

No. 23360

**CHINA
and
POLAND**

Consular Convention. Signed at Beijing on 14 July 1984

Authentic texts: Chinese and Polish.

Registered by China on 17 May 1985.

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Enregistrée par la Chine le 17 mai 1985.

[TRANSLATION — TRADUCTION]

CONSULAR CONVENTION¹ BETWEEN THE GOVERNMENT OF
THE PEOPLE'S REPUBLIC OF CHINA AND THE POLISH
PEOPLE'S REPUBLIC

The Government of the People's Republic of China and the Government of the Polish People's Republic,

Desiring to regulate and strengthen consular relations with a view to developing friendly and co-operative relations between the two States, on the basis of the principles of mutual respect for sovereignty, non-intervention in the internal affairs of the other State, equality and mutual benefit,

Have decided to conclude this Consular Convention and have for that purpose appointed as their plenipotentiaries:

The Government of the People's Republic of China:

Qian Qichen, Deputy Minister for Foreign Affairs,

The Government of the Polish People's Republic:

Ernest Kucza, Under-Secretary of State in the Ministry of Foreign Affairs; who, having exchanged their full powers, found in good and due form, have agreed on the following provisions:

Article 1. DEFINITIONS

For the purposes of this Convention, the following expressions have the meanings hereunder assigned to them:

(1) "Consular post" means any consulate-general, consulate, vice-consulate or consular agency;

(2) "Consular district" means the area assigned to the consular post for the exercise of consular functions;

(3) "Head of the consular post" means the person entrusted by the sending State with acting in that capacity;

(4) "Consular officer" means any person, including the head of the consular post, entrusted in that capacity with the exercise of consular functions;

(5) "Consular employee" means any person performing administrative, technical or service functions at the consular post;

(6) "Members of the consular post" means consular officers and consular employees;

(7) "Member of the private staff" means a person employed exclusively in the private service of a member of the consular post;

(8) "Family member" means the spouse of a member of the consular post and those children of the member of the consular post who reside with him;

¹ Came into force on 21 February 1985, i.e., the thirtieth day after the exchange of the instruments of ratification, which took place at Warsaw on 22 January 1985, in accordance with article 50 (1).

(9) "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;

(10) "Consular archives" means all the papers, documents, correspondence, books, films, photographs, recording tapes, registers and seals of the consular post, together with ciphers and codes, card-indexes and any article of furniture intended for their protection or safekeeping;

(11) "Vessel of the sending State" means any floating craft used for navigation on water and flying the flag of the sending State, with the exception of warships;

(12) "Aircraft of the sending State" means any flying craft registered in the sending State and entitled to bear the nationality markings of that State, with the exception of military aircraft;

(13) "National of the sending State" means an individual possessing the nationality of the sending State and, where appropriate, a body corporate of that State.

CHAPTER ONE. ESTABLISHMENT OF CONSULAR POSTS AND APPOINTMENT OF THE MEMBERS OF CONSULAR POSTS

Article 2. ESTABLISHMENT OF CONSULAR POSTS

1. A consular post of the sending State may be established in the territory of the receiving State only with the latter State's consent.

2. The seat of the consular post, its classification and the consular district, as well as all subsequent changes, shall be established by agreement between the sending State and the receiving State.

Article 3. APPOINTMENT AND ADMISSION OF THE HEADS OF CONSULAR POSTS

1. The heads of consular posts shall be appointed by the sending State. The sending State shall, through the diplomatic channel, transmit to the Ministry of Foreign Affairs of the receiving State the consular commission relating to the appointment of the head of the consular post. The consular commission shall include the full name and rank of the head of the consular post, the seat and classification of the consular post and the designation of the consular district.

2. Upon receipt of the consular commission relating to the appointment of the head of the consular post, the receiving State must without delay issue an exequatur. If the receiving State refuses to grant the exequatur, it shall not be required to give the sending State an explanation of the reasons for the refusal.

3. The head of the consular post shall be admitted to the exercise of his functions after the issuance of the exequatur.

4. Pending delivery of the exequatur, the head of the consular post may be admitted to the exercise of his functions on a provisional basis with the consent of the receiving State. In such case, the provisions of this Convention shall apply.

Article 4. TEMPORARY EXERCISE OF THE FUNCTIONS OF HEAD OF THE CONSULAR POST

1. If the head of the consular post is unable for any reason to exercise his functions or if his position is temporarily vacant, the sending State may appoint a

consular officer of one of its consular posts in the receiving State or a member of the diplomatic staff of its diplomatic mission in that State to exercise the functions of temporary head of the consular post in the receiving State. The sending State shall notify to the Ministry of Foreign Affairs of the receiving State in advance the full name and most recent rank of the person temporarily exercising the functions of head of the consular post.

