

Agreement Constituted by Exchange of Notes
Between the Government of the People's Republic of China
and the Government of the Republic of India
on Matters Concerning the
Consular Convention
Between the People's Republic of China
and the Republic of India

**Consular Convention
Between
the People's Republic of China
And
the Republic of India**

The People's Republic of China and the Republic of India,

Desiring to develop their consular relations in order to facilitate the protection of the rights and interests of their nations and nationals, and promote the friendly relations and cooperation between the two countries,

Have decided to conclude the present Consular Convention and have agreed as follows:

CHAPTER I

DEFINITIONS

Article 1

Definitions

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

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

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

(c) "head of consular post" means the person charged with the duty of acting in that capacity;

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

(e) "member of the administrative and technical staff of the consular post" means any person who performs administrative or technical services at a consular post;

(f) "member of the service staff" means any person employed in the domestic service of a consular post;

(g) “members of a consular post” means consular officers, administrative and technical staff and service staff of a consular post;

(h) “family members” means the spouse, children and parents who are dependent on a member of a consular post and forming part of the same household;

(i) “member of the private staff” means any person who is employed in the private service of a member of the consular post;

(j) “consular premises” means buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post;

(k) “consular archives” means all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes, the card-indexes and any article of furniture intended for their protection or safe-keeping;

(l) “national of the sending State” means any natural person having the nationality of the sending State, and, when applicable, also any juridical person of the sending State;

(m) “vessel of the sending State” means any vessel sailing under the flag of the sending State pursuant to its law, excluding military vessels;

(n) “aircraft of the sending State” means any aircraft registered in the sending State and bearing that State’s registration marks, excluding military aircraft.

CHAPTER II

ESTABLISHMENT OF A CONSULAR POST AND APPOINTMENT OF ITS MEMBERS

Article 2

Establishment of a Consular Post

1. A consular post may be established in the territory of the receiving State only with the consent of that State.
2. The seat of the consular post, its classification and its consular district, as well as any changes pertaining thereto, shall be determined through consultation between the sending State and the receiving State.

3. The sending State shall determine the number of members of the consular post according to its workload and the needs of its normal activities while the receiving State may require that the number of members of the post be kept within limits considered to be reasonable and normal in the light of conditions in the consular district and the actual needs of that particular post.

Article 3

Appointment and Admission of Head of a Consular Post

1. The sending State shall obtain through diplomatic channels agreement by the receiving State for its appointment of the head of a consular post.

2. Upon receiving the agreement of the receiving State, the sending State shall, through its embassy or in other manner, transmit to the Ministry of Foreign Affairs of the receiving State a consular commission, stating the name and rank of the head of the consular post, the seat and classification of the consular post and the consular district.

3. Upon receiving the consular commission of the head of the consular post, the receiving State shall grant him an authorization to perform his consular functions as soon as possible which, in whatsoever form, is termed an exequater.

4. Pending delivery of the exequater, the receiving State shall admit the head of the consular post to the exercise of his consular functions on a provisional basis.

5. As soon as the receiving State grants an authorization to the head of the consular post, even provisionally, to exercise his consular functions, it shall immediately notify the competent authorities of the consular district. It shall also ensure that the necessary measures are taken to enable the head of the consular post to carry out the duties of his office and to benefit from the privileges and immunities provided for by the present Convention.

Article 4

Temporary Exercise of the Functions of the Head of a Consular Post

1. If for any reason the head of a consular post is unable to perform his functions, or if his position is temporarily vacant, the sending State may designate a consular officer of the consular post or of another consular post in

the receiving State, or a diplomatic officer of its embassy in the receiving State, as the acting head of the consular post. The sending State shall notify the receiving State in advance of the full name and the original rank of the acting head of the consular post.

2. The acting head of a consular post shall enjoy the same rights, facilities, privileges and immunities as enjoyed by the head of the consular post under this Convention.

3. A diplomatic officer designated as the acting head of a consular post shall continue to enjoy such diplomatic privileges and immunities as are due to him.

