



ST. CHRISTOPHER AND NEVIS

CHAPTER 6.01

DIPLOMATIC AND CONSULAR SERVICES (IMMUNITIES AND PRIVILEGES) ACT

Revised Edition

showing the law as at 31 December 2002

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DIPLOMATIC AND CONSULAR SERVICES (IMMUNITIES AND PRIVILEGES) ACT

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CHAPTER 6.01
DIPLOMATIC AND CONSULAR SERVICES
(IMMUNITIES AND PRIVILEGES) ACT

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CHAPTER 6.01
DIPLOMATIC AND CONSULAR SERVICES
(IMMUNITIES AND PRIVILEGES) ACT

AN ACT TO CONFER CERTAIN PRIVILEGES AND IMMUNITIES ON MEMBERS OF THE DIPLOMATIC SERVICES AND THE CONSULAR SERVICES BY GIVING THE FORCE OF LAW TO CERTAIN ARTICLES OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS AND THE VIENNA CONVENTION ON CONSULAR RELATIONS; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

Short title.

1. This Act may be cited as the Diplomatic and Consular Services (Immunities and Privileges) Act.

Interpretation.

2. In this Act—

“Minister” means the Minister for the time being charged with the responsibility for Foreign Affairs;

“the Convention on Consular relations” means the Vienna Convention on Consular relations signed at Vienna on the 24th April, 1963;

“the Vienna Convention” means the Vienna Convention on Diplomatic Relations signed at Vienna on the 18th April, 1961.

PART I

DIPLOMATIC IMMUNITIES AND PRIVILEGES

Application of Vienna Convention.

3. (1) Subject to this Act, the Articles set out in the First Schedule (being Articles of the Vienna Convention) shall have the force of law in Saint Christopher and Nevis.

(2) In the Articles referred to in subsection (1)—

“agents of the receiving State” shall be construed as including any member of the Police Force and any person exercising power of entry to any premises under any written law in force in Saint Christopher and Nevis;

“member of the family” shall be construed as meaning, in relation to any person, the spouse or any dependent relative of that person;

“Ministry of Foreign Affairs or such other Ministry as may be agreed” shall be construed as meaning the Ministry of Foreign Affairs of the Government of Saint Christopher and Nevis;

“mission” shall be construed as meaning any Embassy or High Commission;

“national of the receiving State” shall be construed as meaning any citizen of Saint Christopher and Nevis or any person entitled to be registered as such.

(3) For the purpose of Article 32 a waiver by the head of the mission of any State or any person performing his or her functions shall be deemed to be a waiver by that State.

(4) The references in Article 37 and 38 to the extent to which any immunities and privileges are admitted by the receiving State and to additional immunities and privileges that may be granted by the receiving State shall be construed as referring respectively to the extent to which any immunities and privileges which the Governor-General may specify by Order and to any additional immunities and privileges that may be so specified.

Restriction, variation and revocation of immunities and privileges, of diplomatic agents.

4. (1) If it appears to the Governor-General that the immunities and privileges accorded to a mission of Saint Christopher and Nevis in the territory of any State or to the persons connected with that mission are less than those conferred by this Act on the mission of that State or on persons connected with that mission, the Governor-General may, by Order, withdraw such of the immunities and privileges so conferred from the mission of that State or from such persons connected with it as appears to the Governor-General to be proper.

(2) When any immunities and privileges are withdrawn from any State by the Governor-General under subsection (1), the Governor-General may reinstate such immunities and privileges to that State at any time if it appears to him or her to be proper to do so.

PART II

CONSULAR IMMUNITIES AND PRIVILEGES

Application of Vienna Convention on Consular Relations.

5. (1) Subject to this Act, the Articles set out in the Second Schedule (being Articles of the Vienna Convention on Consular Relations signed in 1963) shall have the force of law in Saint Christopher and Nevis and shall be construed in accordance with the provisions of this section.

