

**Subcommittee on
Subsidiary Legislation Relating to Consular Matters**

**The Administration's Response to Issues raised
at the Meeting on 5 June 2009**

(a) In relation to the Consular Relations (Additional Privileges and Immunities) (India) Order (L.N. 73 of 2009)

- (i) *Meaning and coverage of "the means of transport of the consular post and consular officers" under Article 28(2) of the Consular Convention Between the People's Republic of China and the Republic of India (the Convention)*

In light of international practice, "the means of transport of the consular post and consular officers" refer to those which are under the lawful possession of the consular post/consular officers concerned. The means of transport could be owned or hired by the consular post/consular officers.

- (ii) *Procedures taken to ensure enforcement agencies of the Hong Kong Government shall interpret "the means of transport of the consular post and consular officers" in line with Article 28(2) of the Convention*

When the Convention first came into force in Hong Kong, the bureaux and departments concerned had been advised of the privileges and immunities accorded to the Consulate General of India in Hong Kong and its personnel. That said, in response to Member's advice, we shall remind the law enforcement agencies once again of the interpretation of Article 28(2) of the Convention as explained in item (i) above.

(b) In relation to the Consular Relations (Additional Privileges and Immunities) (Russia) Order (L.N. 79 of 2009)

Circumstances under which the receiving State shall take measures to prevent any attack on the personal freedom and dignity of consular officers who shall enjoy personal inviolability as set out in Article 33 (Personal inviolability of consular officers) of the Convention, and the meaning of "dignity" referred to in this provision.

The term “dignity” as appeared in Article 33 should be understood in the context of the entire Article. In general, Article 33 requires the receiving State to take appropriate measures in circumstances including to prevent any action imposed by anyone upon consular officers that would amount to direct coercion. Indeed, “dignity” is not a new concept. This term is also used in various parts of the Vienna Convention on Consular Relations, including Article 31(3) (Inviolability of the consular premises) and Article 40 (Protection of consular officers) therein.