transport.

## Article 21

1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws, by the sending State of premises necessary for its mission or assist the latter in obtaining accommodation in some other way.
2. It shall also, where necessary, assist missions in obtaining suitable accommodation for their members.

## Article 22

1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.
2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.
3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.



## Article 23

1. The sending State and the head of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises of the mission, whether owned or leased, other than such as represent payment for specific services rendered.
2. The exemption from taxation referred to in this Article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or the head of the mission.

## Article 24

The archives and documents of the mission shall be inviolable at any time and wherever they may be.

## Article 25

The receiving State shall accord full facilities for the performance of the functions of the mission.

## Article 26

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure to all members of the mission freedom of movement and travel in its territory.

## Article 27

1. The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and the other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State.
2. The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.
3. The diplomatic bag shall not be opened or detained.
4. The packages constituting the diplomatic bag must bear visible external marks of their character and may contain only diplomatic documents or articles intended for official use.
5. The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.
6. The sending State or the mission may designate diplomatic couriers *ad hoc*. In such cases the provisions of paragraph 5 of this Article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.

7. A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

## Article 28

The fees and charges levied by the mission in the course of its official duties shall be exempt from all dues and taxes.

## Article 29

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

## Article 30

1. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.
2. His papers, correspondence and, except as provided in paragraph 3 of Article 31, his property, shall likewise enjoy inviolability.

## Article 31

1. A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of:
  - (a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
  - (b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
  - (c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.
2. A diplomatic agent is not obliged to give evidence as a witness.
3. No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under sub-paragraphs (a), (b), and (c) of paragraph 1 of this Article, and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.
4. The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State.

## Article 32

1. The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under Article 37 may be waived by the sending State.
2. Waiver must always be express.



3. The initiation of proceedings by a diplomatic agent or by a person enjoying immunity from jurisdiction under Article 37 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.

#### Article 33

1. Subject to the provisions of paragraph 3 of this Article, a diplomatic agent shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall also apply to private servants who are in the sole employ of a diplomatic agent, on condition:

- (a) that they are not nationals of or permanently resident in the receiving State; and
- (b) that they are covered by the social security provisions which may be in force in the sending State or a third State.

3. A diplomatic agent who employs persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State provided that such participation is permitted by that State.

5. The provisions of this Article shall not affect bilateral or multilateral agreements concerning social security concluded previously and shall not prevent the conclusion of such agreements in the future.

#### Article 34

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

- (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;
- (b) dues and taxes on private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
- (c) estate, succession or inheritance duties levied by the receiving State, subject to the provisions of paragraph 4 of Article 39;
- (d) dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;
- (e) charges levied for specific services rendered;
- (f) registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property, subject to the provisions of Article 23.

#### Article 35

The receiving State shall exempt diplomatic agents from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

#### Article 36

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

- (a) articles for the official use of the mission;
- (b) articles for the personal use of a diplomatic agent or members of his family forming part of his household, including articles intended for his establishment.

2. The personal baggage of a diplomatic agent shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this Article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the diplomatic agent or of his authorized representative.

#### Article 37

1. The members of the family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in Articles 29 to 36.

2. Members of the administrative and technical staff of the mission, together with members of their families forming part of their respective households, shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in Articles 29 to 35, except that the immunity from civil and administrative jurisdiction of the receiving State specified in paragraph 1 of Article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges specified in Article 36, paragraph 1, in respect of articles imported at the time of first installation.

3. Members of the service staff of the mission who are not nationals of or permanently resident in the receiving State shall enjoy immunity in respect of acts performed in the course of their duties, exemption from dues and taxes on the emoluments they receive by reason of their employment and the exemption contained in Article 33.

4. Private servants of members of the mission shall, if they are not nationals of or permanently resident in the receiving State, be exempt from dues and taxes on the emoluments they receive by reason of their employment. In other respects, they may enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.



## Article 38

1. Except insofar as additional privileges and immunities may be granted by the receiving State, a diplomatic agent who is a national of or permanently resident in that State shall enjoy only immunity from jurisdiction, and inviolability, in respect of official acts performed in the exercise of his functions.
2. Other members of the staff of the mission and private servants who are nationals of or permanently resident in the receiving State shall enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

## Article 39

1. Every person entitled to privileges and immunities shall enjoy them from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs or such other ministry as may be agreed.
2. When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of his functions as a member of the mission, immunity shall continue to subsist.
3. In case of the death of a member of the mission, the members of his family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the country.
4. In the event of the death of a member of the mission not a national of or permanently resident in the receiving State or a member of his family forming part of his household, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his death. Estate, succession and inheritance duties shall not be levied on movable property the presence of which in the receiving State was due solely to the presence there of the deceased as a member of the mission or as a member of the family of a member of the mission.

## Article 40

1. If a diplomatic agent passes through or is in the territory of a third State, which has granted him a passport visa if such visa was necessary, while proceeding to take up or to return to his post, or when returning to his own country, the third State shall accord him inviolability and such other immunities as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges or

- immunities who are accompanying the diplomatic agent, or travelling separately to join him or to return to their country.
2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the passage of members of the administrative and technical or service staff of a mission, and of members of their families, through their territories.
3. Third States shall accord to official correspondence and other official communications in transit, including messages in code or cipher, the same freedom and protection as is accorded by the receiving State. They shall accord to diplomatic couriers, who have been granted a passport visa if such visa was necessary, and diplomatic bags in transit the same inviolability and protection as the receiving State is bound to accord.
4. The obligations of third States under paragraph 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and diplomatic bags, whose presence in the territory of the third State is due to *force majeure*.

## Article 41

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.
2. All official business with the receiving State entrusted to the mission by the sending State shall be conducted with or through the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.
3. The premises of the mission 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 sending and the receiving State.

## Article 42

A diplomatic agent shall not in the receiving State practise for personal profit any professional or commercial activity.

## Article 43

The function of a diplomatic agent comes to an end, *inter alia*:

- (a) on notification by the sending State to the receiving State that the function of the diplomatic agent has come to an end;
- (b) on notification by the receiving State to the sending State that, in accordance with paragraph 2 of Article 9, it refuses to recognize the diplomatic agent as a member of the mission.

## Article 44

The receiving State must, even in case of armed conflict, grant facilities in order to enable persons enjoying privileges and immunities, other than nationals of the receiving State, and members of the families of such persons irrespective of their nationality, to leave at the earliest possible



moment. It must, in particular, in case of need, place at their disposal the necessary means of transport for themselves and their property.

#### Article 45

If diplomatic relations are broken off between two States, or if a mission is permanently or temporarily recalled:

- (a) the receiving State must, even in case of armed conflict, respect and protect the premises of the mission, together with its property and archives;
- (b) the sending State may entrust the custody of the premises of the mission, together with its property and archives, to a third State acceptable to the receiving State;
- (c) the sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

#### Article 46

A sending State may with the prior consent of a receiving State, and at the request of a third State not represented in the receiving State, undertake the temporary protection of the interests of the third State and of its nationals.

#### Article 47

1. In the application of the provisions of the present Convention, the receiving State shall not discriminate as between States.

