

No. 26795

**CZECHOSLOVAKIA
and
CHINA**

Consular Convention. Signed at Beijing on 5 September 1988

Authentic texts: Czech and Chinese.

Registered by Czechoslovakia on 6 September 1989.

**TCHÉCOSLOVAQUIE
et
CHINE**

Convention consulaire. Signée à Beijing le 5 septembre 1988

Textes authentiques : tchèque et chinois.

Enregistrée par la Tchécoslovaquie le 6 septembre 1989.

[TRANSLATION — TRADUCTION]

CONSULAR CONVENTION¹ BETWEEN THE CZECHOSLOVAK SOCIALIST REPUBLIC AND THE CHINESE PEOPLE'S REPUBLIC

The Czechoslovak Socialist Republic and the Chinese People's Republic,

Guided by the common goal of maintaining, strengthening and deepening the relations between them in a spirit of friendship and cooperation, on the basis of respect for sovereignty, equality, mutual benefit and non-interference in internal affairs,

Proceeding from an awareness of the need to update the Consular Treaty between the Czechoslovak Republic and the Chinese People's Republic signed by the two countries at Prague on 7 May 1960,²

In the interest of further developing their consular relations with a view to protecting the national rights and interests of the two States and the rights and interests of their nationals,

Have decided to conclude this Convention and have agreed as follows:

CHAPTER I
DEFINITIONS

Article 1
DEFINITIONS

For the purposes of this Convention the following expressions have the meanings given below:

- (1) "Consular post" means a consulate-general, a consulate, a vice-consulate or a consular agency.
- (2) "Consular district" means the area assigned to a consular post for the exercise of consular functions.
- (3) "Head of a consular post" means a person entrusted by the sending State with the direction of a consular post.
- (4) "Consular officer" means any person, including the head of a consular post, entrusted with the exercise of consular functions.
- (5) "Consular employee" means any person who performs administrative or technical work at a consular post.
- (6) "Member of the service staff" means any person who performs service work at a consular post.
- (7) "Members of a consular post" means consular officers, consular employees and members of the service staff.
- (8) "Member of the private staff" means a person employed in the private service of a member of the consular post.

¹ Came into force on 5 July 1989, i.e., the thirtieth day following the exchange of the instruments of ratification, which took place at Prague on 5 June 1989, in accordance with article 54 (1).

² United Nations, *Treaty Series*, vol. 402, p. 209.

(9) "Family members" means the spouse, children and parents of a member of a consular post who live with him in a common household.

(10) "Consular premises" means the buildings or parts of buildings and the associated areas of land used exclusively for the purposes of the consular post, irrespective of who their owner is.

(11) "Consular archives" means all papers, documents, correspondence, telegrams, books, seals, films, tape recordings, registers, codes, ciphers and card files of a consular post, together with any items of equipment intended for their protection and storage.

(12) "National of the sending State" means any individual who has the nationality of the sending State and also bodies corporate where this comes into consideration.

(13) "Vessel of the sending State" means any vessel navigating under the flag of the sending State in accordance with its law, with the exception of warships.

(14) "Aircraft of the sending State" means any aircraft which is registered in that State in accordance with its laws and legal provisions and which bears its markings, with the exception of military aircraft.

CHAPTER II

CONSULAR RELATIONS IN GENERAL

Article 2

ESTABLISHMENT OF A CONSULAR POST

1. The sending State may establish a consular post in the territory of the receiving State only with the consent of the latter State.

2. The seat of a consular post, its classification and the consular district, as well as any changes therein, shall be determined by the sending State and shall be subject to the consent of the receiving State.

3. Prior express consent of the receiving State shall also be required for the establishment of an official constituent part of a consular post which is situated at a locality other than the seat of the post.

Article 3

APPOINTMENT AND ACCEPTANCE OF THE HEAD OF A CONSULAR POST

1. The sending State shall transmit to the receiving State through the diplomatic channel the patent of appointment of the head of a consular post. The said patent must indicate the full name, category and rank of the head of the consular post, the seat of the consular post and the consular district.

2. Upon receipt of the patent of appointment of the head of a consular post, the receiving State shall issue an exequatur as soon as possible. If it refuses to issue an exequatur, it shall not be required to state the reasons for the refusal.

3. The head of a consular post may exercise his functions after the issuance of the exequatur. Before obtaining the exequatur, he may exercise his functions provisionally with the consent of the receiving State in accordance with the provisions of this Convention.

4. After the acceptance of the head of a consular post by the receiving State, or after he has been given permission to exercise his functions provisionally, the receiving State shall without delay inform the competent authorities of the consular district and shall take all necessary steps to ensure that the head of the consular post is able to exercise his functions and enjoy the rights, facilities, privileges and immunities provided for in this Convention.

