

中華人民共和國政府和大不列顛及北愛爾蘭聯合王國政府
關於英國在中華人民共和國
香港特別行政區設立總領事館
藉互換照會而達成的協議

Agreement Constituted by Exchange of Notes
Between the Government of the People's Republic of China
and the Government of the United Kingdom of
Great Britain and Northern Ireland
Concerning the Establishment of
a British Consulate-General
in the Hong Kong Special Administrative Region
of the People's Republic of China

Note No. 66/96

The Embassy of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the Ministry of Foreign Affairs of the People's Republic of China and would like to propose, on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland, in implementation of the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the question of Hong Kong, done at Beijing on 19 December 1984, whereby it is provided that the United Kingdom may establish a Consulate-General in the Hong Kong Special Administrative Region, and proceeding from the common desire further to develop friendly relations and strengthen consular relations between the two countries, that the Governments of the United Kingdom of Great Britain and Northern Ireland and the People's Republic of China hereby agree on the establishment of a British Consulate-General in Hong Kong as follows:

1. The Government of the People's Republic of China confirms its consent to the Government of the United Kingdom of Great Britain and Northern Ireland to establish a Consulate-General in Hong Kong with the consular district comprising the Hong Kong Special Administrative Region.
2. In accordance with the Vienna Convention on Consular Relations of 24 April 1963 and the relevant laws and regulations of the People's Republic of China, the Government of the People's Republic of China shall provide the necessary assistance for the establishment of the Consulate-General.
3. The like exemption from dues and taxes as shall be accorded to the premises of the Consulate-General shall be accorded to the residence of a consular officer of which the Government of the United Kingdom, or any person acting on its behalf, is the owner or lessee.
4. Articles 3, 5, 6, 7 and 8 of the Agreement between the two Governments done at Beijing on the 17th day of April 1984 on the establishment of Consulates-General at Shanghai and Manchester^(Note) shall apply to the Consulate-General to be established under the present Agreement.
5. Consular matters which are not dealt with in this Agreement shall be regulated by the Vienna Convention on Consular Relations of 24 April 1963. Consular matters shall be handled on the basis of equality and mutual benefit and in a friendly and co-operative spirit.

If the above proposal is confirmed in a Note from the Ministry of Foreign Affairs representing the Government of the People's Republic of China, this Note and the reply from the Ministry of Foreign Affairs shall constitute an

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China. It shall enter into force on 1 July 1997.

The Embassy of the United Kingdom of
Great Britain and Northern Ireland in China

Beijing 26 September 1996

Note: Articles 3, 5, 6, 7 and 8 of the Agreement Between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Establishment of a British Consulate-General at Shanghai and a Chinese Consulate-General at Manchester extracted as follows:

Article 3

(1) The consular premises shall be inviolable. The authorities of the receiving State may not enter the consular premises without the consent of the head of the consular post or the head of the diplomatic mission of the sending State, or a person designated by one of those persons.

(2) The receiving State is under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

(3) The provisions of paragraph (1) of this Article shall likewise apply to the residences of consular officers.

Article 5

(1) The receiving State shall take all steps necessary to provide full facilities for the performance of consular functions by the consular officers of the sending State.

(2) With the consent of the receiving State, consular officers shall be able to exercise consular functions in areas outside their consular district when necessary. The receiving State shall render necessary assistance in this regard.

Article 6

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

Article 7

(1) Members of the consular post and members of their families shall be immune from the criminal jurisdiction of the receiving State and shall not be liable to arrest or detention pending trial.

(2) Members of the consular post shall be immune from the civil and administrative jurisdiction of the receiving State in respect of any act performed by them in the exercise of consular functions.