2. The temporary head of the consular post shall be entitled to the same facilities, privileges and immunities which are enjoyed by the head of the consular post under this Convention.

3. A member of the diplomatic staff who is appointed to exercise the functions of head of the consular post in accordance with paragraph 1 shall continue to enjoy the diplomatic privileges and immunities to which he is entitled.

Article 5. NOTIFICATION OF THE AUTHORITIES OF THE CONSULAR DISTRICT

After the exequatur has been delivered by the receiving State, or as soon as the head of the consular post is admitted, even temporarily, to the exercise of his functions, the receiving State must so notify the competent authorities of the consular district. It must also ensure that the necessary measures are taken to enable the head of the consular post to perform his official functions and enjoy the facilities, privileges and immunities provided for in this Convention.

Article 6. NOTIFICATION OF ARRIVALS AND DEPARTURES

The sending State shall notify the Ministry of Foreign Affairs of the receiving State, or the competent authority of the consular district, in good time of the following:

- (1) The appointment of members of the consular post, their full name, nationality, rank, date of arrival, date of final departure or of the termination of the exercise of their functions, and other changes affecting their status during their service at the consular post;
- (2) The arrival and final departure of a family member, his full name and nationality and the fact that a person becomes or ceases to be a family member;
- (3) The arrival and final departure of members of the private staff, their full name and nationality, the functions performed by them and the termination of their service;
- (4) The engagement and discharge of consular employees who are nationals or permanent residents of the receiving State.

Article 7. NATIONALITY OF MEMBERS OF THE CONSULAR POST AND MEMBERS OF THE PRIVATE STAFF

1. Consular officers must be nationals of the sending State and must not be permanent residents of the receiving State.

2. Consular employees and members of the private staff must be nationals of the sending State or of the receiving State.

Article 8. IDENTITY DOCUMENTS

1. The competent authorities of the receiving State shall issue identity documents free of charge to each member of the consular post and to each family member.

2. The provisions of paragraph 1 shall not apply to nationals or permanent residents of the receiving State.

**Article 9. TERMINATION OF THE EXERCISE OF THE FUNCTIONS
OF MEMBERS OF THE CONSULAR POST**

1. The receiving State may at any time, without being required to explain the reasons for its decision, notify the sending State through the diplomatic channel that the exequatur issued to the head of the consular post has been revoked or that a consular officer is considered *persona non grata* or that a consular employee is unacceptable. In such case, the sending State shall recall the person concerned or terminate his functions at the consular post.

2. The exercise of the functions of a member of the consular post shall be subject to termination, *inter alia*, through:

- (1) Revocation of the exequatur by the receiving State;
- (2) Notification of the sending State by the receiving State that a particular consular officer has been declared *persona non grata* or that a particular consular employee has been declared unacceptable;
- (3) Notification of the receiving State by the sending State that the functions of a particular person have been terminated.

CHAPTER TWO. CONSULAR FUNCTIONS

Article 10. FUNCTIONS OF CONSULAR OFFICERS

The functions of consular officers shall be:

- (1) To protect the rights and interests of the sending State and its nationals in the receiving State and to provide assistance to nationals of the sending State;
- (2) To foster the development of friendly relations between the sending State and the receiving State in the field of economics, trade, culture, science and tourism;
- (3) To obtain by every legal means information concerning the receiving State in the sphere of politics, economics, trade, culture, science and tourism and report thereon to the Government of the sending State;
- (4) To exercise other functions entrusted to them by the sending State which do not violate the laws and regulations of the receiving State or to which the latter State does not object.

Article 11. COMMUNICATION WITH NATIONALS OF THE SENDING STATE

1. The consular officer shall have the right to communicate and meet with any national of the sending State within his consular district, provide him with assistance and secure legal counsel for him.

2. The receiving State shall not in any way restrict the ability of a national of the sending State to communicate with the consular post or his access to that post.

Article 12. REPRESENTATION OF NATIONALS OF THE SENDING STATE

Where a national of the sending State is unable to undertake the defence of his rights and interests at the proper time because he is not present in the receiving State or for any other reason, the consular officer shall have the right, subject to

the laws and regulations of the receiving State, to represent the said national before the courts or other authorities of the receiving State or to provide appropriate representation for him until such time as the said national appoints his own agent or himself undertakes the defence of his rights and interests.

