

Consular Convention
Between
the Socialist Republic of Vietnam
And
the People's Republic of China

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The Socialist Republic of Vietnam and the People's Republic of China;

Desiring to develop their consular relations in order to facilitate the protection of the rights and interests of their nations and nationals, and promote the friendly relations and cooperation between the two countries;

Have decided to conclude the present Consular Convention and have agreed as follows:

Part I

Definitions

Article 1

Definitions

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

1. "Consular post" means any consulate-general, consulate, vice-consulate or consular agency;
2. "Consular district" means the area assigned to a consular post for the exercise of consular functions;
3. "Head of consular post" means the consul-general, consul, vice-consul or consular agent who is charged by the sending State to head a consular post;
4. "Consular officer" means a consul-general, vice consul-general, consul, vice-consul, consular attache or consular agent;
5. "Consular employee" means any person who performs administrative and technical service at a consular post;

6. “Member of the service staff” means any person employed in the domestic service of a consular post;

7. “Members of the consular post” means consular officers, consular employees and members of the service staff;

8. “Members of the consular staff” means consular officers, other than the head of the consular post, consular employees and members of the service staff;

9. “Member of the private staff” means any person who is employed in the private service of a member of the consular post;

10. “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;

11. “Consular archives” means 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 articles of furniture used for their protection or safekeeping;

12. “Official correspondence” of a consular post means all the correspondence relating to a consular post and its functions;

13. “Member of the family” means the spouse of a member of the consular post and their minor children who live with them in the same household;

14. “Vessel of the sending State” means any vessel sailing under the flag of the sending State pursuant to its law, excluding military vessels;

15. “Aircraft of the sending State” means any aircraft registered in the sending State bearing that State’s registration marks, excluding military aircraft.

Part II

Establishment of a consular post and appointment of its members

Article 2

Establishment of a consular post

1. A consular post may be established in the territory of the receiving State only with the consent of that State.
2. The seat of the consular post, its classification and the consular district and the number of members of the consular staff as well as any changes pertaining thereto shall be determined by the sending State and shall be subject to the approval of the receiving State.

Article 3

Appointment and admission of the head of a consular post

1. The sending State shall seek in advance through the diplomatic channel the approval of the receiving State to the appointment of the head of a consular post.
2. The receiving State which refuses its consent to the appointment of a person as the head of a consular post is not obliged to give the sending State reasons for such refusal.
3. Through the diplomatic channel, the sending State shall transmit to the receiving State a Consular commission for the appointment of the head of the consular post, certifying his capacity and showing his full name and rank as well as seat and classification of the consular post and the consular district.
4. Upon receipt of the Consular commission for the appointment of the head of the consular post, the receiving State shall issue to him an authorization termed an Exequatur as soon as possible.
5. Subject to the provisions of the paragraph 6 of this Article and Article 4 of the present Convention, the head of a consular post may enter upon the exercise of his functions only after he has received an Exequatur.
6. Pending the delivery of an Exequatur, the receiving State, at the request of the sending State, may admit the head of a consular post to exercise

his functions on a provisional basis. In that case the provisions of the present Convention shall apply.

7. As soon as the head of a consular post is admitted even provisionally to the exercise of his functions, the receiving State shall immediately notify the competent authorities of the consular district and take necessary measures to enable the head of a consular post to perform his functions and to enjoy the rights, facilities, privileges and immunities provided for in this Convention.

Article 4

Temporary exercise of the functions of the head of consular post

1. If the head of a consular post is unable to perform his functions or if the position of the head of the consular post is temporarily vacant, the sending State may designate a consular officer of the consular post or of another consular post in the receiving State, or a diplomatic officer of its embassy in the receiving State as the acting head of the consular post. The sending State shall notify the receiving State in advance of the full name and the original rank of the acting head of the consular post.

2. The acting head of consular post shall enjoy the same rights, facilities, privileges and immunities as enjoyed by a head of the consular post under this Convention.

3. A diplomatic officer designated as an acting head of the consular post shall enjoy such diplomatic privileges and immunities as due to him.

Article 5

Nationality of members of the consular post and members of the private staff

1. A consular officer shall be a national of the sending State, and not a permanent resident of the receiving State.

2. Consular employees, members of the service staff and members of the private staff shall be either nationals of the sending State or nationals of the receiving State.

Article 6

Persons declared “non grata” or unacceptable

1. The receiving State may at any time notify the sending State, through the diplomatic channel, that a consular officer is *persona non grata* or that any other member of the consular staff is not acceptable. The receiving State is not obliged to give the sending State reasons for its decisions.