Article 4

TEMPORARY EXERCISE OF THE FUNCTIONS OF THE HEAD OF A CONSULAR POST

1. If the head of a consular post is unable for any reason to exercise his functions or if his position is temporarily vacant, the sending State may designate a consular officer of that post or of another consular post in the receiving State or a member of the diplomatic staff of its diplomatic mission in the receiving State as temporary head of the consular post. The sending State shall communicate to the receiving State in advance the full name and previous assignment of the temporary head of the consular post.

2. The temporary head of a consular post may provisionally act as the head of the consular post and shall enjoy the same rights, facilities, privileges and immunities as are granted to the head of the consular post under this Convention.

3. A member of the diplomatic staff who has been designated as temporary head of a consular post shall continue to enjoy diplomatic privileges and immunities.

Article 5

NOTIFICATION OF APPOINTMENT, ARRIVAL AND DEPARTURE

The sending State shall communicate to the competent authorities of the receiving State, in good time and in writing, the following particulars:

(1) The full names and assignments of the members of a consular post, their arrival and their final departure or the termination of their functions, as well as any changes in their functions during their service at the consular post;

(2) The full name, nationality, arrival and final departure of a family member of a member of a consular post and the fact that any person becomes or ceases to be such a family member of a member of the consular post;

(3) The full name of a member of the private staff, his nationality, the substance of his work, his arrival and his final departure and, where appropriate, his entry into service and the termination of his service;

(4) The beginning and termination of the employment of a consular employee or a member of the service staff of a consular post who is a national or permanent resident of the receiving State.

Article 6

IDENTITY DOCUMENTS

The competent authorities of the receiving State shall, in accordance with their own law, issue appropriate identity documents to the members of a consular post

and their family members, with the exception of those persons who are nationals or permanent residents of the receiving State.

Article 7

NATIONALITY OF THE MEMBERS OF A CONSULAR POST AND OF THE PRIVATE STAFF

1. Only a national of the sending State who is not a permanent resident of the receiving State may be a consular officer.
2. A person may be a consular employee or a member of the service staff or of the private staff of a consular post if he is a national of the sending State, a national of the receiving State or, subject to the consent of the receiving State, a national of a third State.

Article 8

PERSONS DECLARED "NON GRATA"

1. The receiving State may at any time notify the sending State through the diplomatic channel that a consular officer is *persona non grata* or that any other member of a consular post is unacceptable. In such case the sending State shall either recall the person concerned or terminate his functions at the consular post.
2. If the sending State fails to carry out within a reasonable time its obligation under paragraph 1 of this article, the receiving State may, depending on the nature of the case, either revoke the exequatur of the person concerned or cease to regard him as a member of the consular post.
3. In the cases referred to in paragraphs 1 and 2 this article the receiving State shall not be required to inform the sending State of the reasons for its decision.

Article 9

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*:

- (1) Upon notification by the receiving State to the sending State that the functions of a member of the consular post have been terminated;
- (2) Upon withdrawal of the exequatur;
- (3) Upon notification by the receiving State to the sending State that the receiving State has ceased to regard him as a member of the consular post.

CHAPTER III CONSULAR FUNCTIONS

Article 10

BASIC CONSULAR FUNCTIONS

Consular functions shall consist, in particular:

- (1) In the protection of the rights and interests of the sending State and its nationals in the receiving State;

(2) In supporting the development of economic, commercial, scientific and technical, cultural, educational and tourism relations between the sending State and the receiving State and in other forms of the development of friendly relations and cooperation between them;

(3) In monitoring by every legal means in the receiving State the situation in the economic, commercial, scientific and technical, cultural, educational, tourism and other areas and in providing the Government of the sending State with information on the subject.

Article 11

FUNCTIONS IN MATTERS OF PERSONAL STATUS

1. A consular officer shall be entitled:

(1) To accept applications and declarations relating to nationality and to issue appropriate documents;

(2) To register nationals of the sending State who are permanently or temporarily resident in his consular district;

(3) To register the birth and death of nationals of the sending State and to handle certificates of birth and death;

(4) To solemnize marriages between nationals of the sending State and to issue the appropriate documents relating thereto;

(5) To receive declarations relating to the family relationships of nationals of the sending State and to handle documents concerning their personal status.

2. Upon request, the competent authorities of the receiving State shall, as soon as possible, send to the consular post copies and extracts from the civil register which relate to nationals of the sending State.

Article 12

PASSPORTS AND VISAS

A consular officer shall be entitled:

(1) To issue, renew, alter, cancel, revoke or withhold passports and other travel documents of nationals of the sending State;

(2) To issue appropriate visas to persons who intend to travel to the sending State or travel in transit through it, and also to alter such visas or terminate their validity.

