

L.N. 76 of 2009**CONSULAR RELATIONS (ADDITIONAL PRIVILEGES AND IMMUNITIES) (ITALY) ORDER**

(Made by the Chief Executive in Council under section 4(1) of the Consular Relations Ordinance (Cap. 557))

1. Commencement

This Order comes into operation on 17 July 2009.

2. Interpretation

In this Order—

“Agreement” (協議) means the agreement between the Government of the Republic of Italy and the Government of the People’s Republic of China constituted by an exchange of Notes dated 5 June 1997 between the Embassy of the Republic of Italy in the People’s Republic of China and the Ministry of Foreign Affairs of the People’s Republic of China;

“relevant provisions of the Agreement” (協議有關條文) means the provisions of paragraphs 1.i(b), 1.ii, 5.i and 6 of Article IV of the Agreement, the English translation* of which is set out in the Schedule.

3. Additional privileges and immunities

It is declared that the additional privileges and immunities accorded to a consular post of the Republic of Italy, or to persons connected with the consular post, or to both, under the relevant provisions of the Agreement, have the force of law in Hong Kong.

SCHEDULE

[s. 2]

PROVISIONS OF THE AGREEMENT REFERRED TO IN THIS ORDER**IV. 1. Exemption from taxation of consular premises**

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

.....

* This English translation text has been prepared by the Chief Secretary for Administration’s Office from the Chinese language text of the Agreement. It has been vetted by the Department of Justice.

(b) consular facilities and means of transport owned, leased or possessed by other lawful means exclusively for official purposes, as well as their acquisition, possession or maintenance.

ii. The provisions of sub-paragraph i of this paragraph 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.

5. Personal inviolability of head of consular post and consular officers

i. The head of consular post shall enjoy personal inviolability and shall not be liable to arrest or detention.

6. Immunity from jurisdiction

i. The head of consular post shall enjoy immunity from the criminal jurisdiction of the receiving State. Except in the following cases, the head of consular post shall also enjoy immunity from the civil and administrative jurisdiction of the receiving State:

(a) action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State in the exercise of consular functions;

(b) action relating to succession in which the head of consular post is involved as executor, administrator, heir or legatee in a private capacity and not on behalf of the sending State;

(c) action relating to any professional or commercial activity engaged in by the head of consular post in the receiving State outside his official functions;

(d) action by a third party for damages for damage caused by a vehicle, vessel or aircraft in the receiving State.

ii. No measures of execution shall be taken against the head of consular post except in the cases referred to in i(a), (b), (c) and (d) of this paragraph. If any measure of execution is taken in those cases, the inviolability of his person or of his residence shall not be infringed.

iii. Members of the consular post other than the head of consular post shall be immune from the jurisdiction of the receiving State in respect of acts performed in the exercise of consular functions, except in civil action:

(a) arising out of a contract concluded by a member of the consular post other than the head 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 damages for damage caused by a vehicle, vessel or aircraft in the receiving State.

Manda CHAN

Clerk to the Executive Council

COUNCIL CHAMBER

21 April 2009

Explanatory Note

This Order declares that the additional privileges and immunities accorded to a consular post of the Republic of Italy, or to persons connected with the consular post, or to both, as specified in the Order, have the force of law in the Hong Kong Special Administrative Region.