Article 5

Notification of Arrivals and Departures

The sending State shall at an appropriate time notify the receiving State of the following in writing:

(a) the full name and rank of a member of a consular post, the date of his arrival and final departure or the termination of his functions, as well as any change of his status in the course of his service with the consular post;

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

(c) the full name, nationality, function and the date of arrival and final departure of a member of the private staff.

Article 6

Identity Cards

Subject to the provisions of the laws and regulations of the receiving State, the competent authorities of the receiving State shall issue appropriate identity cards to the members of the consular post and their family members.

Article 7

Nationality of Consular Officers

A consular officer shall be a national of the sending State.

Article 8

Persons Declared “Non Grata”

1. The receiving State may at any time notify the sending State through diplomatic channels that a consular officer is persona non grata or that any other member of a consular post is unacceptable and the receiving State is not obliged to give reasons for its decision.
2. In the cases mentioned in paragraph 1 of this Article, the sending State shall recall that person or terminate his functions with the consular post. If the sending State fails within a reasonable time to carry out its obligations, the receiving State is entitled to withdraw acceptance from the person concerned or cease to consider him as a member of the consular post.
3. A person appointed as a member of a consular post may be declared unacceptable before his arrival in the territory of the receiving State or, if he is already in the receiving State, before he enters upon the exercise of his duties in the consular post. In any such case the sending State shall cancel his appointment.

CHAPTER III

CONSULAR FUNCTIONS

Article 9

General Consular Functions

A consular officer shall be entitled to the performance of the following functions:

- (a) protecting the rights and interests of the sending State and those of its nationals;
- (b) furthering the development of economic, trade, scientific, technological, cultural and educational relations between the sending State and the receiving State and otherwise promoting their friendly relations and cooperation;
- (c) ascertaining by all lawful means conditions of the receiving State in the economic, trade, scientific, technological, cultural, educational and other fields, and reporting thereon to the government of the sending State;

(d) performing other functions authorized by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State.

Article 10

Applications Pertaining to Nationality and Civil Registration

1. Within the limits of his consular district, a consular officer shall be entitled to:

(a) receive applications pertaining to nationality;

(b) register nationals of the sending State and maintain such a register. The competent authorities of the receiving State may assist a consular officer, at his request, in obtaining information required for this purpose concerning nationals of the sending State;

(c) register and receive communications and documents concerning births and deaths of nationals of the sending State;

(d) in accordance with the laws of the sending State, handle marriage formalities for nationals of the sending State and register divorces, provided that it does not contravene the laws and regulations of the receiving State;

(e) formalise adoptions, provided that the adoptee and the adopter are all nationals of the sending State, and that it does not contravene the laws and regulations of the receiving State.

2. The provisions of paragraph 1 of this Article shall not exempt the persons concerned from the obligation to observe the laws and regulations of the receiving State.

Article 11

Issuance of Passports and Visas

A consular officer shall be entitled to:

(a) issue, amend, renew or revoke passports or other travel documents of the nationals of the sending State;

(b) issue visas to persons who will go to or pass through the sending State and endorse or invalidate the said visas.

Article 12

Notarization and Authentication

1. A consular officer shall be entitled to:

(a) receive, draw up or attest applications or statements upon the request of a national of the sending State, and issue him corresponding documents;

(b) draw up, attest and preserve in custody wills made by a national of the sending State;

(c) draw up or attest transactions concluded between the nationals of the sending State inter se to the extent that such transactions are not prohibited by the laws and regulations of the receiving State. A consular officer can neither draw up nor attest such transactions as either establish or alienate property rights in immovable property situated within the receiving State;

(d) draw up or attest transactions between the nationals of the receiving State in cases where such transactions relate exclusively to property and rights in the sending State or if such transactions are to be executed in that State, on condition however, that such transactions do not offend against the laws and regulations of the receiving State;

(e) authenticate documents issued by the authorities of the sending State or the receiving State and also attest the authenticity of the copies and translations of or extracts from such documents;

(f) attest the signature of nationals of the sending State on documents if their contents do not offend against the laws and regulations of the receiving State;

(g) carry out other notarial functions which are authorized by the sending State, and to which no objection is taken by the receiving State.

2. When used in the receiving State, the documents drawn up, certified or authenticated by consular officers in accordance with the laws and regulations of the receiving State shall have the same validity and effect as the documents drawn up, certified or authenticated by the competent authorities of the receiving State. If so required under the law of the receiving State, such documents shall be legalised.