Article 13

NOTARIAL AND AUTHENTICATING FUNCTIONS

1. A consular officer shall be entitled to carry out the following functions at the consular post, at the home of a national of the sending State or on board an aircraft or vessel of the sending State, provided that such action is not contrary to the laws and legal provisions of the receiving State:

(1) Receiving, recording, witnessing, translating and authenticating documents of nationals of the sending State, provided that they are not documents which

establish or transfer the right to immovable property in the territory of the receiving State;

(2) Recording, authenticating or accepting for safe keeping wills or other documents relating to unilateral legal actions taken by nationals of the sending State in accordance with the laws of their country;

(3) Authenticating the signatures of nationals of the sending State;

(4) Authenticating signatures and seals on documents issued by authorities of the sending State or of the receiving State and witnessing copies or translations of the said documents or extracts from them;

(5) Authenticating certificates of origin and commercial invoices of merchandise exported from the receiving State or documents similar thereto;

(6) Performing other notarial functions entrusted to them by the sending State.

2. For the purposes of use in the receiving State, documents drawn up, witnessed or authenticated by a consular officer in accordance with the provisions of paragraph 1 of this article shall have the same legal validity as documents drawn up, witnessed or authenticated by the competent authorities of the receiving State.

Article 14

ASSISTANCE TO NATIONALS OF THE SENDING STATE

A consular officer shall be entitled to receive or accept for temporary safe keeping money, valuables and documents of nationals of the sending State and other movable property owned by them, provided that such action is not contrary to the laws and legal provisions of the receiving State.

Article 15

COMMUNICATION WITH NATIONALS OF THE SENDING STATE

1. A consular officer shall have the right to communicate with any national of the sending State in the consular district and to have access to him. Nationals of the sending State shall have the same right with regard to communication with consular officers of the sending State and access to them.

2. The competent authorities of the receiving State shall, as soon as possible but not later than within seven days, inform the consular post of cases in which a national of the sending State has been detained, arrested or deprived of his freedom in any other way within its consular district by those authorities. Similarly, the aforementioned authorities shall immediately deliver any communication addressed to the consular post by such a national. The said authorities must immediately inform the person concerned of the rights he has in accordance with this provision.

3. A consular officer shall have the right to visit a national of the sending State who has been detained, arrested or deprived of his freedom in any other way, in order to speak with him or communicate with him and in order to provide legal assistance to him. The competent authorities of the receiving State shall make it possible for the consular officer to visit the said national as soon as possible, but not later than 15 days after the submission of a request.

4. A consular officer shall have the right to visit a national of the sending State who is serving a sentence of deprivation of freedom for having committed a criminal offence.

5. In the performance of the functions referred to in this article, the consular officer shall be required to comply with the relevant laws and legal provisions of the receiving State. The implementation of such laws and legal provisions of the receiving State may not, however, restrict the exercise of the rights referred to in this article.

Article 16

GUARDIANSHIP AND CURATORSHIP

1. The competent authorities of the receiving State shall inform the consular post in writing if a guardian or curator is needed in the consular district for a national of the sending State (including minor nationals) who has no capacity or has limited capacity to act on his own behalf.

2. The consular officer shall be entitled, to the extent permitted by the laws and legal provisions of the receiving State, to protect the rights and interests of nationals of the sending State (including minor nationals) who have no capacity or have limited capacity to act on their own behalf and, where necessary, recommend a guardian or curator for the persons concerned, supervise actions relating to the guardianship or curatorship and also assume the care of the aforementioned nationals.

Article 17

REPRESENTATION OF NATIONALS OF THE SENDING STATE BEFORE THE COURTS AND OTHER AUTHORITIES OF THE RECEIVING STATE

1. In accordance with the legal provisions of the receiving State, a consular officer shall have the right to represent, or take steps to ensure proper representation for, nationals of the sending State before the courts or other authorities of the receiving State in cases in which, by reason of absence or for other reasons, the said nationals are unable to assume in good time the defence of their rights and interests.

2. The representation in accordance with paragraph 1 of this article shall terminate as soon as the represented person appoints his own representative or himself undertakes the defence of his rights and interests.

Article 18

FUNCTIONS IN MATTERS OF SUCCESSION

1. The competent authority of the receiving State shall notify the consular post as soon as possible if it learns of the death of a national of the sending State in the receiving State and shall transmit to it the death certificate or any other document attesting to the death and shall deliver to it any available information concerning the estate, the heirs and the will as soon as such information is at its disposal.

2. If a deceased national of the sending State leaves property in the receiving State and if neither an heir nor the executor of the will is present in the receiving State, the competent authorities of the receiving State shall without delay deliver to

the consular post the relevant information concerning the property, including any property of the deceased national which is situated in a third State.