(2) In the Articles referred to in sub-section (1)—

“agents of the receiving State” shall be construed as including any member of the Police Force and any person exercising power of entry to any premises under any written law in force in Saint Christopher and Nevis;

“member of the family” shall be construed as meaning, in relation to any person, the spouse or any dependant relative of that person;

“mission” shall be construed as meaning any Embassy or High Commission;

“national of the receiving State” shall be construed as meaning any citizen of Saint Christopher and Nevis or any person entitled to be registered as such.

Restriction, variation and revocation of immunities and privileges of consular officers.

6. The provisions of section 4 which relates to the withdrawal of immunities and privileges to diplomatic officers shall apply *mutatis mutandis* to consular officers.

PART III

GENERAL

Certificate of Minister is conclusive evidence.

7. If in any proceedings any question arises whether or not any person is entitled to any immunity or privilege under this Act, a certificate issued by or under the authority of the Minister stating any fact relating to that question shall be conclusive evidence of that fact.

Regulations.

8. The Governor-General may make regulations prescribing all matters which may be necessary for giving effect to this Act.

FIRST SCHEDULE

(Section 3)

**ARTICLES OF THE VIENNA CONVENTION HAVING
THE FORCE OF LAW IN SAINT CHRISTOPHER AND NEVIS****Article 1**

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

- (a) the “head of the mission” is the person charged by the sending State with the duty of acting in that capacity;
- (b) the “members of the mission” are the head of the mission and the members of the staff of the mission;
- (c) the “members of the staff of the mission” are the members of the diplomatic staff, of the administrative and technical staff and of the service staff of the mission;
- (d) the “members of the diplomatic staff” are the members of the staff of the mission having diplomatic rank;
- (e) the “diplomatic agent” is the head of the mission or a member of the diplomatic staff of the mission;
- (f) the “members of the administrative and technical staff” are the members of the staff of the mission employed in the administrative and technical service of the mission;
- (g) the “members of the service staff” are the members of the staff of the mission in the domestic service of the mission;
- (h) the “private servant” is a person who is in the domestic service of a member of the mission and who is not an employee of the sending State;
- (i) the “premises of the mission” are the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the

purposes of the mission including the residence of the head of the mission.

Article 5

1. The sending State may, after it has given due notification to the receiving States concerned, accredit a head of mission or assign any member of the diplomatic staff, as the case may be, to more than one State, unless there is express objection by any of the receiving States.
2. If the sending State accredits a head of mission to one or more other States it may establish a diplomatic mission headed by a chargé d'affaires ad interim in each State where the head of mission has not his or her permanent seat.
3. A head of mission or any member of the diplomatic staff of the mission may act as representative of the sending State to any international organization.

Article 6

Two or more States may accredit the same person as head of mission to another State, unless objection is offered by the receiving State.

Article 22

1. The premises of the mission shall be inviolable: The agents of the receiving State may not enter them, except with the consent of the head of the mission.
2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.
3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

Article 23

1. The sending State and the head of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises of the mission, whether owned or leased, other than such as represent payment for specific services rendered.
2. The exemption from taxation referred to in this Article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or the head of the mission.

Article 24

The archives and documents of the mission shall be inviolable at any time and wherever they may be.

Article 27

1. The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in

code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.

3. The diplomatic bag shall not be opened or detained.

4. The packages constituting the diplomatic bag must bear visible external marks of their character and may contain only diplomatic documents or articles intended for official use.

5. The diplomatic courier, who shall be provided with an official document indicating his or her status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his or her functions. He or she shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State or the mission may designate diplomatic couriers ad hoc. In such cases the provisions of paragraph 5 of this Article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his or her charge.

7. A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorised port of entry. He or she shall be provided with an official document indicating the number of packages constituting the bag but he or she shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

Article 28

The fees and charges levied by the mission in the course of its official duties shall be exempt from all dues and taxes.

Article 29

The person of a diplomatic agent shall be inviolable. He or she shall not be liable to any form of arrest or detention. The receiving State shall treat him or her with due respect and shall take all appropriate steps to prevent any attack on his or her person, freedom or dignity.