2. In the cases mentioned in paragraph 1 of this Article, the sending State shall recall that person or terminate his functions with the consular post. If the sending State refuses or fails within a reasonable time to carry out its obligations, the receiving State is entitled to withdraw the Exequatur from the person concerned or cease to consider him as a member of the consular post.

Article 7

Notification of arrivals and departures

1. The sending State shall at an appropriate time notify the receiving State of the followings in writing:

(a) the appointment, full name and rank of a member of a consular post, the date of his arrival and final departure or the termination of his functions as well as any change of his status in the course of his service with the consular post;

(b) the full name, nationality and the date of arrival and final departure of a member of the family of a member of a consular post and the fact that any person becomes or ceases to be such a member of the family;

(c) the full name, nationality, function and the date of arrival and final departure of a member of the private staff.

2. The competent authorities of the receiving State shall issue in accordance with its regulations, free of charge to all members of the consular post and members of their families, documents confirming their identity and positions on the condition that they are not nationals or permanent residents of the receiving State.

Article 8

Acquisition of consular premises and residences

1. To the extent permitted by the laws and regulations of the receiving State, the sending State or its representative shall have the right to:

(a) purchase, lease or acquire in any other way a building or a part of a building and the land ancillary thereto for use as the consular premises, and the residences for the members of the consular post, excluding the residences of those members who are nationals or permanent residents of the receiving State;

(b) construct or improve buildings on the land acquired.

2. The receiving State shall assist the sending State in acquiring consular premises and, when necessary, in acquiring appropriate residences for members of the consular post.

3. In the exercise of their rights provided for in paragraph 1 of this Article, the sending State or its representative shall comply with the laws and regulations of the receiving State concerning land, construction and city planning.

Article 9

Honorary consular officers

Matters concerning honorary consular officers shall be handled in accordance with the relevant provisions of the Vienna Convention on Consular Relations of 24 April 1963.

Part III

Facilities, privileges and immunities

Article 10

Protection of and facilities for the consular post and members of the consular post

1. The receiving State shall accord full facilities for the performance of the functions of the consular post.

2. The receiving State shall treat members of a consular post with due respect and shall take all appropriate measures to ensure the smooth performance of functions by such members and their rights, facilities, privileges and immunities as provided for in this Convention.

Article 11

Use of national flag and emblem

1. The sending State shall have the right to place on the consular premises its national emblem and the designation of the consular post in the languages of the sending and the receiving States.

2. The sending State shall have the right to fly its national flag on the consular premises, the residence of the head of a consular post and the means of transport used in the performance of his official duties.

Article 12

Inviolability of the consular premises and the residences of consular officers

1. Consular premises and the residences of consular officers shall be inviolable. The authorities of the receiving State shall not enter the consular premises and the residences of consular officers without the consent of the head of the consular post or the head of the diplomatic mission of the sending State in the receiving State or of a person designated by one of them.

2. The receiving State shall take all necessary measures to protect the consular premises and the residences of consular officers against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

3. The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of the 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 13

Exemption from taxation of consular premises and consular properties

1. The receiving State shall exempt the followings from all dues and taxes:

(a) consular premises and residences of the members of the consular post acquired in the name of the sending State or its representative and transactions or instruments thereto;

(b) consular facilities and means of transport acquired exclusively for official purposes as well as their acquisition, possession or maintenance.

2. The provisions of paragraph 1 of this Article 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.

Article 14

Inviolability of consular archives

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

Article 15

Freedom of movement

Subject to the laws and regulations of the receiving State concerning zones entry into which is prohibited or regulated, members of the consular post shall enjoy freedom of movement and travel in that State.

Article 16

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 of the sending State, wherever situated, the consular post may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags, 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. The consular bag shall be neither opened nor detained. 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.

3. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. Except with the consent of the receiving State, he shall only be a national of the sending State and not be a permanent resident of the receiving State. In the performance of his functions, the consular courier shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest, detention or any other form of limitation of his personal freedom.

4. A consular bag may be entrusted to the captain of a vessel or of an aircraft which is due to arrive in an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the consular bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate authorities, a member of the consular post may directly and freely collect the bag from or deliver it to him.

Article 17

Personal inviolability of consular officers

Consular officers shall enjoy personal inviolability and can not be liable to arrest or detention or to any other form of limitation of their personal freedom.