Article 13

Notification of Detention and Arrest and Visit

1. If a national of the sending State is detained, arrested or deprived of freedom by any other means in the consular district by the competent authorities of the receiving State, the said authorities shall notify the consular post of the matter as soon as possible.
2. A consular officer shall be entitled to visit a national of the sending State who is under detention, arrest or deprived of freedom by any other means, to converse or communicate with him and to arrange legal assistance for him. The competent authorities of the receiving State shall make arrangements for the visit to the said national by a consular officer as soon as possible.
3. A consular officer shall be entitled to visit a national of the sending State who is serving a sentence.
4. The competent authorities of the receiving State shall inform the above-mentioned national of the sending State of the provisions under paragraphs 1, 2 and 3 of this Article.
5. A consular officer shall comply with the relevant laws and regulations of the receiving State in performing the functions provided for in this Article. Nevertheless, the application of the relevant laws and regulations of the receiving State shall not restrict the implementation of the rights provided for in this Article.

Article 14

Guardianship and Trusteeship

1. The competent authorities of the receiving State shall notify the consular post when a guardian or trustee is required for a national, including an underaged national, of the sending State in the consular district who has no capacity or limited capacity to act on his own behalf.
2. A consular officer shall be entitled to protect, to the extent permitted by the laws and regulations of the receiving State, the rights and interests of a national, including an underaged national, of the sending State who has no capacity or limited capacity to act on his own behalf, and when necessary, to recommend or designate a guardian or trustee to the person concerned and supervise the activities pertaining to guardianship or trusteeship.

Article 15

Assistance to Nationals of the Sending State

1. A consular officer shall be entitled to:

(a) communicate and meet with any national of the sending State in the consular district, and the receiving State shall neither restrict communication between nationals of the sending State and a consular post nor restrict their access to the consular post;

(b) ascertain conditions in life and work of a national of the sending State in the receiving State and provide him with necessary assistance;

(c) request the competent authorities of the receiving State to ascertain the whereabouts of a national of the sending State, and the competent authorities of the receiving State shall do everything possible to provide the relevant information;

(d) receive and take into temporary custody money, valuables, certificates or documents from a national of the sending State provided that it does not contravene the laws and regulations of the receiving State. Transfer of the above-said property or documents outside the receiving State shall not be done except with the consent of that State.

2. In case a national of the sending State is not in the locality or for any other reason is unable in time to defend his own rights and interests, a consular officer may represent him before the court or other competent authorities of the receiving State or arrange for him an appropriate representative in accordance with the laws and regulations of the receiving State till he designates his own representative or is able to assume the defence of his own rights and interests.

Article 16

Notification on Deaths

Upon learning of the death of a national of the sending State in the receiving State, the competent authorities of the receiving State shall inform the consular post as soon as possible; and provide upon the request of the consular post a death certificate or a copy of other document certifying the death.

Article 17

Functions Concerning Estate

1. If a deceased national of the sending State has left an estate in the receiving State and there is no heir or testamentary executor in the receiving State, the competent authorities of the receiving State shall promptly inform the consular post.
2. A consular officer shall be entitled to be present when an estate as referred to in paragraph 1 of this Article is being inventoried and sealed by the competent authorities of the receiving State.
3. If a national of the sending State as an heir or legatee is entitled to inherit or receive an estate or bequeathed gift of a deceased person of any nationality in the receiving State and if such a person is not in the territory of the receiving State, the competent authorities of the receiving State shall inform the consular post about such inheritance or reception of an estate or bequeathed gift by the said person.
4. In case a national of the sending State has or claims to have the right to inherit an estate in the receiving State but neither he nor his representative is able to be present at the inheritance proceedings, a consular officer may himself or through his deputy represent the national before the court or other competent authorities of the receiving State.
5. A consular officer shall be entitled, on behalf of a national of the sending State who is not a permanent resident in the receiving State, to receive for transmission to that national any estate or bequeathed gift in the receiving State, which is due to that national.
6. If a national of the sending State who is not a permanent resident in the receiving State dies during a temporary stay in or transit through the receiving State, and if there is no relative or representative of his in the receiving State, a consular officer shall be entitled to immediately take into temporary custody all the documents, money and personal effects which were with the deceased national for transmission to his heir, testamentary executor or other persons authorized to receive the assets.
7. A consular officer shall comply with the relevant laws and regulations of the receiving State in performing his functions as referred to in paragraphs 4, 5 and 6 of this Article.