3. In the case referred to in paragraph 2 of this article, the competent authority of the receiving State shall notify the consular post of the sending State of the measures taken for the safeguarding and administration of the estate left in the territory of the receiving State by the deceased national of the sending State. The consular officer may, direct or through an authorized representative, provide assistance in taking steps to ensure the rights of nationals of the sending State to the estate. The consular officer shall have the right to be present at the inventorying and sealing of the said property by the competent authorities of the receiving State.

4. If a national of the sending State who is entitled in the receiving State as an heir or legatee to inherit or receive property or a bequest from a testator of any nationality and is not present in the territory of the receiving State, the competent authorities of the receiving State shall notify the consular post of such acquisition of an inheritance, property or bequest by the said national.

5. In a case in which a national of the sending State has a right or asserts a claim to the inheritance of property in the receiving State and neither he nor his representative is able to be present at the succession proceedings, a consular officer shall be entitled, either direct or through a person authorized by him, to represent the national before a court or other competent authority of the receiving State.

6. A consular officer shall be entitled to receive in the receiving State, on behalf of a national of the sending State who is not a permanent resident of the receiving State, any inheritance or bequest to which the said national is entitled after the payment of all debts, all inheritance or bequest duties and all taxes and shall deliver the said inheritance or bequest to that national.

7. If a national of the sending State who is not a permanent resident of the receiving State dies during his temporary stay in the receiving State or while travelling in transit through it and no relative or lawful representative of the said national is present in the receiving State, a consular officer shall be entitled to take charge of all documents, money and personal effects which belonged to the deceased national in order that he may deliver them to the deceased national's heir, the executor of his will or other persons entitled to receive the property.

Article 19

ASSISTANCE TO VESSELS OF THE SENDING STATE

1. A consular officer shall be entitled to provide assistance to vessels of the sending State which are in the internal waters or the territorial sea of the receiving State and to the masters and crew members of such vessels, and also:

(1) To go on board the vessel after it has been granted entry into the port and interview the master or a member of the crew concerning matters relating to the vessel, its cargo and its voyage;

(2) To proceed, without affecting the jurisdiction of the competent authorities of the receiving State, to investigate any occurrence that took place during the voyage;

(3) To settle disputes between the master and the crew;

(4) To receive visits from the master or members of the crew and, where necessary, take steps to ensure medical care for them or make arrangements for their repatriation;

(5) To receive, verify, draw up, sign or authenticate documents relating to the vessel, its cargo and its voyage;

(6) To handle other matters relating to the vessel which are entrusted to him by the competent authorities of the sending State.

2. The authorities of the receiving State shall, at the request of the consular officer, provide necessary assistance.

3. The master of the vessel or members of the crew may communicate with the consular officer and may visit the consular post even without special permission, provided that such action is not contrary to the laws and legal provisions of the receiving State relating to port administration and alien matters.

Article 20

PROTECTION IN THE EVENT OF ENFORCEMENT MEASURES AGAINST A VESSEL OF THE SENDING STATE

1. If the courts or other competent authorities of the receiving State intend to take enforcement measures or to undertake an official investigation in respect of or on board a vessel of the sending State, they shall notify the consular post in advance, in order to enable the consular officer or his representative to be present at the time when the measures are taken. If the matter is urgent or if the consular officer is unable for other reasons to be present, a detailed report concerning the carrying out of the said measures must be sent to him.

2. The provisions of paragraph 1 of this article shall apply *mutatis mutandis* to any similar measure taken by the competent authorities of the receiving State on shore against the master or members of the crew.

3. The provisions of paragraphs 1 and 2 of this article shall not apply to routine inspections carried out by the competent authorities of the receiving State in the case of customs, health or frontier control or port administration.

4. The competent authorities of the receiving State shall not, except at the request or with the consent of the master or of the consular officer, interfere in the internal affairs of a vessel of the sending State, provided that the tranquillity, security and public order of the receiving State are not affected.

Article 21

ASSISTANCE TO VESSELS OF THE SENDING STATE IN CASE OF ACCIDENT

1. If a vessel of the sending State suffers an accident in the internal waters or in the territorial sea of the receiving State, the competent authorities of the receiving State shall transmit a report to the consular post without delay and shall inform it of what measures have been taken for the protection of the vessel, the persons on board, the cargo of the vessel and other property.

2. A consular officer shall be entitled to take measures for the provision of assistance to any vessel of the sending State, its crew and its passengers in the event of an accident and, in that connection, to request assistance from the competent authorities of the receiving State. The competent authorities of the receiving State

shall provide the consular officer with the necessary assistance in arranging and carrying out the necessary measures.

3. If a wrecked vessel of the sending State or its merchandise or cargo is found in the vicinity of the coast of the receiving State or is brought to a port of the receiving State and if neither the master, the owner or the operator of the vessel nor any representative of the shipping company or its insurance company is present, or if none of them is able to take measures for their protection or to take further action in connection with them, the competent authorities of the receiving State shall transmit a report to the consular post as soon as possible. A consular officer may take appropriate measures on behalf of the owner or operator of the vessel.

