

Regulations of the PRC on Consular Privileges and Immunities

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Article 1 — These Regulations are formulated for the purpose of defining the consular privileges and immunities of foreign consular posts in China and their members, and facilitating the efficient performance of the functions of consular posts.

Article 2 — For the purposes of these Regulations: (1) "consular post" means any consulate general, consulate, vice-consulate, or consular agency; (2) "head of a consular post" means the consular officer charged with the duty of acting in that capacity; (3) "consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions; (4) "consular employee" means any person employed in the administrative or technical service of a consular post; (5) "member of the service staff" means any person employed in the domestic service of a consular post; and (6) "members of a consular post" means consular officers, consular employees, and members of the service staff.

Article 3 — Consular officers, consular employees, and members of the service staff of a consular post, together with their spouses and their unmarried children under the age of eighteen who are not nationals of, or permanently resident in, China, shall enjoy the privileges and immunities specified in these Regulations, except as otherwise provided in these Regulations. The members of the consular post who are nationals of China shall enjoy the privileges and immunities specified in these Regulations only insofar as they are in conformity with the relevant provisions of the Vienna Convention on Consular Relations.

Article 4 — Consular premises shall be inviolable. Chinese authorities may not enter that part of the consular premises which is used exclusively for the work of the consular post without the consent of the head of the consular post or of his designee or of the head of the diplomatic mission of the sending State. The Chinese authorities shall take all appropriate measures 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. The consular premises, their furnishings, the property of the consular post, and its means of transport shall be immune from any form of requisition.

Article 5 — The consular archives and documents shall be inviolable at any time and wherever they may be.

Article 6 — A consular post shall enjoy freedom of communication for all official purposes and 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 Chinese government. The official correspondence of the consular post shall be inviolable. The consular bag shall not be opened or detained.

Article 7 — The consular courier shall enjoy personal inviolability and shall not be liable to any form of arrest or detention. The consular bag may be entrusted to the captain of a ship or of a commercial aircraft, who shall be provided with an official document indicating the number of packages constituting the bag, but the captain shall not be regarded as a consular courier.

Article 8 — The person of a consular officer shall be inviolable. He shall not be liable to arrest or detention, except in the case of a grave crime and pursuant to a decision by the competent judicial authority. The Chinese authorities shall take all appropriate measures to prevent any attack on his person, freedom, or

dignity.

Article 9 — The residence of a consular officer shall enjoy the same inviolability and protection as the consular premises. His papers, correspondence, and property shall likewise be inviolable.

Article 10 — Consular officers and consular employees shall enjoy immunity from the jurisdiction of the Chinese judicial and administrative authorities in respect of acts performed in the exercise of consular functions. However, this immunity shall not apply to: (1) a contract not concluded expressly or impliedly on behalf of the sending State; or (2) an action by a third party for damage arising from an accident in China caused by a vehicle, vessel, or aircraft.

Article 11 — Consular officers and consular employees are not obliged to give testimony concerning matters connected with the exercise of their functions. They may decline to give evidence on other matters, except that consular employees and members of the service staff may not decline to give evidence in the cases specified in the preceding paragraph. A consular officer or consular employee may not decline to give evidence except in respect of matters connected with the exercise of his functions.

Article 12 — The immunity from jurisdiction of consular officers and consular employees may be waived by the sending State. The initiation of proceedings by a consular officer or consular employee shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim. Waiver of immunity from civil or administrative jurisdiction 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 13 — Consular officers and consular employees and the members of their families forming part of their households, who are not nationals of China, shall enjoy exemption from all dues and taxes, personal or real, national, regional, or municipal, except: (1) indirect taxes of a kind which are normally incorporated in the price of goods or services; (2) dues and taxes on private immovable property situated in the territory of China; (3) estate, succession, or inheritance duties; (4) dues and taxes on private income having its source in China; (5) charges levied for specific services rendered; and (6) registration, court, or record fees, mortgage dues, and stamp duties.

Article 14 — A consular post and its members shall be exempt from all customs duties and related charges on articles for the official use of the consular post and on articles for the personal use of consular officers and the members of their families forming part of their households, including articles intended for their establishment.

Article 15 — The personal baggage of a consular officer shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions, or articles the import or export of which is prohibited by Chinese law or controlled by the quarantine laws and regulations of China. Such inspection shall be conducted only in the presence of the consular officer or of his authorized representative.

Article 16 — Consular employees and members of the service staff, together with the members of their families forming part of their respective households, who are not nationals of, or permanently resident in, China, shall enjoy the privileges and immunities specified in these Regulations to the extent applicable, except that consular employees shall enjoy immunity from jurisdiction only in respect of acts performed in the course of their duties, and members of the service staff shall enjoy exemption from dues and taxes on the emoluments they receive by reason of their employment and exemption from customs duties on articles imported at the time of first installation.

Article 17 — Private servants of members of a consular post who are not nationals of, or permanently resident in, China shall be exempt from dues and taxes on the emoluments they receive by reason of their employment.

Article 18 — Consular officers, consular employees, and members of the service staff, and the members of their families, who are nationals of China or of a third State, shall enjoy the privileges and immunities specified in these Regulations only insofar as China grants them to such persons.

Article 19 — Where a third State accords to members of the consular posts of China and the members of their families privileges and immunities less favorable than those provided for in these Regulations, the Chinese government may, on the basis of reciprocity, accord to members of the consular posts of that State and the members of their families the corresponding privileges and immunities.

Article 20 — If a consular officer passes through or is in the territory of China while proceeding to take up or to return to his post, or when returning to his own country, China shall accord him such inviolability and immunities as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges or immunities who are accompanying the consular officer, or travelling separately to join him or to return to their country.

Article 21 — The travel of consular officers in the territory of China shall be governed by the relevant provisions of China. The Chinese government may designate certain areas as areas into which travel by consular officers requires special permission.

Article 22 — A consular post and its head shall have the right to use the flag and emblem of the sending State on the consular premises, and on the residence and the means of transport of the head of the consular post.

Article 23 — Consular officers arriving in China to take up their posts, or persons enjoying the privileges and immunities specified in these Regulations, shall notify the competent authorities of China of their arrival and of the date of their assumption of duties, and shall present the relevant documents in accordance with the relevant provisions of China.

Article 24 — The appointment of the head of a consular post shall be subject to the approval of the Chinese government, which shall issue an exequatur. Without the exequatur, the head of a consular post may not exercise his functions, although China may permit him to perform certain functions on a provisional basis.

Article 25 — All persons enjoying consular privileges and immunities shall respect the laws and regulations of China, and shall not interfere in the internal affairs of China. They shall not use the consular premises or their residences in any manner incompatible with the functions of the consular post.

Article 26 — The Chinese government may at any time and without having to explain its decision notify the sending State that a consular officer is *persona non grata* or that any other member of the consular post is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the consular post.

Article 27 — Where a consular post or any of its members performs acts not in conformity with the functions of a consular post, the Chinese government may, in accordance with the actual circumstances, take measures to deal with the matter, including requesting the sending State to recall the person concerned or to close the consular post.

Article 28 — These Regulations shall enter into force as of the date of promulgation.

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