Article 18

Assistance to Vessels of the Sending State

1. A consular officer shall be entitled to render all assistance to vessels of the sending State which are in the inland or territorial waters of the receiving State, and also:

(a) to board a vessel when free access to shore has been granted to the vessel, question the master and any member of the crew and receive reports on the vessel, its cargo and voyage;

(b) without prejudice to the powers of the competent authorities of the receiving State, to investigate any incident which has occurred during the voyage and to settle disputes between master and crew, including disputes about wages and service contracts, in so far as this may be authorised by the laws and regulations of the sending State;

(c) to receive visits from the master or any member of the crew, and, when necessary, make arrangements for his medical treatment or for him to return home;

(d) to receive, examine, draw up, sign or authenticate documents with regard to a vessel;

(e) to exercise rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels and of their crews;

(f) to handle other matters relating to a vessel which are entrusted by the competent authorities of the sending State.

2. The master and any member of the crew may contact a consular officer. They may go to the consular post on the premise of no contravention of the laws and regulations of the receiving State concerning the administration of ports and aliens.

Article 19

Protection in Case of Compulsory Actions Against a Vessel of the Sending State

1. In case the courts or other competent authorities of the receiving State intend to take any compulsory action or to start an official investigation with regard to a vessel or aboard a vessel of the sending State, those authorities shall notify the consular post. Such information shall be given as far as

possible before the commencement of such action so as to enable a consular officer or his representative to be present when such an action is being taken. If the urgency of the matter prevents prior notification, the competent authorities of the receiving State shall notify the consular post immediately after the actions have been taken and promptly provide him with full information of the said actions, upon the request of a consular officer.

2. The provisions of paragraph 1 of this Article shall apply to similar actions taken on shore by the competent authorities of the receiving State against the master of a vessel or any member of the crew.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to customs, administration of ports, quarantine and passport inspections, nor to measures taken by the competent authorities of the receiving State to ensure navigation safety on sea or the prevention of pollution of waters.

4. Except upon the request or with the consent of the master of a vessel or of a consular officer of the sending State, the competent authorities of the receiving State shall not interfere in the internal affairs of the vessel, when the peace, security and public order of the receiving State are not violated.

Article 20

Assistance to Wrecked Vessels of the Sending State

1. If a vessel of the sending State suffers shipwreck, runs aground, is swept ashore or suffers any other accident within the inland or territorial waters of the receiving State, the competent authorities of the receiving State shall, as soon as possible, notify the consular post about the matter and inform it of the measures taken for rescuing the persons aboard the vessel, its cargo and other properties.

2. A consular officer shall be entitled to render all assistance to any wrecked vessel of the sending State, its crew and passengers and to take appropriate measures for the repair of the vessel. For this purpose, he may request the competent authorities of the receiving State for appropriate assistance.

3. No customs duty shall be levied by the receiving State against a wrecked vessel, its cargo or stores in the territory of the receiving State unless they are delivered for use or for sale in that State.

4. If a wrecked vessel of the sending State or its articles or cargo are found near the coast of, or are brought into a port of the receiving State and neither the master nor the owner of the vessel, nor any agent of the vessel company or of its insurance company is present or is in a position to take measures for

their preservation or disposal, the competent authorities of the receiving State shall inform the consular post as promptly as possible. A consular officer may, on behalf of the owner of the vessel take appropriate measures pursuant to the laws and regulations of the receiving State. The provisions of this paragraph shall also apply to any article on the vessel belonging to the nationals of the sending State.

Article 21

Aircraft of the Sending State

The provisions of this Convention concerning vessels of the sending State shall apply to aircraft of the sending State provided that such application does not contravene the provisions of bilateral agreements in force between the sending State and the receiving State or of multilateral agreements to which both States are signatories.