Article 30

1. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.

2. His papers, correspondence and, except as provided in paragraph 3 of Article 31, his or her property, shall likewise enjoy inviolability.

Article 31

1. A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He or she shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of:

- (a) a real action relating to private immovable property situated in the territory of the receiving State, unless he or she holds it on behalf of the sending State for the purposes of the mission;

- (b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
 - (c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his or her official functions.
2. A diplomatic agent is not obliged to give evidence as a witness.
 3. No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under subparagraphs (a), (b) and (c) of paragraph 1 of this Article and provided that the measures concerned can be taken without infringing the inviolability of his or her person or of his or her residence.
 4. The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him or her from the jurisdiction of the sending State.

Article 32

1. The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under Article 37 may be waived by the sending State.
2. Waiver must always be express.
3. The initiation of proceedings by a diplomatic agent or by a person enjoying immunity from jurisdiction under Article 37 shall preclude him or her from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.
4. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.

Article 33

1. Subject to the provisions of paragraph 3 of this Article, a diplomatic agent shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.
2. The exemption provided for in paragraph 1 of this Article shall also apply to private servants who are in the sole employ of a diplomatic agent, on condition:
 - (a) that they are not nationals of or permanently resident in the receiving State; and
 - (b) that they are covered by the social security provisions which may be in force in the sending State or a third State.
3. A diplomatic agent who employs persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.
4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State provided that such participation is permitted by that State.
5. The provisions of this Article shall not affect bilateral or multilateral agreements concerning social security concluded previously and shall not prevent the conclusion of such agreements in the future.

Article 34

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

- (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;
- (b) dues and taxes on private immovable property situated in the territory of the receiving State, unless he or she holds it on behalf of the sending State for the purposes of the mission;
- (c) estate, succession or inheritance duties levied by the receiving State, subject to the provisions of paragraph 4 of Article 39;
- (d) dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;
- (e) charges levied for specific services rendered;
- (f) registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property, subject to the provisions of Article 23.

Article 35

The receiving State shall exempt diplomatic agents from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 36

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

- (a) articles for the official use of the mission;
- (b) articles for the personal use of a diplomatic agent or members of his or her family forming part of his or her household, including articles intended for his or her establishment.

2. The personal baggage of a diplomatic agent shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this Article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the diplomatic agent or of his or her authorised representative.

Article 37

1. The members of the family of a diplomatic agent forming part of his or her household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in Articles 29 to 36.

2. Members of the administrative and technical staff of the mission together with members of their families forming part of their respective households, shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in Articles 29 to 35, except that the immunity

from civil and administrative jurisdiction of the receiving State specified in paragraph 1 of Article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges specified in Article 36, paragraph 1, in respect of articles imported at the time of first installation.

3. Members of the service staff of the mission who are not nationals of or permanently resident in the receiving State shall enjoy immunity in respect of acts performed in the course of their duties, exemption from dues and taxes on the emoluments they receive by reason of their employment and the exemption contained in Article 33.

4. Private servants of members of the mission shall, if they are not nationals of or permanently resident in the receiving State, be exempt from dues and taxes on the emoluments they receive by reason of their employment. In other respects they may enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 38

1. Except in so far as additional privileges and immunities may be granted by the receiving State, a diplomatic agent who is a national of or permanently resident in that State shall enjoy immunity from jurisdiction, and inviolability, in respect of official acts performed in the exercise of his or her functions.

2. Other members of the staff of the mission and private servants who are nationals of or permanently resident in the receiving State shall enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 39

1. Every person entitled to privileges and immunities shall enjoy them from the moment he or she enters the territory of the receiving State on proceeding to take up his or her post or, if already in its territory, from the moment when his or her appointment is notified to the Ministry for Foreign Affairs or such other Ministry as may be agreed.

2. When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he or she leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of his or her functions as a member of the mission, immunity shall continue to subsist.