2. However, discrimination shall not be regarded as taking place:

- (a) where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its mission in the sending State;
- (b) where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present Convention.

#### Article 48

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows: until 31 October 1961 at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March 1962, at the United Nations Headquarters in New York.

#### Article 49

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### Article 50

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in Article 48. The instru-

ments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article 51

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

#### Article 52

The Secretary-General of the United Nations shall inform all states belonging to any of the four categories mentioned in Article 48:

- (a) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with Articles 48, 49 and 50;
- (b) of the date on which the present Convention will enter into force, in accordance with Article 51.

#### Article 53

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in Article 48.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE AT VIENNA, this eighteenth day of April one thousand nine hundred and sixty-one.



# STATES RATIFYING, ACCEDING TO, AND SUCCEEDING TO THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS

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	Signature	Ratification, accession (a), succession (d)		Signature	Ratification, accession (a), succession (d)
Afghanistan . . . . .		6 Oct 1965 <i>a</i>	Chile . . . . .	18 Apr 1961	9 Jan 1968
Albania . . . . .	18 Apr 1961		China* . . . . .		25 Nov 1975 <i>a</i>
Algeria . . . . .		14 Apr 1964 <i>a</i>	Colombia . . . . .	18 Apr 1961	5 Apr 1973
Argentina . . . . .	18 Apr 1961	10 Oct 1963	Congo . . . . .		11 Mar 1963 <i>a</i>
Australia . . . . .	30 Mar 1962	26 Jan 1968	Costa Rica . . . . .	14 Feb 1962	9 Nov 1964
Austria . . . . .	18 Apr 1961	28 Apr 1966	Cuba . . . . .	16 Jan 1962	26 Sep 1963
Bahamas . . . . .		17 Mar 1977 <i>d</i>	Cyprus . . . . .		10 Sep 1968 <i>a</i>
Bahrain . . . . .		2 Nov 1971 <i>a</i>	Czechoslovakia . . . . .	18 Apr 1961	24 May 1963
Bangladesh . . . . .		13 Jan 1978 <i>d</i>	Denmark . . . . .	18 Apr 1961	2 Oct 1968
Barbados . . . . .		6 May 1968 <i>d</i>	Djibouti . . . . .		2 Nov 1978 <i>a</i>
Belgium . . . . .	23 Oct 1961	2 May 1968	Dominican Rep. . . . .	30 Mar 1962	14 Jan 1964
Benin . . . . .		27 Mar 1967 <i>a</i>	Ecuador . . . . .	18 Apr 1961	21 Sep 1964
Bhutan . . . . .		7 Dec 1972 <i>a</i>	Egypt . . . . .		9 Jun 1964 <i>a</i>
Bolivia . . . . .		28 Dec 1977 <i>a</i>	El Salvador . . . . .		9 Dec 1965 <i>a</i>
Botswana . . . . .		11 Apr 1969 <i>a</i>	Equatorial Guinea . . . . .		30 Aug 1976 <i>a</i>
Brazil . . . . .	18 Apr 1961	25 Mar 1965	Ethiopia . . . . .		22 Mar 1979 <i>a</i>
Bulgaria . . . . .	18 Apr 1961	17 Jan 1968	Fiji . . . . .		21 Jun 1971 <i>d</i>
Burma . . . . .		7 Mar 1980 <i>a</i>	Finland . . . . .	20 Oct 1961	9 Dec 1969
Burundi . . . . .		1 May 1968 <i>a</i>	France . . . . .	30 Mar 1962	31 Dec 1970
Byelorussian SSR . . . . .	18 Apr 1961	14 May 1964	Gabon . . . . .		2 Apr 1964 <i>a</i>
Cameroon . . . . .		4 Mar 1977 <i>a</i>	German Dem. Rep. . . . .		2 Feb 1973 <i>a</i>
Canada . . . . .	5 Feb 1962	26 May 1966	Germany, Fed. Rep. of* . . . . .	18 Apr 1961	11 Nov 1964
Cape Verde . . . . .		30 Jul 1979 <i>a</i>	Ghana . . . . .	18 Apr 1961	28 Jun 1962
Central African Rep. . . . .	28 Mar 1962	19 Mar 1973	Greece . . . . .	29 Mar 1962	16 Jul 1970
Chad . . . . .		3 Nov 1977 <i>a</i>	Guatemala . . . . .	18 Apr 1961	1 Oct 1963

Appendix A

Guinea . . . . .		10 Jan 1968 <i>a</i>	Madagascar . . . . .		31 Jul 1963 <i>a</i>
Guyana . . . . .		28 Dec 1972 <i>a</i>	Malawi . . . . .		19 May 1965 <i>a</i>
Haiti . . . . .		2 Feb 1978 <i>a</i>	Malaysia . . . . .		9 Nov 1965 <i>a</i>
Holy See . . . . .	18 Apr 1961	17 Apr 1964	Mali . . . . .		28 Mar 1968 <i>a</i>
Honduras . . . . .		13 Feb 1968 <i>a</i>	Malta* . . . . .		7 Mar 1967 <i>d</i>
Hungary . . . . .	18 Apr 1961	24 Sep 1965	Mauritania . . . . .		16 Jul 1962 <i>a</i>
Iceland . . . . .		18 May 1971 <i>a</i>	Mauritius . . . . .		18 Jul 1969 <i>d</i>
India . . . . .		15 Oct 1965 <i>a</i>	Mexico . . . . .	18 Apr 1961	16 Jun 1965
Indonesia . . . . .		4 Jun 1982 <i>a</i>	Mongolia . . . . .		5 Jan 1967 <i>a</i>
Iran . . . . .	27 May 1961	3 Feb 1965	Morocco . . . . .		19 Jun 1968 <i>a</i>
Iraq . . . . .	20 Feb 1962	15 Oct 1963	Mozambique . . . . .		18 Nov 1981 <i>a</i>
Ireland . . . . .	18 Apr 1961	10 May 1967	Nauru . . . . .		5 May 1978 <i>d</i>
Israel . . . . .	18 Apr 1961	11 Aug 1970	Nepal . . . . .		28 Sep 1965 <i>a</i>
Italy . . . . .	13 Mar 1962	25 Jun 1969	Netherlands . . . . .		7 Sep 1984 <i>a</i>
Ivory Coast . . . . .		1 Oct 1962 <i>a</i>	New Zealand . . . . .	28 Mar 1962	23 Sep 1970
Jamaica . . . . .		5 Jun 1963 <i>a</i>	Nicaragua . . . . .		31 Oct 1975 <i>a</i>
Japan . . . . .	26 Mar 1962	8 Jun 1964	Niger . . . . .		5 Dec 1962 <i>a</i>
Jordan . . . . .		29 Jul 1971 <i>a</i>	Nigeria . . . . .	31 Mar 1962	19 Jun 1967
Kampuchea, Dem. . . . .		31 Aug 1965 <i>a</i>	Norway . . . . .	18 Apr 1961	24 Oct 1967
Kenya . . . . .		1 Jul 1965 <i>a</i>	Oman . . . . .		31 May 1974 <i>a</i>
Kiribati . . . . .		2 Apr 1982 <i>d</i>	Pakistan . . . . .	29 Mar 1962	29 Mar 1962
Korea, Dem. People's			Panama . . . . .	18 Apr 1961	4 Dec 1963
Rep. of . . . . .		29 Oct 1980 <i>a</i>	Papua New Guinea . . . . .		4 Dec 1975 <i>d</i>
Korea, Rep. of* . . . . .	28 Mar 1962	28 Dec 1970	Paraguay . . . . .		23 Dec 1969 <i>a</i>
Kuwait . . . . .		23 Jul 1969 <i>a</i>	Peru . . . . .		18 Dec 1968 <i>a</i>
Laos . . . . .		3 Dec 1962 <i>a</i>	Philippines . . . . .	20 Oct 1961	15 Nov 1965
Lebanon . . . . .	18 Apr 1961	16 Mar 1971	Poland . . . . .	18 Apr 1961	19 Apr 1965
Lesotho . . . . .		26 Nov 1969 <i>a</i>	Portugal . . . . .		11 Sep 1968 <i>a</i>
Liberia . . . . .	18 Apr 1961	15 May 1962	Romania . . . . .	18 Apr 1961	15 Nov 1968
Libya . . . . .		7 Jun 1977 <i>a</i>	Rwanda . . . . .		15 Apr 1964 <i>a</i>
Liechtenstein . . . . .	18 Apr 1961	8 May 1964	San Marino . . . . .	25 Oct 1961	8 Sep 1965
Luxembourg . . . . .	2 Feb 1962	17 Aug 1966	Sao Tome & Principe . . . . .		3 May 1983 <i>a</i>