*Article 13. KEEPING OF A REGISTER OF NATIONALS
AND ISSUANCE OF DOCUMENTS*

1. The consular officer shall be entitled:

- (1) To keep a register of nationals of the sending State;
- (2) To keep a register of births and deaths of nationals of the sending State and to issue the appropriate documents. This provision shall not, however, exempt nationals of the sending State from the obligation to comply with the relevant laws and regulations of the receiving State;
- (3) To take any actions relating to the contracting of marriage between nationals of the sending State and to issue documents attesting to the contracting of marriage in accordance with the law of the sending State;
- (4) To issue passports and other travel documents to nationals of the sending State and to extend, alter or revoke them;
- (5) To issue or extend visas.

2. The competent authorities of the receiving State shall, at the request of the consular officer, transmit for official purposes, without delay and free of charge, relevant documents relating to nationals of the sending State.

Article 14. NOTARIAL FUNCTIONS AND LEGALIZATION

1. The consular officer shall be entitled:

- (1) To authenticate all documents of nationals of the sending State, to certify the accuracy of all copies, extracts, photocopies or translations of such documents and to authenticate the signatures of nationals of the sending State on documents of all kinds;
- (2) To authenticate signatures and seals on documents issued by the authorities of the sending State or the receiving State;
- (3) To translate documents of all kinds into the official language of the sending or of the receiving State and to certify the accuracy of the translations;
- (4) To accept and authenticate declarations made by nationals of the sending State;
- (5) To accept, draw up and authenticate wills and other documents relating to unilateral legal acts of nationals of the sending State carried out in accordance with the law of that State;
- (6) To issue and authenticate certificates of origin of goods;
- (7) To exercise other notarial and legalization functions entrusted to him by the sending State.

2. Documents drawn up, certified or legalized by consular officers of the sending State shall have the same value and effect in the receiving State as documents drawn up, certified or legalized by the latter State's own authorities, provided that their substance is not contrary to its laws and regulations.

Article 15. ACCEPTANCE OF DOCUMENTS AND ARTICLES FOR SAFEKEEPING

1. The consular officer shall be entitled, subject to the laws and regulations of the receiving State, to accept for safekeeping documents, money or articles of value from a national of the sending State.

2. The consular officer shall also be entitled to accept for safekeeping articles lost in the receiving State by a national of the sending State, for the purpose of returning them to their owner.

3. Where a national of the sending State who is not a permanent resident of the receiving State dies in the latter State, the competent authorities of the receiving State shall take charge of the deceased's property left in that State and transmit it, without any legal formalities, to the consular officer. The consular officer shall pay all debts left unpaid by the deceased in the receiving State, up to the total value of the said property.

Article 16. ESTABLISHMENT OF GUARDIANSHIP OR CURATORSHIP

1. The competent authorities of the receiving State shall notify the consular officer of the need to establish guardianship or curatorship in respect of a national of the sending State who is a permanent resident of the receiving State.

2. In the cases referred to in paragraph 1, the consular officer shall co-operate with the competent authorities of the receiving State and shall, where necessary, recommend a person to serve as guardian or curator.

Article 17. ARREST NOTIFICATIONS AND VISITS

1. Where a national of the sending State is detained, arrested or deprived of freedom in any other manner, the competent authorities of the receiving State shall so notify the consular officer not later than seven days from the date on which the measures referred to were taken.

2. The consular officer shall be entitled to visit a national of the sending State who has been detained, arrested or deprived of his freedom in any other manner, with a view to conversing with him and providing him with assistance, including legal counsel, and also entitled to correspond with him. The visit shall take place as soon as possible, but the competent authorities of the receiving State may not refuse the visit after the expiry of three days from the date of notification. Subsequent visits may take place at reasonable intervals of time.

3. The consular officer shall be entitled to visit a national of the sending State who is serving a term of deprivation of freedom in the receiving State.

4. The competent authorities of the receiving State shall inform the persons affected by the provisions of this article of all their rights under these provisions.

5. The rights specified in this article shall be exercised in accordance with the laws and regulations of the receiving State, subject to the condition that such laws and regulations shall not annul the said rights.

Article 18. NOTIFICATION OF ACCIDENTS AND DEATHS

1. The competent authorities of the receiving State shall without delay notify the consular officer concerning accidents which cause death or serious bodily injury to nationals of the sending State.