4. If a wrecked vessel belongs to a third State, the provisions of paragraph 3 of this article shall also apply to any cargo which belongs to the sending State or to any national of that State and is situated on board the aforementioned vessel and which is found in the vicinity of the coast of the receiving State or is brought to a port of that State.

5. A wrecked vessel of the sending State and its cargo and merchandise shall not be subject to customs duties or any similar charges of the receiving State, provided that they are not unloaded for sale or use in the latter State.

Article 22

AIRCRAFT OF THE SENDING STATE

The provisions of articles 19 to 21 of this Convention shall apply *mutatis mutandis* to aircraft of the sending State.

Article 23

SERVICE OF DOCUMENTS AND PROCESSING OF REQUESTS

A consular officer shall be entitled to serve judicial and non-judicial documents or process requests or authorizations to produce evidence on behalf of a court of the sending State in accordance with the international agreements in force or, where no such international agreements exist, in any other manner which is in keeping with the laws and legal provisions of the receiving State.

Article 24

EXERCISE OF CONSULAR FUNCTIONS

1. A consular officer shall exercise his functions solely within the consular district. With the consent of the receiving State, he may also exercise his functions outside the consular district.

2. A consular officer may exercise other consular functions which are entrusted to him by the sending State but are not established by this Convention if the receiving State agrees thereto in advance.

Article 25

COMMUNICATION WITH THE AUTHORITIES OF THE RECEIVING STATE

A consular officer may, in the performance of his functions, apply to the competent local authorities of the consular district. Where necessary, he may apply to

the competent central authorities of the receiving State to the extent permitted by the laws and legal provisions of the receiving State and by the usual practice of the receiving State, or by the relevant international agreements.

CHAPTER IV
FACILITIES, PRIVILEGES AND IMMUNITIES

Article 26
FACILITIES GRANTED TO A CONSULAR POST

1. The receiving State shall grant full facilities for the exercise of the functions of a consular post.
2. The receiving State shall treat the members of a consular post with proper respect and shall take the necessary measures to facilitate the performance of the functions of the members of the consular post and shall guarantee their rights, facilities, privileges and immunities as established in this Convention.

Article 27
ACQUISITION OF OWNERSHIP, LEASING
AND USE OF CONSULAR PREMISES

1. The sending State shall have the right, within the limits of the laws and legal provisions of the receiving State:
 - (1) To purchase, lease or otherwise acquire buildings or parts of buildings and the land appertaining to them for use as consular premises and residences of members of the consular post, with the exception of the residences of those members of the consular post who are nationals or permanent residents of the receiving State;
 - (2) To erect buildings with the consent of the receiving State or to repair buildings.
2. The receiving State shall provide assistance to the sending State in the acquisition of consular premises and, where necessary, in the acquisition of suitable residences for members of its consular post.
3. In the exercise of the right referred to in paragraph 1 of this article, the sending State shall not be exempt from the obligation to comply with those laws and legal provisions of the receiving State and those measures adopted by local authorities which relate to building sites, construction and territorial planning.

Article 28
USE OF THE STATE FLAG AND COAT OF ARMS

1. The sending State shall have the right to affix to the consular premises its State coat of arms and the designation of 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 State flag from the consular premises, the residence of the head of a consular post and the means of transport used in the performance of his official functions.
3. In the exercise of a right provided for in this article, the sending State shall give due regard to the laws, legal provisions and customs of the receiving State.

*Article 29*INVIOABILITY OF CONSULAR PREMISES AND OF THE RESIDENCES
OF CONSULAR OFFICERS

1. The consular premises shall be inviolable. The authorities of the receiving State may not enter the consular premises without the permission of the head of the consular post or of the head of the diplomatic mission of the sending State in the receiving State or of a person authorized by either of them.

2. The receiving State shall take all necessary measures for the protection of the consular premises against any attack or damage and for the prevention of any violation of the tranquillity of the consular post or any impairment of its dignity.

3. The provisions of paragraphs 1 and 2 of this article shall also apply to the residences of consular officers.

Article 30

EXEMPTION OF THE CONSULAR PREMISES 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.

Article 31

INVIOABILITY OF THE CONSULAR ARCHIVES

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

Article 32

FREEDOM OF COMMUNICATION

1. The receiving State shall grant and protect the freedom of communication of a consular post for all official purposes. In communicating with the Government, diplomatic missions or other consular posts of the sending State, the consular post may use all suitable means of communication, including messages in code or cipher, diplomatic or consular couriers and diplomatic or consular bags. The consular post may, however, establish and use a radio transmitter only with the consent of the receiving State.

2. In respect of the use of public means of communication, the rates applicable to a consular post shall be the same as those applicable to a diplomatic mission.