Article 22

Transmitting Judicial Documents

A consular officer shall be entitled to transmit judicial and extra-judicial documents to the extent permitted by the laws and regulations of the receiving State, subject to any agreements between the sending State and the receiving State.

Article 23

Area for Performance of Consular Functions

A consular officer shall perform his functions only in his consular district. With the consent of the receiving State, he may also perform his functions outside the consular district.

Article 24

Communication with the Authorities of the Receiving State

In the exercise of his functions, a consular officer may address the competent local authorities in his consular district, and when necessary, the competent central authorities of the receiving State to the extent permitted by the laws, regulations and usages of the receiving State.

CHAPTER IV

FACILITIES, PRIVILEGES AND IMMUNITIES

Article 25

Facilities for a Consular Post

1. The receiving State shall accord full facilities for the performance of the functions of a consular post.
2. The receiving State shall treat members of a consular post with due respect and shall take appropriate measures to ensure the smooth performance of functions by such members and their rights, facilities, privileges and immunities as provided for in this Convention.

Article 26

Acquisition of Consular Premises and Residences

1. To the extent permitted by the laws and regulations of the receiving State, the sending State or its representative shall have the right to:
 - (a) purchase, lease or acquire in any other way a building or a part of a building and the land ancillary thereto for use as the consular premises and the residences of the members of the consular post, excluding the residences of those members who are nationals or permanent residents of the receiving State;
 - (b) to construct or improve buildings on the land acquired.
2. The receiving State shall assist the sending State in acquiring consular premises, and when necessary, in acquiring appropriate residences for members of the consular post.
3. In the exercise of their rights provided for in paragraph 1 of this Article, the sending State or its representative shall comply with the laws and regulations of the receiving State concerning land, construction and city planning.

Article 27

Use of the National Flag and Emblem

1. The sending State shall have the right to place on the consular premises its national emblem and the designation of the consular post in the languages of the sending and of the receiving States.

2. The sending State shall have the right to fly its national flag on the consular premises, the residence of the head of a consular post and the means of transport used in the performance of his official duties.

3. In the exercise of rights provided for in this Article, regard shall be given to the laws, regulations and usages of the receiving State.

Article 28

Inviolability of Consular Premises and Residences of Members of the Consular Post

1. Consular premises and the residences of members of a consular post shall be inviolable. The authorities of the receiving State may not enter the consular premises and the residences of members of a consular post without the consent of the head of the consular post or the head of the diplomatic mission of the sending State in the receiving State, or of a person designated by one of them.

2. The means of transport of the consular post and of the consular officers shall be immune from search, arrest or execution.

3. The receiving State shall take all necessary measures to protect the consular premises and the residences of members of the consular post against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

Article 29

Immunity from Requisition of Consular Premises

The consular premises, their furnishings and the property and means of transport of the consular post shall be immune from any form of requisition.

Article 30

Inviolability of the Consular Archives

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

Article 31

Freedom of Communication

1. The receiving State shall permit and protect freedom of communication by a consular post for all official purposes. In communication with the Government, the diplomatic missions and other consular posts of the sending State, the consular post may employ all appropriate means of communication, including messages in cipher or code, diplomatic or consular couriers and diplomatic or consular bags. However, the consular post may install and use a radio transmitter only with the consent of the receiving State.
2. The official correspondence of a consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions. The consular bag shall neither be opened nor detained. All the packages which constitute the consular bag shall bear visible external marks of its character and may contain nothing other than official correspondence, official documents and articles intended exclusively for official use.
3. The consular courier shall only be a national of the sending State, and shall not be a permanent resident of the receiving State. He shall be provided with an official document indicating his status and the number of packages constituting the consular bag. In performing his functions, a consular courier shall be protected by the receiving State and enjoy personal inviolability and shall not be liable to any form of arrest or detention.
4. The sending State, its diplomatic mission and consular post may designate consular couriers ad hoc; in such cases the provisions of paragraph 3 of this Article shall also apply except that the privileges and immunities therein mentioned shall cease to apply when such courier has delivered to the consignee the consular bag in his charge.
5. A consular bag may be entrusted to the captain of an aircraft or a vessel of the sending State. He shall be provided with an official document indicating the number of packages constituting the bag. However, he shall not be considered as a consular courier. By arrangement with the appropriate authorities of the receiving State, a member of the consular post may directly and freely collect the bag from or deliver it to him.