(3) The provisions of paragraph (2) of this Article shall not apply in respect of a civil action:

- (a) relating to private immovable property situated in the receiving State, unless the member of the consular post holds it on behalf of the sending State for the purposes of the consular post;
- (b) relating to succession in which the member of the consular post is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
- (c) relating to any professional or commercial activity exercised by the member of the consular post in the receiving State outside his official functions;
- (d) arising out of a contract concluded by the member of the consular post in which he did not contract, expressly or impliedly, on behalf of the sending State;
- (e) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

(4) No measures of execution shall be taken against any of the persons mentioned in this Article, except in the cases coming under subparagraphs (a), (b) and (c) of paragraph (3) of this Article and provided also that the measures concerned can be taken without infringing the inviolability of the person concerned or of his residence.

(5) Members of the consular post and members of their families may be called upon to attend as witnesses in the course of judicial or administrative proceedings. If a consular officer or a member of his family should decline to

give evidence, no coercive measure or penalty shall be applied to that person. Consular employees and members of their families, as well as members of the service staff and members of their families, may not decline to give evidence except as provided in paragraph (6) of this Article.

(6) Members of the consular post are under no obligation to give evidence concerning matters relating to the exercise of their official functions or to produce official correspondence or documents. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

(7) In taking evidence from members of the consular post, the authorities of the receiving State shall take all appropriate measures to avoid interference with the performance of their consular functions. At the request of the head of the consular post, such evidence may, when possible, be given orally or in writing at the consular premises or at the residence of the person concerned.

(8) Members of the consular post who are nationals or permanent residents of the receiving State and members of their families, as well as those members of the families of the members of the consular post who are themselves nationals or permanent residents of the receiving State, shall not enjoy the rights, facilities and immunities provided for in this Article, except the immunity provided for in paragraph (6) of this Article.

Article 8

(1) Consular officers shall have the right to communicate with nationals of the sending State and to have access to them in the consular district. The receiving State shall not in any way limit the communication of nationals of the sending State with the consular post or their access to it.

(2) If a national of the sending State is arrested, committed to prison or detained in any other manner in the consular district, the competent authorities of the receiving State shall notify the consular post of the sending State to that effect as soon as possible and at the latest within seven days from the time at which the personal freedom of that national is restricted. A visit to that national as requested by consular officers shall be arranged by the competent authorities of the receiving State two days after the consular post is notified of the restriction of the personal freedom of that national. Subsequent visits shall be permitted at intervals not exceeding one month.

(3) The rights mentioned in this Article shall be exercised within the framework of the laws and regulations of the receiving State, it being understood, however, that those laws and regulations shall enable full effect to be given to the purposes for which the said rights are granted.

(96) 部領五字第 84 號

大不列顛及北愛爾蘭聯合王國駐華大使館：

中華人民共和國外交部向大不列顛及北愛爾蘭聯合王國駐華大使館致意，並榮幸地收到大使館一九九六年九月二十六日第 66/96 號照會，內容如下：

“大不列顛及北愛爾蘭聯合王國大使館向中華人民共和國外交部致意，並謹代表大不列顛及北愛爾蘭聯合王國政府建議，為執行一九八四年十二月十九日於北京簽訂的大不列顛及北愛爾蘭聯合王國政府與中華人民共和國政府關於香港問題的聯合聲明中英國可在香港特別行政區建立總領事館的規定，從進一步發展兩國友好關係和加強兩國領事關係的共同願望出發，大不列顛及北愛爾蘭聯合王國政府與中華人民共和國政府就英國在香港設立總領事館達成協議如下：

一、中華人民共和國政府確認同意大不列顛及北愛爾蘭聯合王國政府在香港設立總領事館，領區為香港特別行政區。

二、中華人民共和國政府將根據一九六三年四月二十四日《維也納領事關係公約》及中華人民共和國有關法律和規定為總領事館的設立提供必要的協助。

三、以英國政府或代表英國政府的任何人為房主或承租人的領事官員住宅將享有與總領事館館舍同樣的免稅待遇。

四、兩國政府一九八四年四月十七日於北京簽訂的關於在上海和曼徹斯特設立總領事館協議第三、五、六、七及八條^(註)將適用於根據本協議設立的總領事館。

五、本協議未提及的領事事務將根據一九六三年四月二十四日《維也納領事關係公約》予以規範。領事事務將本着友好合作的精神在平等互利的基礎上予以處理。

如蒙外交部代表中華人民共和國政府來照確認上述建議，本照會及外交部的覆照將構成大不列顛及北愛爾蘭聯合王國政府與中華人民共和國政府間的一項協議，並自一九九七年七月一日起生效。”