3. In the case of the death of a member of the mission, the members of his or her family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the country.

4. In the event of the death of a member of the mission not a national of or permanently resident in the receiving State or a member of his or her family forming part of his or her household, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his or her death. Estate, succession and inheritance duties shall not be levied on movable property and

presence of which in the receiving State was due solely to the presence thereof the deceased as a member of the mission or as a member of the family of a member of the mission.

Article 40

1. If a diplomatic agent passes through or is in the territory of a third State, which has granted him or her a passport visa if such visa was necessary, while proceeding to take up or to return to his or her post, or when returning to his or her own country, the third State shall accord him or her inviolability and such other immunities as may be required to ensure his or her transit or return. The same shall apply in the case of any members of his or her family enjoying privileges or immunities who are accompanying the diplomatic agent, or travelling separately to join or to return to their country.
 2. In circumstances similar to those specified in paragraph 1 of this Article, third State shall not hinder the passage of members of the administrative and technical or service staff of a mission, and of members of their families, through their territories.
 3. Third States shall accord to official correspondence and other official communications in transit, including messages in code or cipher, the same freedom and protection as is accorded by the receiving State. They shall accord to diplomatic couriers, who have been granted a passport visa if such visa was necessary, and diplomatic bags in transit the same inviolability and protection as the receiving State is bound to accord.
 4. The obligations of third State under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and diplomatic bags, whose presence in the territory of the third State is due to force majeure.
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SECOND SCHEDULE*(Section 5)***ARTICLES OF THE VIENNA CONVENTION ON CONSULAR RELATIONS
HAVING THE FORCE OF LAW IN SAINT CHRISTOPHER AND NEVIS****Article 1****Definitions**

1. 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) “consular employee” means any person employed in the administrative or technical service of a consular post;
- (f) “member of the service staff” means any person employed in the domestic service of a consular post;
- (g) “members of the consular post” means consular officers, consular employees and members of the service staff;
- (h) “members of the consular staff” means consular officers, other than the head of a consular post, consular employees and members of the service staff;
- (i) “member of the private staff” means a person who is employed exclusively in the private service of a member of the consular post;
- (j) “consular premises” means the 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” includes 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 safekeeping.

CHAPTER II

FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CONSULAR
POSTS, CAREER, CONSULAR OFFICERS AND OTHER MEMBERS OR A
CONSULAR POST

SECTION I

FACILITIES, PRIVILEGES AND IMMUNITIES RELATING
TO A CONSULAR POST**Article 31****Inviolability of the Consular Premises**

1. Consular premises shall be inviolable to the extent provided in this Article.
2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consular post except with the consent of the head of the consular post or of his or her designee or of the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action.
3. Subject to the provisions of paragraph 2 of this Article, 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.
4. The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of requisition for purposes of national defence or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of Consular functions, and prompt, adequate and effective compensation shall be paid to the sending State.

Article 32**Exemption from Taxation of Consular Premises**

1. Consular premises and the residence of the career head of consular post of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.
2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

Article 33**Inviolability of the Consular Archives and Documents**

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

Article 35**Freedom of Communication**

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State the consular post may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.
2. The official correspondence of the consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions.
3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4 of this Article, they may request that the bag be opened in their presence by an authorised representative of the sending State. If this request is refused by the authorities of the sending State, the bag shall be returned to its place of origin.
4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.
5. The consular courier shall be provided with an official document indicating his or her status and the number of packages constituting the consular bag. Except with the consent of the receiving State he or she shall be neither a national of the receiving State, nor unless he or she is a national of the sending State a permanent resident of the receiving State. In the performance of his or her functions he or she shall be protected by the receiving State. He or she shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.
6. The sending State, its diplomatic missions and its consular posts may designate consular couriers ad hoc. In such cases the provisions of paragraph 5 of this Article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his or her charge.
7. A consular bag may be entrusted to the captain of a ship or a commercial aircraft scheduled to land at an authorised port of entry. He or she shall be provided with an official document indicating the number of packages constituting the bag, but he or she shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

Article 36**Communication and Contact with Nationals of the Sending State**

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:
 - (a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending

State shall have the same freedom with respect to communication with and access to consular officers of the sending State;

- (b) if he or she so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his or her rights under this sub-paragraph;
- (c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him or her and to arrange for his or her legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he or she expressly opposes such action.