Article 32

Consular Fees and Charges

1. A consular post may, in the territory of the receiving State, levy fees and charges for consular acts in accordance with the laws and regulations of the sending State.
2. The fees and charges referred to in paragraph 1 of this Article and their receipts shall be exempt from all dues and taxes of the receiving State.

Article 33

Freedom of Movement

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

Article 34

Personal Inviolability of Consular Officers

1. The receiving State shall treat consular officers and members of the administrative and technical staff of the consular post with due respect and shall take all appropriate measures to prevent any attack on their person, freedom and dignity.
2. A consular officer shall not be liable to arrest or detention.
3. Members of the administrative and technical staff and members of the service staff of a consular post shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority of the receiving State.
4. Except in the case specified in paragraph 3 of this Article, members of the administrative and technical staff and of the service staff of a consular post shall not be committed to prison or be liable to any other form of restriction on his personal freedom save in execution of a judicial decision of final effect.
5. If criminal proceedings are instituted against a member of the administrative and technical staff or of the service staff of a consular post, he must appear before the competent authorities. Nevertheless, the proceedings

shall be conducted with the respect due to him and, except in the case specified in paragraph 3 of this Article, in a manner which will hamper the performance of consular functions as little as possible. When in the circumstances mentioned in paragraph 3 of this Article, it becomes necessary to arrest or detain him, the proceedings against him shall be instituted with a minimum delay.

Article 35

Immunity from Jurisdiction

1. A consular officer shall enjoy total immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from civil and administrative jurisdiction of the receiving State in respect of acts performed in the exercise of consular functions.
2. Members of the administrative and technical staff or of the service staff of a consular post shall also be immune from criminal, civil and administrative jurisdiction of the receiving State in respect of acts performed in the exercise of consular functions.
3. The provisions of paragraphs 1 and 2 of this Article shall not apply to the following civil proceedings:
 - (a) arising out of a contract concluded by a member of the consular post in which he did not contract expressly or impliedly as an agent of the sending State;
 - (b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft;
 - (c) concerning private immovable property in the receiving State, unless a member of the consular post is holding it in the capacity of representative of the sending State and for the purposes of the consular post;
 - (d) relating to succession in which a member of the consular post is involved as executor, administrator, heir or legatee as a private person;
 - (e) arising out of any professional or commercial activities in the receiving State by a member of the consular post outside his official functions.
4. The receiving State shall not take measures of execution against a consular officer except in cases referred to in paragraph 3 of this Article. In the event of taking such measures, the inviolability of the person and residence of the consular officer shall not be impaired.

Article 36

Liability to Give Evidence

1. A consular officer is under no obligation to give evidence as a witness. The receiving State shall not apply coercive measures or penalty to a consular officer if he should decline to give evidence.
2. A member of the administrative and technical staff or of the service staff of the consular post may be called upon to give evidence in the course of judicial or administrative proceedings of the receiving State. He shall not, except in the cases referred to in paragraph 3 of this Article, decline to give evidence. However, under no circumstances should coercive measures be applied to him.
3. A member of the administrative and technical staff or of the service staff of the consular post is under no obligation to give evidence concerning matters connected with the exercise of his functions or to produce any official correspondence or documents relating thereto. He is entitled to decline to give evidence as expert witness with regard to the law of the sending State.
4. The competent authorities of the receiving State requiring the evidence of a member of the administrative and technical staff or of the service staff of the consular post shall avoid interference with the performance of his functions. They may, when possible, take such evidence at his residence or at the consular premises or accept a statement from him in writing.

Article 37

Exemption from Services and Obligations

1. A member of the consular post shall be exempt in the receiving State from any kind of personal services, public services and military obligations.
2. A consular officer and a member of the administrative and technical staff of the consular post shall be exempt from all obligations under the laws and regulations of the receiving State concerning the registration of aliens and residence permits.