2. Upon receiving information concerning the death of a national of the sending State in the receiving State, the competent authorities of the receiving State shall without delay notify the consular officer of the death of the national of the sending State and shall, at the consular officer's request, transmit to him free of charge the death certificate or a copy or transcript of any other document attesting to the death.

Article 19. FUNCTIONS IN MATTERS OF SUCCESSION

1. Where a national of the sending State mentioned as an heir or legatee in connection with a succession is entitled to inherit all or part of an estate or to receive a legacy left by a person of any nationality who has died in the receiving State, the competent authorities of the receiving State shall without delay inform the consular officer of the opening of the succession.

2. In the event of the death in the receiving State of a national of the sending State who has left an estate in the receiving State, the competent authorities of the receiving State shall without delay inform the consular officer of the composition and whereabouts of the estate and also of the whereabouts of the persons entitled to the estate. If the deceased left a will, the competent authorities of the receiving State shall transmit a copy thereof to the consular officer at his request.

3. The consular officer may, without requiring a power of attorney, represent before the courts and other authorities of the receiving State, directly or through his agent, a national of the sending State who is entitled or has a claim to an estate in the receiving State, if the said national is absent or unable to participate in the succession proceedings. The representation shall cease when the national or his agent himself undertakes the defence of his rights and interests. While representing a national of the sending State, the consular officer must comply with the laws and regulations in force in the receiving State.

4. The competent authorities of the receiving State shall, in accordance with their laws and regulations, take all appropriate steps to safeguard the estate referred to in paragraph 2 and shall without delay inform the consular officer of the steps taken. The consular officer shall have the right to be present during the inventorying, sealing, unsealing and sale of the estate property and also during the taking of any steps for the safeguarding of the estate.

5. As soon as the succession proceedings or other official procedures have been concluded, the competent authorities of the receiving State shall so notify the consular officer without delay, and after the settlement of any debts, taxes and charges, they shall without delay deliver to him the estate or the shares of the estate belonging to the persons whom he represents.

6. The consular officer shall have the right to receive money or other property due by reason of succession, compensation, pensions or insurance policies or any other money due, for delivery to entitled persons who are not permanent residents of the receiving State.

7. The delivery of property and money from the receiving State in pursuance of paragraphs 5 and 6 may be carried out by the consular officer only in accordance with the laws and regulations of that State.

Article 20. DELIVERY OF DOCUMENTS

The consular officer shall have the right, at the request of the competent authorities of the sending State, to receive voluntary declarations from nationals

of the sending State in accordance with the laws and regulations of the receiving State or to deliver judicial and non-judicial documents to such nationals.

Article 21. PROVISION OF AID TO VESSELS OF THE SENDING STATE

1. The consular officer shall be entitled to provide aid of every kind to vessels of the sending State which are in the territorial sea, inland waters, ports or other anchoring places of the receiving State.

2. While carrying out the functions referred to in paragraph 1, the consular officer shall be entitled:

- (1) To go on board the vessel and take statements concerning the vessel, its cargo and its voyage;
- (2) To receive visits from the master or any member of the crew and, where necessary, to arrange for their hospitalization or repatriation;
- (3) To receive, inspect, authenticate, draw up or extend certificates or other documents relating to the vessel;
- (4) To settle disputes between the master and members of the crew or between members of the crew, including disputes relating to contracts of service or conditions of work, in accordance with the law of the sending State;
- (5) In accordance with the laws and regulations of the sending State, to supervise and inspect the vessel, to conduct investigations concerning events that have taken place during the voyage, and to take steps designed to ensure discipline and order on board the vessel;
- (6) To provide the master or members of the crew with protection and assistance in their relations with the courts and other authorities of the receiving State and, to that end, to provide them with legal counsel and with the services of an interpreter or of any other person;
- (7) To perform any other activities provided for by the law of the sending State in maritime matters, provided that they are not contrary to the laws and regulations of the receiving State.

3. While carrying out the functions referred to in this article, the consular officer shall be required to comply with the laws and regulations of the receiving State.

4. The competent authorities of the receiving State shall recognize all steps taken by the consular officer, in accordance with the laws and regulations of the sending State, with respect to the latter State's vessels and their crews. In carrying out such functions, the consular officer may apply to the competent authorities of the receiving State for assistance.

Article 22. DAMAGED VESSELS OF THE SENDING STATE

1. Where a vessel of the sending State is sunk or stranded or suffers other substantial damage in the inland waters or territorial sea of the receiving State, the competent authorities of the receiving State shall so notify the consular officer without delay.