Vienna Convention on Diplomatic Relations

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STATES RATIFYING, ACCEDING TO, AND SUCCEEDING TO THE  
VIENNA CONVENTION ON DIPLOMATIC RELATIONS (continued)

	Signature	Ratification, accession (a), succession (d)		Signature	Ratification, accession (a), succession (d)
Saudi Arabia		10 Feb 1981 <sup>a</sup>	Trinidad & Tobago		19 Oct 1965 <sup>a</sup>
Senegal	18 Apr 1961	12 Oct 1972	Tunisia		24 Jan 1968 <sup>a</sup>
Seychelles		29 May 1979 <sup>a</sup>	Turkey		6 Mar 1985 <sup>a</sup>
Sierra Leone		13 Aug 1962 <sup>a</sup>	Tuvalu*		15 Sep 1982 <sup>d</sup>
Somalia		29 Mar 1968 <sup>a</sup>	Uganda		15 Apr 1965 <sup>a</sup>
South Africa	28 Mar 1962		Ukrainian SSR	18 Apr 1961	12 Jun 1964
Spain		21 Nov 1967 <sup>a</sup>	USSR	18 Apr 1961	25 Mar 1964
Sri Lanka	18 Apr 1961	2 Jun 1978	United Arab Emirates		24 Feb 1977 <sup>a</sup>
Sudan		13 Apr 1981 <sup>a</sup>	UK	11 Dec 1961	1 Sep 1964
Swaziland		25 Apr 1969 <sup>a</sup>	USA	29 Jun 1961	13 Nov 1972
Sweden	18 Apr 1961	21 Mar 1967	Uruguay	18 Apr 1961	10 Mar 1970
Switzerland	18 Apr 1961	30 Oct 1963	Venezuela	18 Apr 1961	16 Mar 1965
Syria		4 Aug 1978 <sup>a</sup>	Vietnam*		26 Aug 1980 <sup>a</sup>
Tanzania	27 Feb 1962	5 Nov 1962	Yemen, Dem.		24 Nov 1976 <sup>a</sup>
Thailand	30 Oct 1961	23 Jan 1985	Yugoslavia	18 Apr 1961	1 Apr 1963
Togo		27 Nov 1970 <sup>a</sup>	Zaire	18 Apr 1961	19 Jul 1965
Tonga		31 Jan 1973 <sup>d</sup>	Zambia*		16 Jun 1975 <sup>d</sup>

\*States that made declarations or reservations upon ratification, accession or succession. These, followed by objections thereto, can be found in United Nations, *Multilateral Treaties*, 1986, op. cit., pp. 53-66.

## B

## Vienna Convention on Consular Relations

Done at Vienna on 24 April 1963

Entered into force on 19 March 1967, in accordance with article 77

*The States Parties to the present Convention,*  
*Recalling* that consular relations have been established between peoples since ancient times,  
*Having in mind* the Purposes and Principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,  
*Considering* that the United Nations Conference on Diplomatic Intercourse and Immunities adopted the Vienna Convention on Diplomatic Relations which was opened for signature on 18 April 1961,  
*Believing* that an international convention on consular relations, privileges and immunities would also contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,  
*Realizing* that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of functions by consular posts on behalf of their respective States,  
*Affirming* that the rules of customary international law continue to govern matters not expressly regulated by the provisions of the present Convention,  
*Have agreed* as follows:

Article I  
Definitions

1. For the purposes of the present Convention, the following expressions shall have the meanings hereunder assigned to them:
  - (a) "consular post" means any consulate-general, consulate, vice consulate or consular agency;
  - (b) "consular district" means the area assigned to a consular post for the exercise of consular functions;
  - (c) "head of consular post" means the person charged with the duty of acting in that capacity;
  - (d) "consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions;
  - (e) "consular employee" means any person employed in the administrative or technical service of a consular post;
  - (f) "member of the service staff" means any person employed in the domestic service of a consular post;

Sources: United Nations, *Treaty Series*, vol. 596, pp. 261ff. Ratifications, accessions, and successions from *Multilateral Treaties*, op. cit., pp. 70-71.



- (g) "members of the consular post" means consular officers, consular employees and members of the service staff;
- (h) "members of the consular staff" means consular officers, other than the head of a consular post, consular employees and members of the service staff;
- (i) "member of the private staff" means a person who is employed exclusively in the private service of a member of the consular post;
- (j) "consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post;
- (k) "consular archives" includes all the papers, documents, correspondence, book, films, tapes and registers of the consular post, together with the ciphers and codes, the card-indexes and any article of furniture intended for their protection or safe keeping.

2. Consular officers are of two categories, namely career consular officers and honorary consular officers. The provisions of Chapter II of the present Convention apply to consular posts headed by career consular officers, the provisions of Chapter III govern consular posts headed by honorary consular officers.

3. The particular status of members of the consular posts who are nationals or permanent residents of the receiving State is governed by Article 71 of the present Convention.

#### CHAPTER I. CONSULAR RELATIONS IN GENERAL

##### SECTION I. ESTABLISHMENT AND CONDUCT OF CONSULAR RELATIONS

#### Article 2

##### *Establishment of consular relations*

1. The establishment of consular relations between States takes place by mutual consent.
2. The consent given to the establishment of diplomatic relations between two States implies, unless otherwise stated, consent to the establishment of consular relations.
3. The severance of diplomatic relations shall not *ipso facto* involve the severance of consular relations.

#### Article 3

##### *Exercise of consular functions*

Consular functions are exercised by consular posts. They are also exercised by diplomatic missions in accordance with the provisions of the present Convention.