3. The official correspondence of a consular post shall be inviolable. Consular bags may not be opened or detained. Consular bags must be provided with a visible external marking of their nature and may not contain anything other than official correspondence, official documents and articles intended for official use.

4. A consular courier must be furnished with an official document indicating his status and the number of consular bags. He shall enjoy the same rights, facilities, privileges and immunities in the receiving State as are enjoyed by a diplomatic courier.

5. Consular bags may be entrusted to the captain of an aircraft or the master of a vessel of the sending State. The captain or master must be furnished with an

official document indicating the number of consular bags. He shall not, however, be regarded as a consular courier. By agreement with the competent authorities of the receiving State, a member of a consular post may directly and freely receive consular bags from him or deliver them to him.

Article 33

CONSULAR CHARGES AND FEES

1. A consular post may, in the territory of the receiving State, collect for consular activities such charges and fees as are established by the laws and legal provisions of the sending State.

2. The charges and fees referred to in paragraph 1 of this article and receipts relating to their payment shall be exempt from all taxes and charges in the receiving State.

Article 34

FREEDOM OF MOVEMENT

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

Article 35

INVIOABILITY OF CONSULAR OFFICERS

The person of a consular officer shall be inviolable. A consular officer may not be detained or arrested, and his personal freedom may not be limited in any other manner. The receiving State shall take all necessary measures to prevent any attack against [his] freedom and dignity.

Article 36

EXEMPTION OF CONSULAR OFFICERS FROM JURISDICTION

1. A consular officer shall be exempt from the criminal jurisdiction of the receiving State. He shall also be exempt from the civil and administrative jurisdiction of the receiving State with the exception of the following proceedings:

(1) Those instituted by a third party and relating to damage arising in the receiving State from an accident caused by a vehicle, vessel or aircraft;

(2) Those relating to private immovable property in the receiving State unless it is owned by the consular officer as a representative of the sending State and for the purposes of the consular post;

(3) Those relating to succession in which the consular officer participates as a private person;

(4) Those relating to a profession or a business activity carried on in the receiving State outside of his official functions.

2. The receiving State shall not take enforcement measures in cases other than those referred to in paragraph 1 of this article. If the receiving State takes enforce-

ment measures in the cases referred to in paragraph 1 of this article, the inviolability of the persons or residences of the consular officers may not be infringed.

Article 37

EXEMPTION OF CONSULAR EMPLOYEES FROM JURISDICTION

1. Consular employees shall not be subject to the criminal jurisdiction of the receiving State. Consular employees and members of the service staff of a consular post shall not be subject to the civil and administrative jurisdiction of the receiving State where the performance of their official functions is concerned.

2. The provisions of paragraph 1 of this article shall not, however, apply to civil proceedings:

(a) Arising out of a contract concluded by the consular employee which he did not conclude explicitly or patently as a representative of the sending State, or

(b) Instituted by a third party in the event of damage arising in the receiving State out of an accident caused by a vehicle, vessel or aircraft.

Article 38

OBLIGATION TO TESTIFY

1. A consular officer shall not be required to give evidence as a witness.

2. A consular employee and a member of the service staff may be called upon to appear as a witness during a judicial or administrative proceeding in the receiving State. With the exception of the cases referred to in paragraph 3 of this article, they may not refuse to testify.

3. A consular employee and a member of the service staff shall not have the obligation to testify concerning matters connected with the performance of their official duties, nor to submit official correspondence and documents relating to such matters. They shall have the right to refuse to testify as professional experts on the laws and legal provisions of the sending State.

4. The competent authorities of the receiving State which demand testimony from a consular employee or a member of the service staff shall not interfere with the performance of their official duties. Where possible, they may take such testimony at the residences of the aforementioned persons or at the consular premises or may take declarations in written form from them.

Article 39

EXEMPTION FROM PERSONAL SERVICES AND OBLIGATIONS

A member of a consular post shall be exempt in the receiving State from personal services of every kind, public services and military obligations.

Article 40

EXEMPTION FROM ALIEN REGISTRATION AND RESIDENCE PERMITS

A consular officer and a consular employee shall be exempt from all obligations imposed by the laws and legal provisions of the receiving State and relating to alien registration and residence permits.

Article 41

EXEMPTION OF PROPERTY FROM TAXATION

1. The receiving State shall exempt from all State, regional or local taxes and charges:

(1) The consular premises and the residences of members of a consular post which were acquired on behalf of the sending State and the transactions or contracts relating thereto;

(2) Movable property, including consular equipment and means of transport, which is owned or used by the consular post and devoted exclusively to consular purposes.

2. The provisions of paragraph 1 of this article shall not apply to:

(1) Payments collected for the performance of specific services;

(2) Taxes which, in accordance with the laws and legal provisions of the receiving State, are to be paid by persons entering into contractual relationships with the sending State.