2. In the cases referred to in paragraph 1, the consular officer shall be entitled to provide assistance to the vessel and its crew and also to request assistance from the receiving State.

3. In the cases referred to in paragraph 1, the competent authorities of the receiving State shall take all necessary steps to arrange for the rescue of the passengers and crew members. Irrespective of the foregoing, at the request of the master of the vessel or of the consular officer, the said authorities shall provide the necessary assistance for the rescue and protection of the vessel, its equipment or its cargo and also of articles belonging to the vessel or its cargo which have become separated from the vessel.

4. Where the equipment, cargo, supplies or other articles which have become separated from a wrecked vessel of the sending State are found on or near the coast or brought to a port of the receiving State, in the event of the absence of the master, his agent or an agent of the insurance carrier, or in the event of their inability to take appropriate action, the competent authorities of the receiving State shall without delay notify the consular officer, who shall be empowered to take such action as the owner might have taken if he had been present.

5. The consular officer shall be entitled to be present at any proceeding undertaken for the purpose of enabling the competent authorities of the receiving State to establish the causes of the damaging, grounding or sinking of the vessel.

6. The damaged vessel, its equipment, its cargo or other articles belonging to it shall not be subject to customs duty or other similar duty in the territory of the receiving State, provided that they are not sold or used in that State.

*Article 23. ASSISTANCE PROVIDED TO VESSELS OF THE SENDING STATE
BY THE AUTHORITIES OF THE RECEIVING STATE*

1. The competent authorities of the receiving State shall provide the necessary assistance to vessels of the sending State.

2. Where a crew member who is not a national of the receiving State leaves a vessel of the sending State in the territory of the receiving State without the consent of the master, the competent authorities of the latter State shall provide assistance in finding such a person at the request of the master or the consular officer.

*Article 24. EXERCISE OF JURISDICTION ON BOARD A VESSEL
OF THE SENDING STATE*

1. The competent authorities of the receiving State may exercise their jurisdiction in respect of offences committed on board a vessel of the sending State which is in the territorial sea, inland waters or a port of the receiving State, where:

- (1) The offence was committed by or against a national of the receiving State;
- (2) The offence is one which disturbs the peace and security of a port or peace and security in the territorial sea or inland waters of the receiving State;
- (3) The offence violates the laws or regulations of the receiving State which relate to protection of health, safety of life at sea, customs or immigration matters, marine pollution or the illegal transport or sale of narcotics.

2. Irrespective of the provisions of paragraph 1, the competent authorities of the receiving State shall, in accordance with their laws and regulations, also have the right to exercise their jurisdiction in respect of offences which disturb public order or the security of the receiving State or are damaging to its interests.

They may not, however, without the consent of the consular officer or the master of the vessel, interfere in the vessel's internal affairs.

3. The competent authorities of the receiving State may, at the request of the master of the vessel or the consular officer, exercise their jurisdiction on board a vessel of the sending State.

4. Where the competent authorities of the receiving State intend to take coercive measures on board a vessel of the sending State against the master, a crew member or a passenger of the vessel or to seize any property on board the vessel, they must so notify the consular officer in advance. If, owing to the urgency of the case, it is impossible to notify the consular officer in advance, the competent authorities of the receiving State must without delay provide information concerning the facts of the case and the steps taken.

5. The provisions of paragraph 4 shall not apply to actions taken by the competent authorities of the receiving State in connection with ordinary passports, customs or health inspections, nor to actions taken for the purpose of saving human lives at sea or preventing water pollution, and likewise shall not apply to investigations undertaken at the request or with the consent of the master of the vessel.

Article 25. VISITS ON BOARD FOREIGN VESSELS

Subject to the prior consent of the master of the vessel, the consular officer shall have the right to visit a vessel flying the flag of any State other than the sending State and travelling towards a port or other anchoring place in the sending State. The consular officer must comply with the regulations in force in the port of the receiving State.

Article 26. AIRCRAFT OF THE SENDING STATE

The provisions of articles 21 to 25 of this Convention shall also apply to aircraft of the sending State and to aircraft chartered by enterprises of the sending State, unless otherwise provided in multilateral aviation agreements to which the sending State and the receiving State are parties or in bilateral agreements.

Article 27. EXERCISE OF CONSULAR FUNCTIONS WITHIN AND OUTSIDE THE CONSULAR DISTRICT

The consular officer shall exercise consular functions within his consular district. He may also, with the consent of the receiving State, exercise consular functions outside that district.