#### Article 4

##### *Establishment of a consular post*

1. A consular post may be established in the territory of the receiving State only with the State's consent.
2. The seat of the consular post, its classification and the consular district

shall be established by the sending State and shall be subject to the approval of the receiving State.

3. Subsequent changes in the seat of the consular post, its classification or the consular district may be made by the sending State only with the consent of the receiving State.

4. The consent of the receiving State shall also be required if a consulate-general or a consulate desires to open a vice-consulate or a consular agency in a locality other than that in which it is itself established.

5. The prior express consent of the receiving State shall also be required for the opening of an office forming part of an existing consular post elsewhere than at the seat thereof.

#### Article 5

##### *Consular functions*

Consular functions consist in:

- (a) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;
- (b) furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention;
- (c) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested;
- (d) issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State;
- (e) helping and assisting nationals, both individuals and bodies corporate, of the sending State;
- (f) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State;
- (g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending States in cases of succession *mortis causa* in the territory of the receiving State, in accordance with the laws and regulations of the receiving State;
- (h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons;
- (i) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the



preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interest;

- (j) transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State;
- (k) exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews;
- (l) extending assistance to vessels and aircraft mentioned in sub-paragraph, (m) of this Article, and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the laws and regulations of the sending State;
- (n) performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

#### Article 6

##### *Exercise of consular functions outside the consular district*

A consular officer may, in special circumstances, with the consent of the receiving State, exercise his functions outside his consular district.

#### Article 7

##### *Exercise of consular functions in a third State*

The sending State may, after notifying the States concerned, entrust a consular post established in a particular State with the exercise of consular functions in another State, unless there is express objection by one of the States concerned.

#### Article 8

##### *Exercise of consular functions on behalf of a third State*

Upon appropriate notification to the receiving State, a consular post of the sending State may, unless the receiving State objects, exercise consular functions in the receiving State on behalf of a third State.

#### Article 9

##### *Classes of heads of consular posts*

1. Heads of consular posts are divided into four classes, namely
  - (a) consuls-general;
  - (b) consuls;
  - (c) vice-consuls;
  - (d) consular agents.
2. Paragraph 1 of this Article in no way restricts the right of any of the Contracting Parties to fix the designation of consular officers other than the heads of consular posts.

#### Article 10

##### *Appointment and admission of heads of consular posts*

1. Heads of consular posts are appointed by the sending State and are admitted to the exercise of their functions by the receiving State.
2. Subject to the provisions of the present Convention, the formalities for the appointment and for the admission of the head of a consular post are determined by the laws, regulations, and usages of the sending State and of the receiving State respectively.

#### Article 11

##### *The consular commission or notification of appointment*

1. The head of a consular post shall be provided by the sending State with a document, in the form of a commission or similar instrument, made out for each appointment, certifying his capacity and showing, as a general rule, his full name, his category and class, the consular district and the seat of the consular post.
2. The sending State shall transmit the commission or similar instrument through the diplomatic or other appropriate channel to the Government of the State in whose territory the head of a consular post is to exercise his functions.
3. If the receiving State agrees, the sending State may, instead of a commission or similar instrument, send to the receiving State a notification containing the particulars required by paragraph 1 of this Article.

#### Article 12

##### *The exequatur*

1. The head of a consular post is admitted to the exercise of his functions by an authorization from the receiving State termed an *exequatur*, whatever the form of this authorization.
2. A State which refused to grant an *exequatur* is not obliged to give to the sending State reasons for such refusal.
3. Subject to the provisions of Articles 13 and 15, the head of a consular post shall not enter upon his duties until he has received an *exequatur*.



## Article 13

*Provisional admission of heads of consular posts*

Pending delivery of the *exequatur*, the head of a consular post may be admitted on a provisional basis to the exercise of his functions. In that case, the provisions of the present Convention shall apply.

## Article 14

*Notification to the authorities of the consular district*

As soon as the head of a consular post is admitted even provisionally to the exercise of his functions, the receiving State shall immediately notify the competent authorities of the consular district. It shall also ensure that the necessary measures are taken to enable the head of a consular post to carry out the duties of his office and to have the benefit of the provisions of the present Convention.

## Article 15

*Temporary exercise of the functions of the head of a consular post*

1. If the head of a consular post is unable to carry out his functions or the position of head of consular post is vacant, an acting head of post may act provisionally as head of the consular post.
2. The full name of the acting head of post shall be notified either by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, or, if he is unable to do so, by any competent authority of the sending State, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry. As a general rule, this notification shall be given in advance. The receiving State may make the admission as acting head of post of a person who is neither a diplomatic agent nor a consular officer of the sending State in the receiving State conditional on its consent.
3. The competent authorities of the receiving State shall afford assistance and protection to the acting head of post. While he is in charge of the post, the provisions of the present Convention shall apply to him on the same basis as to the head of the consular post concerned. The receiving State shall not, however, be obliged to grant to an acting head of post any facility, privilege or immunity which the head of the consular post enjoys only subject to conditions not fulfilled by the acting head of post.
4. When, in the circumstances referred to in paragraph 1 of this Article, a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State is designated by the sending State as an acting head of post, he shall, if the receiving State does not object thereto, continue to enjoy diplomatic privileges and immunities.

## Article 16

*Precedence as between heads of consular posts*

1. Heads of consular posts shall rank in each class according to the date of the grant of the *exequatur*.

2. If, however, the head of a consular post before obtaining the *exequatur* is admitted to the exercise of his functions provisionally, his precedence shall be determined according to the date of the provisional admission; this precedence shall be maintained after the granting of the *exequatur*.
3. The order of precedence as between two or more heads of consular posts who obtained the *exequatur* or provisional admission on the same date shall be determined according to the dates on which their commissions or similar instruments or the notifications referred to in paragraph 3 of Article 11 were presented to the receiving State.
4. Acting heads of posts shall rank after all heads of consular posts and, as between themselves, they shall rank according to the dates on which they assumed their functions as acting heads of posts as indicated in the notifications given under paragraph 2 of Article 15.
5. Honorary consular officers who are heads of consular posts shall rank in each class after career heads of consular posts, in the order and according to the rules laid down in the foregoing paragraphs.
6. Heads of consular posts shall have precedence over consular officers not having that status.

## Article 17

*Performance of diplomatic acts by consular officers*

1. In a State where the sending State has no diplomatic mission and is not represented by a diplomatic mission of a third State, a consular officer may, with the consent of the receiving State, and without affecting his consular status, be authorized to perform diplomatic acts. The performance of such acts by a consular officer shall not confer upon him any right to claim diplomatic privileges and immunities.
2. A consular officer may, after notification addressed to the receiving State, act as representative of the sending State to any inter-governmental organization. When so acting, he shall be entitled to enjoy any privileges and immunities accorded to such a representative by customary international law or by international agreements; however, in respect of the performance by him of any consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present Convention.

## Article 18

*Appointment of the same person by two or more States as a consular officer*

Two or more States may, with the consent of the receiving State, appoint the same person as a consular officer in that State.