Article 18

Immunity from jurisdiction

1. A consular officer shall be immune from the judicial or administrative jurisdiction of the receiving State, except in civil proceedings:

(a) arising out of a contract concluded by a consular officer in which he did not contract expressly or impliedly as an agent on behalf of the sending State;

(b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft;

(c) concerning private immovable property situated in the territory of the receiving State, unless the consular officer holds it on behalf of the sending State and for the purposes of the consular post;

(d) concerning private succession in which the consular officer is involved as executor, administrator, heir or legatee as private person and not on behalf of the sending State;

(e) arising out of any professional or commercial activity exercised by the consular officer in the receiving State outside his official functions.

2. No measures of execution may be taken in respect of a consular officer except in the cases referred to in paragraph 1 of this Article and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.

3. Consular employees and members of the service staff shall be immune from judicial or administrative jurisdiction of the receiving State in respect of any act in the performance of their functions, except in civil proceedings referred to in paragraph 1 of this Article.

Article 19

Liability to give evidence

1. A consular officer is under no obligation to give evidence as a witness.

2. A consular employee or a member of the service staff may be called upon to give evidence in the course of judicial or administrative proceedings of the receiving State. He shall not, except in the cases mentioned in paragraph 3 of this Article, decline to give evidence.

3. A consular employee or a member of the service staff 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. He is also entitled to decline to give evidence as expert witnesses with regard to the laws of the sending State.

4. The competent authorities of the receiving State requiring the evidence of a consular employee or a member of the service staff shall avoid interference with the performance of his functions. They may, when possible, take such evidence at his residence or at the consular premises or accept a statement from him in writing.

Article 20

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 17, 18 and 19 of this Convention. The waiver shall in all cases be express and shall be communicated to the receiving State in writing.

2. The initiation of proceedings by a member of the consular post in a matter where he might enjoy immunity from jurisdiction under Article 18 of the present Convention shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

3. The waiver of immunity from jurisdiction in respect 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 in writing shall be necessary.

Article 21

Exemption from registration of aliens and residence permits

1. Consular officers and consular employees 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.

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.

Article 22

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 23

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, 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 also apply 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 or permanent residents of 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 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 24

Exemption from taxation

1. Consular officers and consular employees 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 sub-paragraph (a), paragraph 1 of Article 13;

(c) taxes or other similar charges of any kind levied on estates, succession, inheritance or transfer in the receiving State, subject to the provisions of paragraph 2 of Article 26;

(d) dues and taxes on private income, including capital gains, having its sources 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; and

(f) registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of Article 13.

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 salaries or wages 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 25

Exemptions from customs duties and inspection

1. In accordance with such laws and regulations as it may adopt, the receiving State shall permit entry and export 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;

(c) articles imported at the time of first installation for the personal use of a consular employee of the consular post, including household articles intended for his establishment.

2. Articles referred to in sub-paragraphs (b) and (c) of paragraph 1 of this Article shall not exceed the quantities necessary for direct use by the person concerned.

3. Personal baggage accompanying consular officers shall be exempt from customs 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 concerned or representative of the said person.

Article 26

Estate of a member of the consular post or of a member of his family

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

1. shall permit the export of the movable property of the deceased except any such property acquired in the receiving State the export of which was prohibited at the time of his death.

2. 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 person as a member of the consular post, or as a member of the family or a member of the consular post.

Article 27

Exemption from personal services and contributions

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

Article 28

Privileges and immunities of family members

1. Family members of a consular officer and family members of a consular employee of the consular post shall enjoy respectively the privileges and immunities to which the consular officer and the consular employee are respectively entitled under the provisions of this Convention.

2. Family members of a member of the service staff of the consular post shall enjoy the privileges and immunities to which the member of the service staff is entitled under the Article 27 of this Convention, except those who are nationals or permanent residents of the receiving State, or who carry on any private gainful occupation in the receiving State.

Article 29

Persons who shall not enjoy privileges and immunities

1. Consular employees and members of the service staff of the consular post who are nationals or permanent residents of the receiving State shall not enjoy the privileges and immunities provided for in this Convention, subject to the provisions of paragraph 3 of Article 19 of this Convention.

2. Family members of the person mentioned in paragraph 1 of this Article shall not enjoy the privileges and immunities provided for in this Convention.

Article 30

Beginning and end of consular privileges and immunities

1. Every member of a consular post shall enjoy the privileges and immunities provided for in the present Convention from the moment he enters the territory of the receiving State on the proceeding to take up his post or, if already in its territory, from the moment when he enters on his duties with the consular post.