Article 42

EXEMPTION OF MEMBERS OF A CONSULAR POST FROM TAXATION

1. Consular officers and consular employees shall be exempt from all State, regional or local taxes and charges of the receiving State, whether imposed on persons or on goods, with the exception of:

(1) Indirect taxes which are customarily included in the cost of goods or services;

(2) Taxes and charges on private immovable property in the territory of the receiving State, unless they are owned or leased on behalf of the sending State for the purposes of the consular post;

(3) Estate or inheritance taxes and taxes on the transfer of property, subject to the provisions of article 46 of this Convention;

(4) Taxes and charges on private income other than income received for the fulfilment of service obligations in the receiving State;

(5) Payments collected for the provision of specific services;

(6) Registration, judicial, document, mortgage and stamp taxes, with the exception of taxes relating to immovable property which is owned or leased on behalf of the sending State for the purposes of the consular post.

2. Members of the service staff shall be exempt in the receiving State from taxes and charges on the salary which they receive for their services at the consular post.

3. Members of a consular post who employ persons whose salary or pay is not exempt from income taxes in the receiving State must fulfil the obligations imposed by the laws and orders of the receiving State on employers in connection with the collection of income taxes.

Article 43

EXEMPTION FROM CUSTOMS DUTIES AND INSPECTIONS

1. The receiving State shall, in accordance with its laws and legal provisions, permit import and shall grant exemption from all customs duties, taxes and related payments, with the exception of payments for storage, transport and similar services:

(1) In the case of articles and means of transport intended for the consulate's official use;

(2) In the case of articles, including motor vehicles, intended for a consular officer's personal use;

(3) In the case of articles, including motor vehicles, imported at the time of consular employees' first arrival at the consular post and intended for their personal use.

2. The articles referred to in items (2) and (3) of paragraph 1 of this article may not exceed the quantity necessary for direct consumption by the persons concerned.

3. The personal baggage of a consular officer shall be exempt from inspection. It may be inspected by the competent authorities of the receiving State only if there is serious reason to believe that they contain articles other than those referred to in item (2) of paragraph 1 of this article or articles whose import or export is prohibited by the laws and legal provisions of the receiving State, or to which its laws regarding quarantine are applicable. Such inspection must be carried out in the presence of the consular officer or his representative.

Article 44

PRIVILEGES AND IMMUNITIES OF FAMILY MEMBERS

The family members of a consular officer, a consular employee and a member of the service staff shall enjoy the privileges and immunities which a consular officer, a consular employee or a member of the service staff respectively enjoys in accordance with the provisions of this Convention.

Article 45

PERSONS NOT ENJOYING PRIVILEGES AND IMMUNITIES

1. Consular employees and members of the service staff who are nationals or permanent residents of the receiving State or who are engaged in a private gainful occupation in the receiving State shall not enjoy the privileges and immunities granted under this Convention, with the exception of article 38, paragraph 3, of this Convention.

2. Family members of a member of a consular post who are nationals or permanent residents of the receiving State or who are engaged in a private gainful occupation in the receiving State shall not enjoy the privileges and immunities granted under this Convention.

3. Members of the private staff shall not enjoy the privileges and immunities granted under this Convention.

Article 46

ESTATE LEFT BY A MEMBER OF A CONSULAR POST

In the event of the death of a member of a consular post or of a family member, the receiving State shall:

(1) Permit the export of the movable property of the deceased, with the exception of articles which were acquired by the deceased in the territory of the receiving State and whose export was prohibited at the time of his death;

(2) Not collect any State, regional or local estate or inheritance taxes or taxes on the transfer of property, provided that the property concerned is movable property which was in the territory of the receiving State solely as a result of the presence of the deceased in that State as a member of a consular post or as a family member of a member of a consular post.

Article 47

EXEMPTION FROM SOCIAL INSURANCE

1. Subject to the provisions of paragraph 3 of this article, members of a consular post shall, where the services they perform for the sending State are concerned, be exempt, together with their family members, from the provisions relating to social insurance which are in force in the receiving State.

2. The exemption referred to in paragraph 1 of this article shall also apply to members of the private staff who are employed solely by the members of a consular post, subject to the following conditions:

(1) That they are not nationals or permanent residents of the receiving State;

(2) That they are subject to the provisions on social insurance which are in force in the sending State or in a third State.

3. Members of a consular post who employ persons to whom the exemption referred to in paragraph 2 of this article does not apply must fulfil the obligations imposed on employers by the social-insurance provisions of the receiving State.

4. The exemption referred to in paragraphs 1 and 2 of this article shall not preclude voluntary participation in the social-insurance system of the receiving State, provided that participation in it is permitted by that State.