2. The rights referred to in paragraph 1 of this Article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this Article are intended.

Article 37

Information in Cases of Deaths, Guardianship or Trusteeship, Wrecks and, Air Accidents

If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty

- (a) in the case of the death of a national of the sending State, to inform without delay the consular post in whose district the death occurred;
- (b) to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments;
- (c) if a vessel, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consular post nearest to the scene of the occurrence.

Article 39**Consular Fees and Charges**

1. The consular post may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.
2. The sums collected in the form of the fees and charges referred to in paragraph 1 of this Article, and the receipts for such fees and charges, shall be exempted from all dues and taxes in the receiving State.

SECTION II

FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO
CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A
CONSULAR POST**Article 40****Protection of Consular Officers**

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 41**Personal Inviolability of Consular Officers**

1. Consular officers 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.
2. Except in the case specified in paragraph 1 of the Article, consular officers shall not be committed to prison or liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.
3. If criminal proceedings are instituted against a consular officer, he or she must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with respect due to him or her by reason of his or her official position and, except in the case specified in paragraph 1 of this Article, in a manner which will hamper the exercise of consular functions as little as possible. When, in the circumstances mentioned in paragraph 1 of this Article, it has become necessary to detain a consular officer, the proceedings against him or her shall be instituted with the minimum of delay.

Article 43**Immunity from Jurisdiction**

1. Consular officers and consular employees shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.

2. The provisions of paragraph 1 of this Article shall not, however, apply in respect of civil action either:

- (a) arising out of a contract concluded by a consular officer or a consular employee in which he or she did not contract expressly or impliedly as an agent of the sending State; or
- (b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

Article 44

Liability to Give Evidence

1. Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member of the service staff shall not, except in the cases mentioned in paragraph 3 of this Article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or penalty may be applied to him or her.

2. The authority requiring the evidence of a consular officer shall avoid interference with the performance of his or her functions. It may, when possible, take such evidence at his or her residence or at the consular post or accept a statement from him or her in writing.

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

Article 45

Waiver of Privileges and Immunities

1. The sending State may waive, with regard to a member of the consular post, any of the privileges and immunities provided for in Articles 41, 43 and 44.

2. The waiver shall in all cases be express except as provided in paragraph 3 of this Article, and shall be communicated to the receiving State in writing.

3. The initiation of proceedings by a consular officer or a consular employee in a matter where he or she might enjoy immunity from jurisdiction under Article 43 shall preclude him or her from invoking immunity from jurisdiction in respect of any counterclaim directly connected with the principal claim.

4. 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 measures of execution resulting from the judicial decision; in respect of such measures, a separate waiver shall be necessary.

Article 46

Exemption from Registration of Aliens and Residence Permits

1. Consular officers and consular employees and members of their families forming part of their households shall be exempted from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

2. The provisions of paragraph 1 of this Article shall not, however, apply to any consular employee who is not a permanent employee of the sending State or who carries on any private gainful occupation in the receiving State or to any member of the family of any such employee.

Article 47

Exemption from Work Permits

1. Members of the consular post shall, with respect to services rendered for the sending State, be exempt from any obligations in regard to work permits imposed by the laws and regulations of the receiving State concerning the employment of foreign labour.

2. Members of the private staff of consular officers and of consular employees shall, if they do not carry on any other gainful occupation in the receiving State, be exempt from the obligations referred to in paragraph 1 of this Article.