## Article 19

*Appointment of members of consular staff*

1. Subject to the provisions of Articles 20, 22 and 23, the sending State may freely appoint the members of the consular staff.



2. The full name, category and class of all consular officers, other than the head of a consular post, shall be notified by the sending State to the receiving State in sufficient time for the receiving State, if it so wishes, to exercise its rights under paragraph 3 of Article 23.
3. The sending State may, if required by its laws and regulations, request the receiving State to grant an *exequatur* to a consular officer other than the head of a consular post.
4. The receiving State may, if required by its laws and regulations, grant an *exequatur* to a consular officer other than the head of a consular post.

#### Article 20

##### *Size of the consular staff*

In the absence of an express agreement as to the size of the consular staff, the receiving State may require that the size of the staff be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the consular district and to the needs of the particular consular post.

#### Article 21

##### *Precedence as between consular officers of a consular post*

The order of precedence as between the consular officers of a consular post and any change thereof shall be notified by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by the Ministry.

#### Article 22

##### *Nationality of consular officers*

1. Consular officers should, in principle, have the nationality of the sending State.
2. Consular officers may not be appointed from among persons having the nationality of the receiving State except with the express consent of that State which may be withdrawn at any time.
3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

#### Article 23

##### *Persons declared non grata*

1. The receiving State may at any time notify the sending State that a consular officer is *persona non grata* or that any other member of the consular staff is not acceptable. In that event, the sending State shall, as the case may be, either recall the person concerned or terminate his functions with the consular post.
2. If the sending State refuses or fails within a reasonable time to carry out its obligations under paragraph 1 of this Article, the receiving State may, as the case may be, either withdraw the *exequatur* from the person concerned or cease to consider him as a member of the consular staff.
3. A person appointed as a member of consular post may be declared

unacceptable before arriving in the territory of the receiving State or, if already in the receiving State, before entering on his duties with the consular post. In any such case, the sending State shall withdraw his appointment.

4. In the cases mentioned in paragraphs 1 and 3 of this Article, the receiving State is not obliged to give to the sending State reasons for its decision.

#### Article 24

##### *Notification to the receiving State of appointments, arrivals and departures*

1. The Ministry for Foreign Affairs of the receiving State or the authority designated by that Ministry shall be notified of:
  - (a) the appointment of members of a consular post, their arrival after appointment to the consular post, their final departure or the termination of their functions and any other changes affecting their status that may occur in the course of their service with the consular post;
  - (b) the arrival and final departure of a person belonging to the family of a member of a consular post forming part of his household and, where appropriate, the fact that a person becomes or ceases to be such a member of the family;
  - (c) the arrival and final departure of members of the private staff and, where appropriate, the termination of their service as such;
  - (d) the engagement and discharge of persons resident in the receiving State as members of a consular post or as members of the private staff entitled to privileges and immunities.
2. When possible, prior notification of arrival and final departure shall also be given.

#### SECTION II. END OF CONSULAR FUNCTIONS

#### Article 25

##### *Termination of the functions of a member of a consular post*

The functions of a member of a consular post shall come to an end *inter alia*:

- (a) on notification by the sending State to the receiving State that his functions have come to an end;
- (b) on withdrawal of the *exequatur*;
- (c) on notification by the receiving State to the sending State that the receiving State has ceased to consider him as a member of the consular staff.

#### Article 26

##### *Departure from the territory of the receiving State*

The receiving State shall, even in case of armed conflict, grant to members of the consular post and members of the private staff, other than nationals of the receiving State, and to members of their families forming part of their households irrespective of nationality, the necessary time and facilities to enable them to prepare their departure and to leave at the earliest possible moment after the termination of the functions of the members concerned.



In particular, it shall, in case of need, place at their disposal the necessary means of transport for themselves and their property other than property acquired in the receiving State the export of which is prohibited at the time of departure.

### Article 27

#### *Protection of consular premises and archives and of the interests of the sending State in exceptional circumstances*

1. In the event of the severance of consular relations between two States:
  - (a) the receiving State shall, even in case of armed conflict, respect and protect the consular premises, together with the property of the consular post and the consular archives;
  - (b) the sending State may entrust the custody of the consular premises, together with the property contained therein and the consular archives, to a third State acceptable to the receiving State;
  - (c) the sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.
2. In the event of the temporary or permanent closure of a consular post, the provisions of sub-paragraph (a) of paragraph 1 of this Article shall apply. In addition,
  - (a) if the sending State, although not represented in the receiving State by a diplomatic mission, has another consular post in the territory of that State, that consular post may be entrusted with the custody of the premises of the consular post which has been closed, together with the property contained therein and the consular archives, and, with the consent of the receiving State, with the exercise of consular functions in the district of that consular post; or
  - (b) if the sending State has no diplomatic mission and no other consular post in the receiving State, the provisions of sub-paragraphs (b) and (c) of paragraph 1 of this Article shall apply.

#### CHAPTER II. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CONSULAR POSTS, CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

##### SECTION I. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO A CONSULAR POST

### Article 28

#### *Facilities for the work of the consular post*

The receiving State shall accord full facilities for the performance of the functions of the consular post.

### Article 29

#### *Use of national flag and coat-of-arms*

1. The sending State shall have the right to the use of its national flag and coat-of-arms in the receiving State in accordance with the provisions of this Article.

2. The national flag of the sending State may be flown and its coat-of-arms displayed on the building occupied by the consular post and at the entrance door thereof, in the residence of the head of the consular post and on his means of transport when used on official business.
3. In the exercise of the right accorded by this Article regard shall be had to the laws, regulations and usages of the receiving State.

### Article 30

#### *Accommodation*

1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws and regulations, by the sending State of premises necessary for its consular post or assist the latter in obtaining accommodation in some other way.
2. It shall also, where necessary, assist the consular post in obtaining suitable accommodation for its members.

### Article 31

#### *Inviolability of the consular premises*

1. Consular premises shall be inviolable to the extent provided in this Article.
2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively of the purpose of the work of the consular post except with the consent of the head of the consular post or of this designee or the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action.
3. Subject to the provisions of paragraph 2 of this Article, the receiving State is under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.
4. The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of requisition for purposes of national defence or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate and effective compensation shall be paid to the sending State.

### Article 32

#### *Exemption from taxation of consular premises*

1. Consular premises and the residence of the career head of consular post of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.
2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.



## Article 33

*Inviolability of the consular archives and documents*

The consular archives and documents shall be inviolable at all times and wherever they may be.

## Article 34

*Freedom of movement*

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure freedom of movement and travel in its territory to all members of the consular post.

## Article 35

*Freedom of communication*

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.
2. The official correspondence of the consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions.
3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4 of this Article, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State, the bag shall be returned to its place of origin.
4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.
5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. Except with the consent of the receiving State he shall be neither a national of the receiving State, nor, unless he is a national of the sending State, a permanent resident of the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.
6. The sending State, its diplomatic missions and its consular posts may designate consular couriers *ad hoc*. In such cases the provisions of paragraph 5 of this Article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

## Article 36

*Communication and contact with nationals of the sending State*

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:
  - (a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;
  - (b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph;
  - (c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgement. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.
2. The rights referred to in paragraph 1 of this Article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this Article are intended.