中華人民共和國外交部謹代表中華人民共和國政府確認上述照會內容。

順致最崇高的敬意。

中華人民共和國外交部

一九九六年九月二十六日於北京

註：中華人民共和國政府和大不列顛及北愛爾蘭聯合王國政府關於在曼徹斯特設立中國總領事館和在上海設立英國總領事館的協議的第三、五、六、七、八條節錄如下：

第三條

一、領館館舍不得侵犯。接受國當局未獲領館館長、派遣國使館館長，或以上兩人中一人指定的人的同意，不得進入領館館舍。

二、接受國負有特殊責任採取一切適當措施保護領館館舍免受侵入或損壞，並防止擾亂領館的安寧或損害其尊嚴。

三、本條第一款的規定，也適用於領事官員的住宅。

第五條

一、接受國應採取一切必要措施為派遣國領事官員執行領事職務提供充分便利。

二、經接受國同意，領事官員必要時可去其領區範圍以外的地區執行領事職務。對此，接受國將提供必要協助。

第六條

接受國應給予領事官員應有的尊重，並應採取一切適當措施，以防止其人身、自由或尊嚴受到任何侵犯。

第七條

一、領館成員及其家庭成員免受接受國的刑事管轄，並免受逮捕候審或羈押候審。

二、領館成員執行領事職務的行為免受接受國的民事和行政管轄。

三、惟本條第二款之規定不適用於下列民事訴訟：

(一) 有關接受國國內的私人不動產的訴訟，除非領館成員係代表派遣國為領館之用而擁有該不動產者；

(二) 有關領館成員以私人身份而不代表派遣國作為遺囑執行人、遺產管理人、繼承人或受遺贈人的繼承事件的訴訟；

(三) 有關領館成員在其公務範圍外在接受國進行的任何專業的或商業的活動的訴訟；

(四) 因領館成員並未明示或默示代表派遣國訂立的契約所引起的訴訟；

(五) 有關第三者因車輛、船舶或飛機在接受國內的意外事故所造成的損害的訴訟。

四、對本條所提到的任何人不得採取執行措施，除非屬本條第三款(一)項、(二)項和(三)項的案件，即使採取措施也不得損害其人身和住宅的不可侵犯性。

五、領館成員及其家庭成員得被請在司法或行政程序中到場作證。如領事官員及其家庭成員拒絕作證，不得對其施行強制措施或處罰。除本條第六款所述事項外，領館工作人員及其家庭成員或服務人員及其家庭成員不得拒絕作證。

六、領館成員沒有義務就其執行公務所涉事項作證，或出示官方信件或文件。領館成員並有權拒絕作為派遣國法律的鑑定人而作證。

七、接受國當局在接受領館成員證詞時應採取一切適當措施避免妨礙其執行領事職務。應領館館長的請求，此種證詞在可能情形下得在領館或有關人員的住宅口頭或書面提出。

八、本人為接受國國民或永久居民的領館成員及其家庭成員以及領館成員的家庭成員本人為接受國國民或接受國永久居民者，除享受本條第六款規定的豁免外，不應享受本條規定的權利、便利和豁免。

第八條

一、領事官員有權在其領區內與其本國國民聯繫和會見，接受國不得以任何形式限制派遣國國民與領館聯繫或進入領館。

二、在其領區內遇有派遣國國民被捕、被監禁或以任何其他形式被拘留，接受國有關當局應盡可能快地通知，最遲於該國民的個人自由受到限制之時起七天內通知派遣國領館。領事官員要求探視上述國民，接受國有關當局應於通知領館該國民的個人自由受到限制之日起二天後安排探視，並允許以後按不超過一個月的間隔重複探視。

三、本條所述的權利應在接受國法律和規章範圍內執行。然而這些法律和規章須使上述權利之目的得以充分實現。