Article 28. COMMUNICATION WITH THE AUTHORITIES OF THE RECEIVING STATE

In exercising his functions, the consular officer may apply to:

- (1) The competent local authorities of his consular district;
- (2) The competent central authorities of the receiving State, if the laws and regulations or customs of that State or international treaties so permit.

Article 29. COMPLIANCE WITH THE LAWS AND REGULATIONS OF THE RECEIVING STATE

1. Members of the consular post and family members shall be required, without prejudice to their privileges and immunities, to comply with the laws and regulations of the receiving State.

2. Members of the consular post shall not, in addition to their official functions, engage in any professional or commercial activity for personal gain in the receiving State.

3. The consular premises must not be used in any manner inconsistent with the exercise of consular functions.

4. Means of transport owned by the sending State which are used by the consular post and means of transport owned by members of the consular post and family members shall be subject to the receiving State's regulations relating to compulsory insurance.

Article 30. EXERCISE OF CONSULAR FUNCTIONS BY THE DIPLOMATIC MISSION

1. The diplomatic mission of the sending State may exercise consular functions. In such case, the provisions of this Convention shall apply.

2. The diplomatic mission of the sending State shall notify to the Ministry of Foreign Affairs of the receiving State the full names and ranks of the members of the diplomatic mission who are assigned to the exercise of consular functions.

3. Members of the diplomatic mission who are assigned to the exercise of consular functions shall enjoy the privileges and immunities to which they are entitled by reason of their diplomatic status.

CHAPTER THREE. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CONSULAR POSTS

Article 31. FACILITIES IN THE ACTIVITIES OF THE CONSULAR POST

The receiving State shall afford the consular post all facilities in the exercise of its functions and shall take appropriate steps to enable members of the consular post to exercise their functions without hindrance.

Article 32. ACQUISITION OF CONSULAR PREMISES AND LIVING QUARTERS

1. The sending State or its representatives shall have the right to acquire ownership of, to lease or to acquire in any other manner land, buildings and living quarters for the use of the consular post, with the exception of the living quarters of members of the consular post who are nationals or permanent residents of the receiving State, and to undertake building construction or remodelling projects necessary for such use.

2. In exercising the rights referred to in paragraph 1, the sending State shall comply with the laws and regulations of the receiving State in the sphere of law relating to the acquisition and use of land, building law, town planning and space planning.

3. The receiving State shall, in accordance with its laws and regulations, facilitate for the consular post of the sending State the acquisition of appropriate premises intended for the use of the consular post. Where necessary, the receiving State shall provide the sending State with assistance in the acquisition of living quarters for the members of the consular post.

Article 33. USE OF THE STATE FLAG AND COAT OF ARMS

1. The sending State shall have the right to place its coat of arms on the building occupied by the consular post and on its entrances, as well as on the resi-

dence of the head of the consular post, and to place on the building of the consular post an appropriate inscription designating the consular post in the languages of the sending State and the receiving State.

2. The sending State shall have the right to fly its flag at the building of the consular post and at the residence of the head of the consular post, as well as on his means of transport when used for official purposes.

Article 34. INVIOABILITY OF THE CONSULAR POST AND THE LIVING QUARTERS OF CONSULAR OFFICERS

1. The consular premises and the living quarters of consular officers shall be inviolable. The authorities of the receiving State may not enter them without the consent of the head of the consular post or of the head of the sending State's diplomatic mission in the receiving State or without the consent of a person authorized by either of them.

2. The receiving State shall take all appropriate measures to protect the consular premises against intrusion or damage and to prevent any disturbance of the peace of the consular post or any offence against its dignity.

Article 35. INVIOABILITY OF ARCHIVES

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

Article 36. FREEDOM OF COMMUNICATION

1. The receiving State shall permit and protect the consular post's freedom of communication 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 of communication, including diplomatic or consular couriers, diplomatic or consular bags and correspondence in code or cipher. 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.

3. The consular bag must be sealed and bear visible external marks of its character and may contain only official correspondence and documents or articles intended exclusively for the official use of the consular post.

4. The consular bag shall not be opened or detained.

5. The consular courier must be provided with an official document indicating his status and the number of packages constituting the consular bag. The consular courier must be a national of the sending State who is not a permanent resident of the receiving State. In the performance of his official functions, the consular courier shall be under the protection of the receiving State, shall enjoy personal inviolability and shall not be subject to detention, arrest or restriction of his personal freedom in any other manner.