Article 38

Exemption of Properties from Taxation

1. The receiving State shall exempt the following from all dues and taxes:

(a) consular premises and residences of the members of a consular post acquired in the name of the sending State or its representative and transactions or instruments related thereto;

(b) consular facilities and means of transport acquired exclusively for official purposes as well as their acquisition, possession or maintenance.

2. The provisions of paragraph 1 of this Article shall not apply in respect of:

(a) charges levied for specific services;

(b) dues and taxes collectable under the laws and regulations of the receiving State from a person who concludes a contract with the sending State or its representative.

Article 39

Exemption of Members of the Consular Post from Taxation

1. Consular officers and members of the administrative and technical staff of the consular post shall be exempt from all national, regional or municipal dues and taxes of the receiving State on person or object, except:

(a) indirect taxes of a kind which are normally incorporated in the price of commodities or services;

(b) dues and taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of paragraph 1 of Article 38 of this Convention;

(c) estate and inheritance duties and duties on transfers, subject to the provisions of Article 43 of this Convention;

(d) dues and taxes on private income other than the income acquired from their official functions in the receiving State;

(e) charges levied for specific services rendered;

(f) registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of Article 38 of this Convention.

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

Article 40

Exemption from Customs Duties and Inspection

1. The receiving State shall, in accordance with its laws and regulations, permit entry and exit of and grant exemption from all customs duties other than charges, for storage, cartage and similar services, on:

(a) articles for the official use of a consular post;

(b) articles for the personal use of a consular officer;

(c) articles imported at the time of first installation for the personal use of a member of the administrative and technical staff of the consular post, including household articles intended for his establishment.

2. Articles referred to in sub-paragraphs (b) and (c) of paragraph 1 of this Article shall not exceed the quantities necessary for direct use by the person concerned.

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

Article 41

Privileges and Immunities of Family Members

Family members of a consular officer and family members of a member of the administrative and technical staff of the consular post will be accorded due respect by the receiving State and shall enjoy respectively the privileges and immunities to which the consular officer and the member of the administrative and technical staff are respectively entitled under the provisions of this Convention. Family members of a member of the service staff of the consular post shall enjoy the privileges and immunities to which the member of the service staff is entitled under this Convention, except those who are nationals or permanent residents of the receiving State, or who carry on any private gainful occupation in the receiving State.

Article 42

Persons who shall not Enjoy Privileges and Immunities

1. Members of the administrative and technical staff or of the service staff of the consular post who are nationals or permanent residents of the receiving State shall not enjoy the privileges and immunities provided for in this Convention, subject to the provisions of paragraph 3 of Article 36 of this Convention.
2. Family members of the persons mentioned in paragraph 1 of this Article shall not enjoy the privileges and immunities provided for in this Convention.

Article 43

Estate of Member of the Consular Post

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

- (a) permit the export of the movable property of the deceased except any such property acquired by the deceased in the territory of the receiving State the export of which was prohibited at the time of his death;
- (b) exempt the movable property of the deceased from estate duties and all duties concerned.

Article 44

Beginning and End of Privileges and Immunities

1. Every member of the consular post shall enjoy the privileges and immunities provided in this Convention from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when he enters on his duties with the consular post.
2. Family members of a member of the consular post shall enjoy the privileges and immunities provided for in this Convention from the date from which he enjoys privileges and immunities, or from the date of their entry into the territory of the receiving State or from the date of their becoming such family members in the case of their entry or becoming such family members after the date from which he enjoys privileges and immunities.
3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of his family members shall cease

at the moment when the person concerned leaves the receiving State or on the expiry of a reasonable period in which to do so. The privileges and immunities of the family members of a member of the consular post shall come to an end when they cease to be the said family members. However, if such persons intend to leave the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. In the event of the death of a member of the consular post, his family members shall continue to enjoy the privileges and immunities accorded to them until they leave the receiving State or until the expiry of a reasonable period in which to do so.

Article 45

Waiver of Privileges and Immunities

1. The sending State may waive any of the privileges and immunities enjoyed by the persons concerned under Articles 35 and 36 of this Convention. The waiver shall in all cases be explicit and shall be communicated to the receiving State in writing.

2. The initiation of proceedings by a person in a matter where he might enjoy immunity from jurisdiction under this Convention shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

3. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the execution of judicial decision. In respect of such execution, a separate waiver of immunity in writing shall be necessary.