Article 48

BEGINNING AND END OF PRIVILEGES AND IMMUNITIES

1. A member of a consular post shall enjoy the privileges and immunities granted under this Convention from the moment when he arrives in the territory of the receiving State in order to assume his functions or, if he is already in the territory of the receiving State, from the moment when he arrives at the consular post to exercise his official functions.

2. Family members of a member of a consular post shall enjoy the privileges and immunities granted under this Convention from the date on which the said member of the consular post enjoys the privileges and immunities or, if they arrive in the territory of the receiving State or become family members at a later time, from the date on which they arrive in the territory of the receiving State or from the date on which they become such family members.

3. If a member of a consular post terminates the performance of his official functions, his privileges and immunities and the privileges and immunities of his family members shall end upon departure from the receiving State or upon the expiry of an appropriate time-limit for departure. The privileges and immunities of family members of a member of a consular post shall end when the family members cease to be members of his household. Nevertheless, if such persons are thereafter preparing to leave the receiving State within an appropriate time-limit, their privileges and immunities shall continue until the time of their departure.

4. In the event of the death of a member of a consular post, his family members shall continue to enjoy the privileges and immunities granted to them until such time as they leave the receiving State or as an appropriate time-limit for their departure expires.

5. The exemption of a member of a consular post from jurisdiction which he enjoys in connection with acts he carries out in connection with the performance of his functions during the time of his activities at the post shall remain valid for an unlimited time.

Article 49

WAIVER OF PRIVILEGES AND IMMUNITIES

1. The sending State may waive any privileges or immunities granted to the persons concerned in accordance with articles 36 to 38 of this Convention. The waiver must in all cases be explicit and must be communicated in writing to the receiving State.

2. If a person institutes proceedings in a matter in which he could have enjoyed the exemption from jurisdiction granted under this Convention, he may not claim exemption from jurisdiction in connection with any counter-complaint directly related to the main complaint.

3. A waiver of exemption from jurisdiction in civil or administrative matters shall not constitute a waiver of immunity with respect to the enforcement of a judgement. Such immunities must be waived separately in writing.

CHAPTER V

GENERAL PROVISIONS

Article 50

COMPLIANCE WITH LAWS AND LEGAL PROVISIONS

1. Without prejudice to the privileges and immunities of all persons enjoying such privileges and immunities in accordance with this Convention, it shall be their obligation to comply with the laws and legal provisions of the receiving State, including traffic regulations. They shall also have the obligation not to interfere in the internal affairs of the receiving State.

2. The consular premises shall not be used for purposes which would not be consistent with the exercise of consular functions.

Article 51

INSURANCE AGAINST DAMAGE

The means of transport owned by the consular post or by its members or members of their families shall, in accordance with the laws and legal provisions of the receiving State, be insured against damage caused to third parties.

Article 52

EXERCISE OF CONSULAR FUNCTIONS BY DIPLOMATIC MISSIONS

1. The provisions of this Convention shall, in so far as the context permits, apply likewise to the exercise of consular functions by diplomatic missions.

2. The names of the members of a diplomatic mission who are entrusted with work at the mission's consular departments or otherwise entrusted with the exercise of the mission's consular functions must be reported to the Ministry of Foreign Affairs of the receiving State or to a body designated by that Ministry.

3. In the exercise of consular functions, the diplomatic mission may apply:

- (1) To the local authorities of the consular district;
- (2) To the central authorities of the receiving State, provided that this is permitted by the laws, legal provisions and customs of the receiving State or by relevant international agreements.

4. The privileges and immunities of members of the diplomatic mission who are referred to in paragraph 2 of this article shall continue to be governed by the rules of international law relating to diplomatic relations.

Article 53

COMPLIANCE WITH THE VIENNA CONVENTION ON CONSULAR RELATIONS

In matters not explicitly regulated by this Convention, the procedure followed shall conform to the provisions of the Vienna Convention on Consular Relations.¹

CHAPTER VI
FINAL PROVISIONS

Article 54

RATIFICATION, ENTRY INTO FORCE AND DENUNCIATION

1. This Convention is subject to ratification. The exchange of the instruments of ratification shall take place at Prague. This Convention shall enter into force on the thirtieth day after the date of the exchange of the instruments of ratification.

2. This Convention shall remain in force until the expiry of six months from the date on which either of the Contracting Parties communicates in writing to the other Contracting Party its intention to denounce the Convention.

3. On the date of the entry into force of this Convention, the Consular Treaty between the Czechoslovak Republic and the Chinese People's Republic signed on 7 May 1960 shall cease to have effect.

¹ United Nations, *Treaty Series*, vol. 596, p. 261.

DONE at Beijing on 5 September 1988, in duplicate in the Czech and Chinese languages, both texts being equally authentic.

For the Czechoslovak
Socialist Republic:
[BOHUSLAV CHŇOUPEK]

For the Chinese
People's Republic:
[QIAN QICHEN]