6. The consular bag may be entrusted to the master of a vessel or the captain of an aircraft of the sending State. The master or captain shall be provided with an official document indicating the number of packages constituting the consular bag. He shall not, however, be considered to be a consular courier. By agreement with the competent authorities of the receiving State, the consular

officer may directly take possession of the consular bag or deliver it to the master or captain.

Article 37. IMMUNITY FROM REQUISITION

The consular premises, their equipment, the property of the consular post, and its means of transport shall not be subject to any form of requisition for purposes of national defence or public utility. If expropriation is required for such purposes, all appropriate steps must be taken to avoid impeding the exercise of consular functions, and full and effective compensation must be made without delay to the sending State.

Article 38. EXEMPTION OF THE CONSULAR PREMISES, LIVING QUARTERS AND MEANS OF TRANSPORT FROM TAXES AND CHARGES

1. The consular premises and the living quarters of consular officers which are owned or leased by the sending State, as well as all means of transport of the consular post, shall be exempt in the receiving State from all State, local or communal taxes or charges, with the exception of payments levied for specific services rendered.

2. The exemptions referred to in paragraph 1 shall not apply to taxes and charges that must be paid under the laws and regulations of the receiving State by a person contracting with the sending State or by a person acting on his behalf.

Article 39. CONSULAR SERVICE CHARGES AND PROCEDURAL FEES

1. The consular post may levy service charges and procedural fees in the territory of the receiving State, in accordance with the laws and regulations of the sending State, for consular activities performed.

2. The service charges and procedural fees referred to in paragraph 1 shall not be subject to any taxes and charges in the receiving State.

CHAPTER FOUR. PRIVILEGES AND IMMUNITIES OF MEMBERS OF THE CONSULAR POST

Article 40. PROTECTION OF MEMBERS OF THE CONSULAR POST

The receiving State shall treat the members of the consular post with due respect and shall take all steps to prevent any offence against their persons, freedom or dignity.

Article 41. FREEDOM OF MOVEMENT

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

Article 42. IMMUNITY FROM JURISDICTION

1. Consular officers shall not be subject to the criminal, civil and administrative jurisdiction of the receiving State. They shall enjoy personal inviolability and therefore shall not be subject to detention, arrest or restriction of their personal freedom in any other manner.

2. Consular employees shall not be subject to the criminal, civil and administrative jurisdiction of the receiving State in respect of acts committed in the context of their official duties.

3. The provisions of paragraphs 1 and 2 shall not apply to the following civil matters:

- (1) Those arising out of the conclusion of a contract by a member of the consular post in which he did not act expressly or implicitly as a representative of the sending State;
- (2) Those arising out of damage resulting from an accident in the receiving State caused by a vehicle, vessel or aircraft;
- (3) Those relating to successions in which a member of the consular post is involved solely as a private person in the capacity of an heir, legatee, executor of a will, or administrator or trustee of an estate and not as a representative of the sending State.

4. In the event of the initiation of a criminal proceeding against a consular employee or in the event of his detention, arrest or deprivation of personal freedom in any other manner, the competent authorities of the receiving State shall so notify the head of the consular post without delay. When taking such action, the receiving State shall treat the consular employee with due respect and must avoid impeding him in any way in the exercise of his official functions.

Article 43. OBLIGATION TO GIVE EVIDENCE

1. Members of the consular post may be summoned to give evidence as witnesses before the courts and other competent authorities of the receiving State. If a consular officer refuses to appear or to give evidence, no coercive measure or penalty may be applied to him. Consular employees may not refuse to give evidence except in the cases referred to in paragraph 3.

2. The competent authority of the receiving State which summons a member of the consular post to give evidence may not interfere with the exercise of his official functions. It may, where possible, take such evidence from the member of the consular post at the consular post or at his living quarters or accept a statement from him in writing.

3. Members of the consular post shall be under no obligation to give evidence concerning matters connected with the exercise of their official functions or to produce official correspondence or other documents from the consular archives.

4. Members of the consular post shall be under no obligation to give evidence as expert witnesses with regard to the law of the sending State.

Article 44. EXEMPTION FROM PERSONAL AND MATERIAL SERVICES

The receiving State must exempt the members of the consular post from all personal services, from all public service of any kind and from military obligations such as those connected with requisitioning, contributions and billeting. They shall also be exempt, subject to the laws and regulations of the receiving State, from the obligation relating to the registration of aliens, residence permits, work permits and other formalities of that nature relating to aliens.

