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Our Ref : SF(10) to PROT CR 6/1126/98

23 October 2015

Ms Rachel DAI
Assistant Legal Advisor
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms Dai,

**Consular Relations (Additional Privileges and Immunities)
(Cambodia) Order (L.N. 177) and Consular Relations (Additional
Privileges and Immunities) (Philippines) Order (L.N. 180)**

Thank you for the letter dated 19 October 2015.

A summary table on the major additional privileges and immunities conferred on consular posts, or to persons connected with the consular posts, or to both, in respect of 13 foreign States that have signed bilateral consular agreements with the People's Republic of China, which are applicable to the Hong Kong Special Administrative Region (HKSAR) is enclosed. Such additional privileges and immunities are referred to in paragraph 6 of the Legal Service Division Report on Subsidiary Legislation gazetted on 25 September 2015 (LC Paper No. LS82/14-15), and include :

- (a) the acting head of a consular post shall enjoy the same rights, facilities, privileges and immunities as enjoyed by a head of a consular post;

- (b) inviolability of consular premises and the residences of consular officers;
- (c) inviolability of the consular archives and documents;
- (d) personal inviolability of consular officers and their family members;
- (e) immunity from any form of requisition of consular premises, their furnishings and the property and means of transport of the consular post;
- (f) immunity from the judicial and administrative jurisdiction except in certain civil proceedings for a consular officer, a member of the administrative and technical staff and of the service staff of the consular post, and their family members; and
- (g) in the event of the death of a member of a consular post or a member of his family, exemption of the movable property of the deceased from estate duties and all duties concerned.

In line with the common law practice, provisions of the Vienna Convention on Consular Relations, which affect private rights and obligations or require exceptions to be made to the existing laws, have already been specifically set out in the laws of the HKSAR by way of the Consular Relations Ordinance (Cap. 557). As for provisions of bilateral consular agreements applicable to the HKSAR which affect private rights and obligations or require exceptions to be made to the existing laws of the HKSAR, they should be underpinned by way of domestic legislation.

Referring to the summary table, I would like to draw your attention to the following -

- (i) Canada, Australia, New Zealand and Korea: The bilateral consular agreements do not confer additional privileges and immunities as described in (a) to (g) under the second paragraph above and thus no notation has been made in the table.

- (ii) Italy: Since only the additional privileges and immunities which substantially match with those described in (a) to (g) under the second paragraph above will be included in the table, no notation has been made in the table in respect of Italy.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Judy LI', with a flourish at the end.

(Mrs Judy LI)
for Director of Administration

Encl.

**Summary Table – Comparison on Major Additional Privileges and Immunities
Conferred on Consular Posts and Persons Connected with the Consular Posts**

State ⁽¹⁾ / Additional Ps&Is	(a)	(b)	(c)	(d)	(e)	(f)	(g)
Italy (1 Jul 1997)							
UK (1 Jul 1997)		✓ ²		✓		✓	
USA (1 Jul 1997)		✓		✓		✓	
Canada (11 Mar 1999)							
Vietnam (26 Jul 2000)	✓	✓		✓		✓	
Australia (15 Sept 2000)							
India (28 Jul 2001)	✓	✓		✓	✓	✓	✓
Russian Federation (23 Oct 2003)	✓	✓	✓	✓	✓	✓	✓
New Zealand (23 Apr 2006)							
Japan (16 Feb 2010)		✓	✓				
Cambodia (12 Jan 2011)	✓	✓	✓	✓	✓	✓	✓
Philippines (13 Jul 2013)	✓	✓	✓	✓	✓	✓	✓
Korea (12 Apr 2015)							

¹ () : Commencement date of the application of the relevant bilateral consular agreement to the HKSAR.

² ✓ : The additional privileges and immunities are substantially the same as those described under the relevant item.

Summary Table – Comparison on Major Additional Privileges and Immunities Conferred on Consular Posts and Persons Connected with the Consular Posts

The additional privileges and immunities listed above refer to ³:

- (a) the acting head of a consular post shall enjoy the same rights, facilities, privileges and immunities as enjoyed by a head of a consular post;
- (b) inviolability of consular premises and the residences of consular officers;
- (c) inviolability of the consular archives and documents;
- (d) personal inviolability of consular officers and their family members;
- (e) immunity from any form of requisition of consular premises, their furnishings and the property and means of transport of the consular post;
- (f) immunity from the judicial and administrative jurisdiction except in certain civil proceedings for a consular officer, a member of the administrative and technical staff and of the service staff of the consular post, and their family members; and
- (g) in the event of the death of a member of a consular post or a member of his family, exemption of the movable property of the deceased from estate duties and all duties concerned.

³ Items (a) to (g) are the additional privileges and immunities listed in paragraph 6 of LC Paper No. LS82/14-15.