Article 48

Social Security Exemption

1. Subject to the provisions of paragraph 3 of this Article, members of the consular post with respect to services rendered by them for the sending State, and members of their families forming part of their households, shall be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall apply also to members of the private staff who are in the sole employ of members of the consular post, on condition:

- (a) that they are not nationals of or permanently resident in the receiving State; and
- (b) that they are covered by the social security provisions which are in force in the sending State or a third State.

3. Members of the consular post who employ persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

Article 49

Exemption from Taxation

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

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

- (b) dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of Article 32;
 - (c) estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject to the provisions of paragraph (b) of Article 51;
 - (d) dues and taxes on private income, including capital gains, having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings 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 32.
2. Members of the service staff shall be exempt from dues and taxes on the wages which they receive for their services.
3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the laws and regulations of that State impose upon employers concerning the levying of income tax.

Article 50

Exemptions from Customs Duties and Inspection

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:
- (a) articles for the official use of the consular post;
 - (b) articles for the personal use of a consular officer or members of his or her family forming part of his or her household, including articles intended for his or her establishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned.
2. Consular employees shall enjoy the privileges and exemptions specified in paragraph 1 of this Article in respect of articles imported at the time of first installation.
3. Personal baggage accompanying consular officers and members of their families forming part of their households shall be exempt from inspection. It may be inspected 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 is 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 or member of his family concerned.

Article 51**Estate of a Member of the Consular Post or of a
Member of His or Her Family**

In the event of the death of a member of the consular post or of a member of his family forming part of his or her household, the receiving State:

- (a) shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the receiving State the export of which was prohibited at the time of his or her death;
- (b) shall not levy national, regional or municipal estate, succession or inheritance duties, and duties on transfers, on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a member of the family of a member of the consular post.

Article 52**Exemption from Personal Services and Contribution**

The receiving State shall exempt members of the consular post and members of their families forming part of their households from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 53**Beginning and End of Consular Privileges and Immunities**

1. Every member of the consular post shall enjoy the privileges and immunities provided in the present Convention from the moment he or she enters the territory of the receiving State on proceeding to take up his or her post or, if already in its territory, from the moment when he or she enters on his or her duties with the consular post.
2. Members of the family of a member of the consular post forming part of his or her household and members of his or her private staff shall receive the privileges and immunities provided in the present Convention from the date from which he or she enjoys privileges and immunities in accordance with paragraph 1 of this Article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the latest.
3. When the functions of a member of the consular post have come to the end, his or her privileges and immunities and those of a member of his or her family forming part of his or her household or a member of his or her private staff shall normally 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, whichever is the sooner, but shall subsist until that time, even in case of armed conflict. In the case of the persons referred to in paragraph 2 of this Article, their privileges and immunities shall come to an end when they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a consular officer or a consular employee in the exercise of his or her functions, immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consular post, the members of his or her family forming part of his or her household 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 enabling them to do so, whichever is the sooner.

Article 54

Obligations of Third States

1. If a consular officer passes through or is in the territory of a third State, which has granted him or her a visa if a visa was necessary, while proceeding to take up or return to his or her post or when returning to the sending State, the third State shall accord to him or her all immunities provided for by the other Articles of the present Convention as may be required to ensure his or her transit or return. The same shall apply in the case of any member of his or her family forming part of his or her household enjoying such privileges and immunities who are accompanying the consular officer or travelling separately to join him or her or to return to the sending State.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the transit through their territory of other members of the consular post or of members of their families forming part of their households.

3. Third States shall accord to official correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State is bound to accord under the present Convention. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to consular bags in transit, the same inviolability and protection as the receiving State is bound to accord under the present Convention.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to force majeure.

Article 56

Insurance Against Third Party Risks

Members of the consular post shall comply with any requirement imposed by the laws and regulations of the receiving State in respect of insurance against third party risks arising from the use of any vehicle, vessel or aircraft.