## Article 37

*Information in cases of deaths, guardianship or trusteeship, wrecks and air accidents*

If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

- (a) in the case of the death of a national of the sending State, to inform without delay the consular post in whose district the death occurred;
- (b) to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the



sending state. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments;

- (c) if a vessel, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consular post nearest to the scene of the occurrence.

#### Article 38

##### *Communication with the authorities of the receiving State*

In the exercise of their functions, consular officers may address:

- (a) the competent local authorities of their consular district;  
(b) the competent central authorities of the receiving State if and to the extent that this is allowed by the laws, regulations and usages of the receiving State or by the relevant international agreements.

#### Article 39

##### *Consular fees and charges*

1. The consular post may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.
2. The sums collected in the form of the fees and charges referred to in paragraph 1 of this Article, and the receipts for such fees and charges, shall be exempt from all dues and taxes in the receiving State.

#### SECTION II. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

#### Article 40

##### *Protection of consular officers*

The receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any attack on their persons, freedom or dignity.

#### Article 41

##### *Personal inviolability of consular officers*

1. Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.
2. Except in the case specified in paragraph 1 of this Article, consular officers shall not be committed to prison or be liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.
3. If criminal proceedings are instituted against a consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position

and, except in the case specified in paragraph 1 of this Article, in a manner which will hamper the exercise of consular functions as little as possible. When, in the circumstances mentioned in paragraph 1 of this Article, it has become necessary to detain a consular officer, the proceedings against him shall be instituted with the minimum of delay.

#### Article 42

##### *Notification of arrest, detention or prosecution*

In the event of the arrest or detention, pending trial, of a member of the consular staff, or of criminal proceedings being instituted against him, the receiving State shall promptly notify the head of the consular post. Should the latter be himself the object of any such measure, the receiving State shall notify the sending State through the diplomatic channel.

#### Article 43

##### *Immunity from jurisdiction*

1. Consular officers and consular employees shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.
2. The provisions of paragraph 1 of this Article shall not, however, apply in respect of a civil action either:
  - (a) arising out of a contract concluded by a consular officer or a consular employee in which he did not contract expressly or impliedly as an agent of the sending State; or
  - (b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

#### Article 44

##### *Liability to give evidence*

1. Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member of the service staff shall not, except in the cases mentioned in paragraph 3 of this Article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or penalty may be applied to him.
2. The authority requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It may, when possible, take such evidence at his residence or at the consular post or accept a statement from him in writing.
3. Members of a consular post are under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official correspondence and documents relating thereto. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.



## Article 45

*Waiver of privileges and immunities*

1. The sending State may waive, with regard to a member of the consular post, any of the privileges and immunities provided for in Articles 41, 43 and 44.
2. The waiver shall in all cases be express, except as provided in paragraph 3 of this Article, and shall be communicated to the receiving State in writing.
3. The initiation of proceedings by a consular officer or a consular employee in a matter where he might enjoy immunity from jurisdiction under Article 43 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.
4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision; in respect of such measures, a separate waiver shall be necessary.

## Article 46

*Exemption from registration of aliens and residence permits*

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.
2. The provisions of paragraph 1 of this Article shall not, however, apply to any consular employee who is not a permanent employee of the sending State or who carries on any private gainful occupation in the receiving State or to any member of the family of any such employee.

## Article 47

*Exemption from work permits*

1. Members of the consular post shall, with respect to services rendered for the sending State, be exempt from any obligations in regard to work permits imposed by the laws and regulations of the receiving State concerning the employment of foreign labour.
2. Members of the private staff of consular officers and of consular employees shall, if they do not carry on any other gainful occupation in the receiving State, be exempt from the obligations referred to in paragraph 1 of this Article.

## Article 48

*Social security exemption*

1. Subject to the provisions of paragraph 3 of this Article, members of the consular post with respect to services rendered by them for the sending State, and members of their families forming part of their households, shall be exempt from social security provisions which may be in force in the receiving State.
2. The exemption provided for in paragraph 1 of this Article shall apply

also to members of the private staff who are in the sole employ of members of the consular post, on condition:

- (a) that they are not nationals of or permanently resident in the receiving State; and
  - (b) that they are covered by the social security provisions which are in force in the sending State or a third State.
3. Members of the consular post who employ persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.
  4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

## Article 49

*Exemption from taxation*

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:
  - (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;
  - (b) dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of Article 32;
  - (c) estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject to the provisions of paragraph (b) of Article 51;
  - (d) dues and taxes on private income, including capital gains, having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings in the receiving State;
  - (e) charges levied for specific services rendered;
  - (f) registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of Article 32.
2. Members of the service staff shall be exempt from dues and taxes on the wages which they receive for their services.
3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the laws and regulations of that State impose upon employers concerning the levying of income tax.

## Article 50

*Exemption from customs duties and inspection*

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:
  - (a) articles for the official use of the consular post;
  - (b) articles for the personal use of a consular officer or members of his



family forming part of his household, including articles intended for his establishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned.

2. Consular employees shall enjoy the privileges and exemptions specified in paragraph 1 of this Article in respect of articles imported at the time of first installation.

3. Personal baggage accompanying consular officers and members of their families forming part of their households shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in sub-paragraph (b) of paragraph 1 of this Article, or articles the import or export of which is prohibited by the laws and regulations of the receiving State or which are subject to its quarantine laws and regulations. Such inspection shall be carried out in the presence of the consular officer or member of his family concerned.

#### Article 51

##### *Estate of a member of the consular post or of a member of his family*

In the event of the death of a member of the consular post or of a member of his family forming part of his household, the receiving State:

- (a) shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the receiving State the export of which was prohibited at the time of his death;
- (b) shall not levy national, regional or municipal estate, succession or inheritance duties, and duties on transfers, on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a member of the family of a member of the consular post.

#### Article 52

##### *Exemption from personal services and contributions*

The receiving State shall exempt members of the consular post and members of their families forming part of their households from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

#### Article 53

##### *Beginning and end of consular privileges and immunities*

1. Every member of the consular post shall enjoy the privileges and immunities provided in the present Convention from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when he enters on his duties with the consular post.

2. Members of the family of a member of the consular post forming part of his household and members of his private staff shall receive the privileges and immunities provided in the present Convention from the date from

which he enjoys privileges and immunities in accordance with paragraph 1 of this Article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the latest.

3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of a member of his family forming part of his household or a member of his private staff shall normally cease at the moment when the person concerned leaves the receiving State or on the expiry of a reasonable period in which to do so, whichever is the sooner, but shall subsist until that time, even in case of armed conflict. In the case of the persons referred to in paragraph 2 of this Article, their privileges and immunities shall come to an end when they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a consular officer or a consular employee in the exercise of his functions, immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consular post, the members of his family forming part of this household shall continue to enjoy the privileges and immunities accorded to them until they leave the receiving State or until the expiry of a reasonable period enabling them to do so, whichever is the sooner.