2. Family members of a member of the consular post and members of his private staff shall receive the privileges and immunities provided for in the present Convention from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this Article or from the date of

their entry into 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 an end, his privileges and immunities and those of a member of his family or a member of his 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 the case of armed conflict. In the case of 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. In the event of the death of a member of the consular post, the members of his family 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 31

Respect for the laws and regulations of the receiving State

1. Without prejudice to their immunities and privileges, it is the duty of all the persons enjoying such immunities and privileges to respect the laws and regulations of the receiving State, including those governing traffic control. They also have a duty not to interfere in the internal affairs of that State.

2. The consular premises shall not be used in any manner inconsistent with the exercise of consular functions.

3. The provisions of paragraph 2 of this Article shall not exclude the possibility of offices of other institutions or agencies being installed in part of the building in which the consular premises are situated, provided that the premises assigned to them are separate from those used by the consular post. In that event, the said offices shall not, for the purposes of the present Convention, be considered to form part of the consular premises.

Article 32

Insurance against third party risks

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

Article 33

Special provisions concerning private gainful occupation

1. Consular officers shall not carry on for personal profit any professional or commercial activity in the receiving State.
2. Privileges and immunities provided in this Part 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 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.

Part IV

Consular functions

Article 34

Exercise of consular functions

1. Consular functions are exercised by consular posts. They are also exercised by diplomatic missions in accordance with the provisions of the present Convention.
2. The provisions of this Convention apply also, so far as the context permits, to the exercise of consular functions by a diplomatic mission.

3. The names and ranks of the members of the diplomatic staff charged with the exercise of consular functions of the mission shall be notified to the Ministry of Foreign Affairs of the receiving State.

4. The privileges and immunities of the members of the diplomatic staff referred to in paragraph 3 of this Article shall continue to be governed by the rules of international law concerning diplomatic relations.

Article 35

Exercise of consular functions within and outside the consular district or on behalf of a third state

1. In accordance with the laws and regulations of the receiving State, consular officers are entitled to exercise within the consular district the consular functions mentioned in the present Convention.

2. A consular officer may, in special circumstances, with the consent of the receiving State, exercise his functions outside his consular district.

3. Upon appropriate notification to the receiving State, a consular post of the sending State may, unless the receiving State objects, exercise consular functions in the receiving State on behalf of a third State.

Article 36

Communication with the authorities of the receiving State

In the exercise of their functions, consular officers may address:

- (a) the local competent authorities of the consular district;
- (b) the central competent authorities of the receiving State if this is allowed by the laws, regulations and usages of the receiving State or by relevant international agreements.

Article 37

Consular functions in general

Consular functions consist in:

- 1. protecting in the receiving State the legitimate rights and interests of the sending State and its nationals — both individuals and bodies corporate;

2. furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State as well as promoting friendly relations between them in accordance with the provisions of the present Convention;

3. ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State;

4. performing functions other than those provided in this Convention entrusted to the consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

Article 38

Communication and assistance to nationals of the sending State

1. A consular officer shall be entitled to:

(a) communicate with nationals of the sending State and have access to them, and the receiving State shall neither restrict communication between nationals of the sending State and a consular post nor restrict their access to the consular post;

(b) ascertain conditions in life and work of a national of the sending State in the receiving State and provide him with necessary assistance;

(c) request the competent authorities of the receiving State to ascertain the whereabouts of a national of the sending State and the competent authorities of the receiving State shall do everything possible to provide the relevant information.

2. Subject to the practices and procedures in force in the receiving State, a consular officer shall be entitled to represent or arrange appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests.

Article 39

Consular functions in respect of detention and trial

1. If a national of the sending State is detained within the consular district, the competent authorities of the receiving State shall inform the consular post of the sending State as soon as possible.

2. Any communication addressed to the consular post by the detained national of the sending State shall be forwarded by the authorities of the receiving State to the consular post without delay.

3. A consular officer shall have the right to visit and communicate with the detained national of the sending State and to arrange for his or her legal representation. The competent authorities of the receiving State shall make arrangements for the visit to the said national by a consular post as soon as possible.

4. A detained national shall be entitled to receive and to send letters and other correspondence and to receive parcels containing articles for personal use within the limits imposed by the laws and regulations of the receiving State.

5. In the case of a trial of or other proceedings against a national of the sending State in the receiving State, the competent authorities of the receiving State, at the request of that person or a consular officer, shall inform a consular officer of the sending State of the charges against such a person and of the time, date and place set for the trial or other proceedings. A consular officer shall be entitled to attend the trial or other proceedings against such a person.

6. The competent authorities of the receiving State shall inform nationals of the sending State detained or subject to trial or other proceedings of his rights under the provisions of this Article.