Article 57

Special Provisions Concerning Private Gainful Occupation

Privileges and immunities provided in this Chapter shall not be accorded—

- (a) to consular employees or to members of the service staff who carry on any private gainful occupation in the receiving State;
- (b) to members of the family of a person referred to in sub-paragraph (a) of this paragraph or to members of his or her private staff;

- (c) to members of the family of a member of a consular post who themselves carry on any private gainful occupation in the receiving State.

CHAPTER III

REGIME RELATING TO HONORARY CONSULAR OFFICERS AND CONSULAR POSTS HEADED BY SUCH OFFICERS

Article 58

General Provisions Relating to Facilities, Privileges and Immunities

1. Articles 28, 29, 30, 34, 35, 36, 37 and 39, paragraph 3 of Article 54, and paragraphs 2 and 3 of Article 55 shall apply to consular posts headed by an honorary consular officer. In addition, the facilities, privileges and immunities of such consular posts shall be governed by Articles 59, 60, 61 and 62.
2. Articles 42 and 43, paragraph 3 of Article 44, Articles 45 and 53 and paragraph 1 of Article 55 shall apply to honorary consular officers. In addition, the facilities, privileges and immunities of such consular officers shall be governed by Articles 63, 64, 65, 66 and 67.
3. Privileges and immunities provided in the present Convention shall not be accorded to members of the family of an honorary consular officer or of a consular employee at a consular post headed by an honorary consular officer.
4. The exchange of consular bags between two consular posts headed by honorary consular officers in different States shall not be allowed without the consent of the two receiving states concerned.

Article 59

Protection of the Consular Premises

The receiving State shall take such steps as may be necessary to protect the consular premises of a consular post headed by an Honorary consular officer against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

Article 60

Exemption from Taxation of Consular Premises

1. Consular premises of a consular post headed by an honorary consular officer of which the sending State is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.
2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the laws and regulations of the receiving State, they are payable by the person who contracted with the sending State.

Article 61**Inviolability of Consular Archives and Documents**

The consular archives and documents of a consular post headed by an honorary consular officer shall be inviolable at all times and wherever they may be, provided that they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of a consular post and of any person working with him or her and from the materials, books or documents relating to their profession or trade.

Article 62**Exemption from Customs Duties**

The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of, and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services on the following articles, provided that they are for the official use of a consular post headed by an honorary consular officer: coats-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consular post.

Article 63**Criminal Proceedings**

If criminal proceedings are instituted against an honorary consular officer he or she must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him or her by reason of his or her official position and, except when he or she is under arrest or detention, in a manner which will hamper the exercise of consular functions as little as possible. When it has become necessary to detain an honorary consular officer, the proceedings against him or her shall be instituted with the minimum of delay.

Article 64**Protection of Honorary Consular Officers**

The receiving State is under a duty to accord to an honorary consular officer such protection as may be required by reason of his or her official position.

Article 65**Exemption from Registration of Aliens and Residence Permits**

Honorary consular officers, with the exception of those who carry on for personal profit any professional or commercial activity in the receiving State, shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

Article 66**Exemption from Taxation**

An honorary consular officer shall be exempt from all dues and taxes on the remuneration and emoluments which he or she receives from the sending State in respect of the exercise of consular functions.

Article 67**Exemption from Personal Services and Contributions**

The receiving State shall exempt honorary consular officers from all personal services and from all public services of any kind whatsoever and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 71**Nationals or Permanent Residents of the Receiving State**

1. Except in so far as additional facilities, privileges and immunities may be granted by the receiving State, consular officers who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided in paragraph 3 of Article 44. So far as these consular officers are concerned, the receiving State shall likewise be bound by the obligation laid down in Article 42. If criminal proceedings are instituted against such a consular officer; the proceedings shall, except when he or she is under arrest or detention be conducted in a manner which will hamper the exercise of consular functions as little as possible.

2. Other members of the consular post who are nationals of or permanently resident in the receiving State and members of their families, as well as members of the families of consular officers referred to in paragraph 1 of this Article, shall enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consular post and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over those persons in such a way as not to hinder unduly the performance of the functions of the consular post.