#### Article 54

##### *Obligations of third States*

1. If a consular officer passes through or is in the territory of a third State, which has granted him a visa if a visa was necessary, while proceeding to take up or return to his post or when returning to the sending State, the third State shall accord to him all immunities provided for by the other Articles of the present Convention as may be required to ensure his transit or return. The same shall apply in the case of any member of his family forming part of his household enjoying such privileges and immunities who are accompanying the consular officer or travelling separately to join him or to return to the sending State.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the transit through their territory of other members of the consular post or of members of their families forming part of their households.

3. Third States shall accord to official correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State is bound to accord under the present Convention. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to consular bags in transit, the same inviolability and protection as the receiving State is bound to accord under the present Convention.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article



shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to *force majeure*.

#### Article 55

##### *Respect for the laws and regulations of the receiving State*

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of the State.
2. The consular premise shall not be used in any manner incompatible with the exercise of consular functions.
3. The provisions of paragraph 2 of this Article shall not exclude the possibility of offices of other institutions or agencies being installed in part of the building in which the consular premises are situated, provided that the premises assigned to them are separate from those used by the consular post. In that event, the said offices shall not, for the purposes of the present Convention, be considered to form part of the consular premises.

#### Article 56

##### *Insurance against third party risks*

Members of the consular post shall comply with any requirements imposed by the laws and regulations of the receiving State in respect of insurance against third party risks arising from the use of any vehicle, vessel or aircraft.

#### Article 57

##### *Special provisions concerning private gainful occupation*

1. Career consular officers shall not carry on for personal profit any professional or commercial activity in the receiving State.
2. Privileges and immunities provided in this Chapter shall not be accorded:
  - (a) to consular employees or to members of the service staff who carry on any private gainful occupation in the receiving State;
  - (b) to members of the family of a person referred to in sub-paragraph (a) of this paragraph or to members of his private staff;
  - (c) to members of the family of a member of a consular post who themselves carry on any private gainful occupation in the receiving State.

### CHAPTER III. REGIME RELATING TO HONORARY CONSULAR OFFICERS AND CONSULAR POSTS HEADED BY SUCH OFFICERS

#### Article 58

##### *General provisions relating to facilities, privileges and immunities*

1. Articles 28, 29, 30, 34, 35, 36, 37, 38 and 39, paragraphs 3 of Article 54 and paragraphs 2 and 3 of Article 55 shall apply to consular posts headed by honorary consular officers. In addition, the facilities, privileges and

immunities of such consular posts shall be governed by Articles 59, 60, 61, and 62.

2. Articles 42 and 43, paragraph 3 of Article 44, Articles 45 and 53 and paragraph 1 of Article 55 shall apply to honorary consular officers. In addition, the facilities, privileges and immunities of such consular officers shall be governed by Articles 63, 64, 65, 66 and 67.

3. Privileges and immunities provided in the present Convention shall not be accorded to members of the family of an honorary consular officer or of a consular employee employed at a consular post headed by an honorary consular officer.

4. The exchange of consular bags between two consular posts headed by honorary consular officers in different States shall not be allowed without the consent of the two receiving States concerned.

#### Article 59

##### *Protection of the consular premises*

The receiving State shall take such steps as may be necessary to protect the consular premises of a consular post headed by an honorary consular officer against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

#### Article 60

##### *Exemption from taxation of consular premises*

1. Consular premises of a consular post headed by an honorary consular officer of which the sending State is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.
2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the laws and regulations of the receiving State, they are payable by the person who contracted with the sending State.

#### Article 61

##### *Inviolability of consular archives and documents*

The consular archives and documents of a consular post headed by an honorary consular officer shall be inviolable at all times and wherever they may be, provided that they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of a consular post and of any person working with him, and from the materials, books or documents relating to their profession or trade.

#### Article 62

##### *Exemption from customs duties*

The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of, and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services on the following articles, provided that they are for the official



use of a consular post headed by an honorary consular officer: coats-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consular post.

#### Article 63

##### *Criminal proceedings*

If criminal proceedings are instituted against an honorary consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position and except when he is under arrest or detention, in a manner which will hamper the exercise of consular functions as little as possible. When it has become necessary to detain an honorary consular officer, the proceedings against him shall be instituted with the minimum of delay.

#### Article 64

##### *Protection of honorary consular officers*

The receiving State is under a duty to accord to an honorary consular officer such protection as may be required by reason of his official position.

#### Article 65

##### *Exemption from registration of aliens and residence permits*

Honorary consular officers, with the exception of those who carry on for personal profit any professional or commercial activity in the receiving State, shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

#### Article 66

##### *Exemption from taxation*

An honorary consular officer shall be exempt from all dues and taxes on the remuneration and emoluments which he receives from the sending State in respect of the exercise of consular functions.

#### Article 67

##### *Exemption from personal services and contributions*

The receiving State shall exempt honorary consular officers from all personal services and from all public services of any kind whatsoever and from military obligations such as those connected with requisitioning, military contributions and billeting.

#### Article 68

##### *Optional character of the institution of honorary consular officers*

Each State is free to decide whether it will appoint or receive honorary consular officers.

### CHAPTER IV. GENERAL PROVISIONS

#### Article 69

##### *Consular agents who are not heads of consular posts*

1. Each State is free to decide whether it will establish or admit consular agencies conducted by consular agents not designated as heads of consular posts by the sending State.
2. The conditions under which the consular agencies referred to in paragraph 1 of this Article may carry on their activities and the privileges and immunities which may be enjoyed by the consular agents in charge of them shall be determined by agreement between the sending State and the receiving State.

#### Article 70

##### *Exercise of consular functions by diplomatic missions*

1. The provisions of the present Convention apply also, so far as the context permits, to the exercise of consular functions by a diplomatic mission.
2. The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission shall be notified to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.
3. In the exercise of consular functions a diplomatic mission may address:
  - (a) the local authorities of the consular district;
  - (b) the central authorities of the receiving State if this is allowed by the laws, regulations and usages of the receiving State or by relevant international agreements.
4. The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 of this Article shall continue to be governed by the rules of international law concerning diplomatic relations.

#### Article 71

##### *Nationals or permanent residents of the receiving State*

1. Except in so far as additional facilities, privileges and immunities may be granted by the receiving State, consular officers who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privileges provided in paragraph 3 of Article 44. So far as these consular officers are concerned, the receiving State shall likewise be bound by the obligation laid down in Article 42. If criminal proceedings are instituted against such a consular officer, the proceedings shall, except when he is under arrest or detention, be conducted in a manner which will hamper the exercise of consular functions as little as possible.
2. Other members of the consular post who are nationals of or permanently resident in the receiving State and members of their families, as well as members of the families of consular officers referred to in paragraph 1 of this Article, shall enjoy facilities, privileges and immunities only in so far as



these are granted to them by the receiving State. Those members of the families of members of the consular post and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over those persons in such a way as not to hinder unduly the performance of the functions of the consular post.

#### *Article 72*

##### *Non-discrimination*

1. In the application of the provisions of the present Convention the receiving State shall not discriminate as between States.
2. However, discrimination shall not be regarded as taking place:
  - (a) where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its consular posts in the sending State;
  - (b) where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present Convention.