*Article 45. EXEMPTION OF MEMBERS OF THE CONSULAR POST
FROM TAXATION*

1. Members of the consular post shall be exempt from all national, local and communal taxes and charges of the receiving State, except:

- (1) Indirect taxes of the kind normally incorporated in the price of goods or services;
- (2) Taxes and charges on private immovable property situated in the territory of the receiving State;
- (3) Inheritance taxes and taxes on the transfer of ownership levied by the receiving State, subject to the provisions of article 47 of this Convention;
- (4) Taxes and charges on private income of any kind having its source in the receiving State;
- (5) Charges levied for specific services rendered;
- (6) Registration fees, court fees, mortgage dues and stamp duties, subject to the provisions of article 38 of this Convention.

2. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State must fulfil the obligations imposed on employers by the laws and regulations of that State with regard to the levying of income tax.

Article 46. EXEMPTION FROM CUSTOMS DUTIES AND CUSTOMS INSPECTION

1. Subject to its laws and regulations, the receiving State shall permit import and export of the following and shall exempt them from all customs duties and other charges appertaining thereto, with the exception of charges for storage, transport and similar services:

- (1) Articles and means of transport intended for the official use of the consular post;
- (2) Articles and means of transport intended for the personal use of a consular officer, together with the articles intended for their operation. Consumable articles must not exceed the quantities necessary for the immediate needs of the consular officer;
- (3) Articles and means of transport imported at the time of first installation at the consular post by a consular employee.

2. The personal baggage of a consular officer shall be exempt from customs inspection. It may be subjected to such inspection only when there exist substantial reasons for assuming that it contains articles other than those referred to in paragraph 1, item (2), or articles whose import or export is prohibited by the laws and regulations of the receiving State or which are subject to its laws and regulations relating to quarantine. Such inspection must be carried out in the presence of the consular officer concerned or of his agent.

Article 47. ESTATE OF A MEMBER OF THE CONSULAR POST

In the event of the death of a member of the consular post or of a family member or of a member of the private staff who is not a national or a permanent resident of the receiving State, the receiving State shall be required:

- (1) To permit the export of the movable property of the deceased, with the exception of property which was acquired in the receiving State and whose export was prohibited at the time of the death of the person concerned;

- (2) Not to levy any inheritance taxes or taxes on the transfer of ownership in respect of movable property left by a person who has died in that State.

*Article 48. PRIVILEGES AND IMMUNITIES OF FAMILY MEMBERS
AND MEMBERS OF THE PRIVATE STAFF*

1. Family members shall enjoy, as appropriate, the privileges and immunities accorded under this Convention to members of the consular post. This provision shall not apply to persons who are nationals or permanent residents of the receiving State or who engage in gainful employment in that State.

2. Consular employees who are nationals or permanent residents of the receiving State shall not enjoy the privileges and immunities provided for in this Convention, with the exception of the provisions of article 43, paragraph 3, of this Convention.

3. With the exception of the provisions of article 47 of this Convention, the privileges and immunities provided for in this Convention shall not be accorded to members of the private staff.

Article 49. WAIVER OF PRIVILEGES AND IMMUNITIES

1. The sending State may waive the privileges and immunities referred to in articles 42 and 43 of this Convention. Such waiver must be express and must be communicated to the receiving State in writing.

2. Where a member of the consular post or a family member initiates proceedings in a case in which he could enjoy immunity from jurisdiction, he may not invoke immunity in relation to any counter-claim directly related to the principal claim.

3. Waiver of immunity from jurisdiction in respect of judicial or administrative proceedings shall not be deemed to imply waiver of immunity in respect of measures of execution of a judgement. A separate waiver shall be required in respect of such measures.

CHAPTER FIVE. FINAL PROVISIONS

Article 50. RATIFICATION, ENTRY INTO FORCE AND TERMINATION

1. This Convention is subject to ratification and shall enter into force upon the expiry of 30 days after the date of the exchange of the instruments of ratification, which shall take place at Warsaw.

2. This Convention is concluded for an indefinite period. It may be denounced through notification by either Contracting Party. In such case, it shall cease to have effect upon the expiry of 12 months after the date of denunciation.

DONE at Beijing on 14 July 1984, in duplicate in the Chinese and Polish languages, both texts being equally authentic.

IN WITNESS WHEREOF the plenipotentiaries of the Contracting Parties have signed this Convention and have thereto affixed their seals.

For the Government
of the People's Republic of China:
[QIAN QICHEN]

For the Government
of the Polish People's Republic:
[ERNEST KUCZA]