CHAPTER V

GENERAL PROVISIONS

Article 46

Respect for the Laws and Regulations of the Receiving State

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities as provided for in this Convention to respect the laws and regulations of the receiving State, including

those governing traffic control. They also have the duty not to interfere in the internal affairs of the receiving State.

2. Consular premises shall not be used for any purposes incompatible with the performance of consular functions.
3. A consular post, members of the consular post and their family members shall comply with the laws and regulations of the receiving State concerning insurance of means of transport.
4. Members of the consular post who are sent by the sending State to the receiving State shall not engage in any professional or commercial activities in the receiving State other than their official functions.

Article 47

Exercise of Consular Functions by Diplomatic Missions

1. The diplomatic mission of the sending State in the receiving State may perform consular functions. The rights and obligations of consular officers provided for in this Convention shall apply to diplomatic personnel of the sending State charged with consular functions.
2. The diplomatic mission of the sending State shall notify the Ministry of Foreign Affairs of the receiving State of the names and ranks of the diplomatic personnel charged with consular functions.
3. Diplomatic personnel charged with consular functions shall continue to enjoy such rights, facilities, privileges and immunities as due to them by virtue of their diplomatic status.

Article 48

Relationship between This Convention and Other Relevant International Convention

Any matter which is not specifically provided for in this Convention shall be dealt with in accordance with the relevant provisions of the Vienna Convention on Consular Relations done on April 24, 1963.

CHAPTER VI

FINAL PROVISIONS

Article 49

Ratification, Entry into Force and Termination

1. This Convention shall be subject to ratification. The exchange of instruments of ratification shall take place in Beijing. The present Convention shall enter into force on the thirtieth day following the date of the exchange of instruments of ratification. ^(Note)

2. This Convention shall remain in force until the expiration of six months from the date on which one of the Contracting Parties gives to the other Contracting Party written notification of its intention to terminate the Convention.

Done at New Delhi on 13 December, 1991, in two originals, each in the Chinese, Hindi and English languages, all the texts being equally authentic.

For the People's Republic
of China

錢其琛

For the Republic
of India

索蘭基

Note: The People's Republic of China and the Republic of India exchanged instruments of ratification in respect of this Convention on 30 September 1992 at Beijing. This Convention came into force on 30 October 1992 and became applicable to the Hong Kong Special Administrative Region with effect from 28 July 2001.

No. Pek/Cons/2001

The Embassy of Republic of India in China presents its compliments to the Ministry of Foreign Affairs of the People's Republic of China and has the honour to acknowledge the receipt of the latter's Note No.28/2001 dtd. 19 June, 2001, which reads as follows:

“The Ministry of Foreign Affairs of the People's Republic of China presents its compliments to the Embassy of the Republic of India in China and has the honour to confirm on behalf of the Government of the People's Republic of China that the two sides have reached the following agreement on matters concerning the Convention on Consular Relations Between the People's Republic of China and the Republic of India:

I) The Convention on Consular Relations Between the People's Republic of China and the Republic of India done at New Delhi on 13 December, 1991 shall apply to the Hong Kong Special Administrative Region and the Macao Special Administrative Region of the People's Republic of China.

II) The bilateral agreements in force between the sending state and the receiving state or the multilateral agreements to which both states are signatories as referred to in Article 21 of the above-mentioned Convention, shall include the air services agreements concluded between the Hong Kong Special Administrative Region or Macao Special Administrative Region of the People's Republic of China and the Republic of India.

If the Embassy of the Republic of India in China confirms, on behalf of the Government of Republic of India, the above points in a note of reply, this note and the note of reply from the Embassy shall constitute an agreement between the Government of People's Republic of China and the Government of the Republic of India, and shall enter into force as of the thirty first day from the date of the note of reply.”

The Embassy of the Republic of India in China hereby wishes to confirm, on behalf of the Government of the Republic of India, its agreement to all the points stated in the above note.

The Embassy of the Republic of India in China avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the People's Republic of China the assurances of its highest consideration.

The Embassy of
the Republic of India in China
Beijing
27 June, 2001