#### *Article 73*

##### *Relationship between the present Convention and other international agreements*

1. The provisions of the present Convention shall not affect other international agreements in force as between States parties to them.
2. Nothing in the present Convention shall preclude States from concluding international agreements confirming or supplementing or extending or amplifying the provisions thereof.

#### CHAPTER V. FINAL PROVISIONS

#### *Article 74*

##### *Signature*

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows: until 31 October 1963 at the Federal Ministry for Foreign Affairs of the Republic of Austria and subsequently, until 31 March 1964, at the United Nations Headquarters in New York.

#### *Article 75*

##### *Ratification*

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### *Article 76*

##### *Accession*

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in Article 74. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### *Article 77*

##### *Entry into force*

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

#### *Article 78*

##### *Notifications by the Secretary-General*

- The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in Article 74:
- (a) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with Articles 74, 75 and 76;
  - (b) of the date on which the present Convention will enter into force, in accordance with Article 77.

#### *Article 79*

##### *Authentic texts*

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in Article 74.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE AT VIENNA, this twenty-fourth day of April, one thousand nine hundred and sixty-three.



# STATES RATIFYING, ACCEDING TO, AND SUCCEEDING TO THE VIENNA CONVENTION ON CONSULAR RELATIONS

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Appendix B

			Signature		Ratification, accession (a), succession (d)					Signature		Ratification, accession (a), succession (d)	
Algeria					14 Apr 1964	a	Dominican Republic			24 Apr 1963		4 Mar 1964	
Argentina			24 Apr	1963	7 Mar	1967	Ecuador			25 Mar	1964	11 Mar	1965
Australia			31 Mar	1964	12 Feb	1973	Egypt					21 Jun	1965 a
Austria			24 Apr	1963	12 Jun	1969	El Salvador					19 Jan	1973 a
Bahamas					17 Mar	1977 d	Equatorial Guinea					30 Aug	1976 a
Bangladesh					13 Jan	1978 d	Fiji					28 Apr	1972 a
Belgium			31 Mar	1964	9 Sep	1970	Finland			28 Oct	1963	2 Jul	1980
Benin			24 Apr	1963	27 Apr	1979	France			24 Apr	1963	31 Dec	1970
Bhutan					28 Jul	1981 a	Gabon			24 Apr	1963	23 Feb	1965
Bolivia			6 Aug	1963	22 Sep	1970	Germany, Fed. Rep. of*			31 Oct	1963	7 Sep	1971
Brazil			24 Apr	1963	11 May	1967	Ghana			24 Apr	1963	4 Oct	1963
Burkina Faso			24 Apr	1963	11 Aug	1964	Greece					14 Oct	1975 a
Cameroon			21 Aug	1963	22 May	1967	Guatemala					9 Feb	1973 a
Canada					18 Jul	1974 a	Guyana					13 Sep	1973 a
Cape Verde					30 Jul	1979 a	Haiti					2 Feb	1978 a
Central African Rep.			24 Apr	1963			Holy See			24 Apr	1963	8 Oct	1970
Chile			24 Apr	1963	9 Jan	1968	Honduras					13 Feb	1968 a
China*					2 Jul	1979 a	Iceland					1 Jun	1978 a
Colombia			24 Apr	1963	6 Sep	1972	India					28 Nov	1977 a
Congo			24 Apr	1963			Indonesia					4 Jun	1982 a
Costa Rica			6 Jun	1963	29 Dec	1966	Iran			24 Apr	1963	5 Jun	1975
Cuba			24 Apr	1963	15 Oct	1965	Iraq					14 Jan	1970 a
Cyprus					14 Apr	1976 a	Ireland			24 Apr	1963	10 May	1967
Czechoslovakia			31 Mar	1964	13 Mar	1968	Israel			25 Feb	1964		
Denmark			24 Apr	1963	15 Nov	1972	Italy			22 Nov	1963	25 Jun	1969
Djibouti					2 Nov	1978 a	Ivory Coast			24 Apr	1963		

Jamaica					9 Feb	1976 a	Peru			24 Apr	1963	17 Feb	1978
Japan					3 Oct	1983 a	Philippines			24 Apr	1963	15 Nov	1965
Jordan					7 Mar	1973 a	Poland			20 Mar	1964	13 Oct	1981
Kenya					1 Jul	1965 a	Portugal					13 Sep	1972 a
Kiribati					2 Apr	1982 d	Romania					24 Feb	1972 a
Korea, Dem. People's Rep.					8 Aug	1984 a	Rwanda					31 May	1974 a
Korea, Rep. of					2 Mar	1977 a	Sao Tome & Principe					3 May	1983 a
Kuwait			10 Jan	1964	31 Jul	1975	Senegal					29 Apr	1966 a
Laos					9 Aug	1973 a	Seychelles					29 May	1979 a
Lebanon			24 Apr	1963	20 Mar	1975	Somalia					29 Mar	1968 a
Lesotho					26 Jul	1972 a	Spain					3 Feb	1970 a
Liberia			24 Apr	1963	28 Aug	1984	Suriname					11 Sep	1980 a
Liechtenstein			24 Apr	1963	18 May	1966	Sweden			8 Oct	1963	19 Mar	1974
Luxembourg			24 Mar	1964	8 Mar	1972	Switzerland			23 Oct	1963	3 May	1965
Madagascar					17 Feb	1967 a	Syria					13 Oct	1978 a
Malawi					29 Apr	1980 a	Tanzania					18 Apr	1977 a
Mali					28 Mar	1968 a	Togo					26 Sep	1983 a
Mauritius					13 May	1970 a	Tonga					7 Jan	1972 a
Mexico			7 Oct	1963	16 Jun	1965	Trinidad & Tobago			19 Oct	1965 a		
Morocco					23 Feb	1977 a	Tunisia					8 Jul	1964 a
Mozambique					18 Apr	1983 a	Turkey					19 Feb	1976 a
Nepal					28 Sep	1965 a	Tuvalu					15 Sep	1982 d
Netherlands					17 Dec	1985 a	United Arab Emirates					24 Feb	1977 a
New Zealand					10 Sep	1974 a	UK			27 Mar	1964	9 May	1972
Nicaragua					31 Oct	1975 a	USA			24 Apr	1963	24 Nov	1969
Niger			24 Apr	1963	26 Apr	1966	Uruguay			24 Apr	1963	10 Mar	1970
Nigeria					22 Jan	1968 a	Venezuela*			24 Apr	1963	27 Oct	1965
Norway			24 Apr	1963	13 Feb	1980	[Republic of South Viet-Nam]*					10 May	1973 a
Oman					31 May	1974 a	Yugoslavia			24 Apr	1963	8 Feb	1965
Pakistan					14 Apr	1969 a	Zaire			24 Apr	1963	15 Jul	1976
Panama			4 Dec	1963	28 Aug	1967							
Papua New Guinea					4 Dec	1975 d							
Paraguay					23 Dec	1969 a							

\*Declaration or reservation. These can be found, together with objections thereto, in *Multilateral Treaties*, 1986, op. cit., pp. 71-75.

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