7. The provisions of this Article apply to a national of the sending State who is detained, arrested, including such a person, who is serving a prison sentence, or subjected to any other form of limitation of his personal freedom in the receiving State.

8. The rights referred to in this Article shall be exercised in accordance with the laws and regulations of the receiving State, provided that the said laws and regulations shall not revoke those rights.

Article 40

Notification on deaths

In the case of the death of a national of the sending State, the competent authorities of the receiving State, when the relevant information is available to them, shall inform, without delay, the consular post in whose district the death occurred, and shall send a Certificate of Death together with other necessary documents relating to the death.

Article 41

Functions related to inheritance

1. When the relevant information is available to the competent authorities of the receiving State, in the case of the death of a national of the sending State, they shall inform in time the consular officer of the sending State of:

(a) the initiation of the administration of an estate resulting from the death of a national of the sending State who has not appointed a person in the receiving State to administer or to conserve the estate or represent the deceased there; or

(b) the initiation of an estate proceedings of a person, irrespective of the nationality, who has left in the receiving State an estate in which a national of the sending State who is not a permanent resident of the receiving State and who has no representative there may have an interest under a will or otherwise in accordance with the laws and regulations of the receiving State.

2. In relation to the estate matters specified in paragraph 1 of this Article and in conformity of the laws and regulations of the receiving State a consular officer shall be entitled;

(a) to request the competent authorities of the receiving State to take necessary measures for the safeguarding, preservation and administration of the estate;

(b) to be present during, or otherwise to participate in, the taking of the measures referred to in sub-paragraph (a) of paragraph 2 of this Article;

(c) to arrange for the representation of a national of the sending State, having a legitimate interest in the estate, who is neither present nor represented in the receiving State.

3. If a national of the sending State, who is not permanently resident in the receiving State, dies during a temporary stay in or passing through the receiving State, the consular officer may, for the purpose of safeguarding and preserving the money and assets of the deceased, take immediate custody thereof. The consular officer shall, in conformity with the laws and regulations of the sending and the receiving States in respect of succession, be entitled to receive and preserve the deceased's objects for his personal use.

4. The sending and receiving States shall facilitate the transfer of inheritances to the beneficiary:

(a) by approving the export and import of articles belonging to the estate where the export and import of such articles is not expressly prohibited by the laws and regulations of the sending and receiving States;

(b) by allowing the realization of any part of the estate which is prohibited to export under the provisions of sub-paragraph (a) of the paragraph 4 of this Article subject to the laws and regulations of the receiving State;

(c) by allowing to transfer the net proceeds of such realization after the deduction of fees, taxes and duties to the beneficiary in his State of residence, in convertible currency. Such transfer of currency shall be conducted in conformity with the laws and regulations of State where the estate occurred.

Article 42

Issuance of passports and visas

A consular officer shall be entitled:

1. to issue passports or other travel documents to nationals of the sending State; to extend, revoke the passports and endorse or invalidate the said passports or documents;

2. to issue visas to persons who will go to or pass through the sending State and endorse and invalidate the said visas.

Article 43

Applications pertaining to nationality and civil registration

1. A consular officer shall be entitled:

(a) to receive applications pertaining to nationality;

(b) to register nationals of the sending State;

(c) to register births and deaths of nationals of the sending State, to receive or obtain and request competent authorities to supply relevant information regarding to these matters;

(d) to register marriages between nationals of the sending State or between a national of the sending State and a national of another State in conformity with the laws and regulations of the sending and the receiving States;

(e) to do formalities concerning adoption in conformity with the laws and regulations of the sending and the receiving States.

2. The provisions provided in paragraph 1 of this Article, however, do not exempt the persons concerned from obligations to observe the laws and regulations of the receiving State.

Article 44

Guardianship and trusteeship

1. When the relevant information is available to the competent authorities of the receiving State, they shall, without delay, inform a consular officer of any case where the appointment of a guardian or trustee of nationals of the sending State who are minors or other persons lacking full capacity is needed in order to protect their interests. The notification shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments.

2. A consular officer shall be entitled to safeguard, within the limits imposed by the laws and regulations of the receiving State, the interests of minors or other persons lacking full capacity who are nationals of the sending State, and when necessary, to recommend or designate a guardian or trustee to the person concerned and supervise the activities pertaining to a guardianship or trusteeship.

Article 45

Notarial functions and legalization

1. A consular officer shall be entitled to:

(a) draw up documents of a person of any nationality for use in the sending State upon the request of that person;

(b) draw up documents of a national of the sending State for use outside the sending State upon the request of that national;

(c) translate documents into the official language of the sending State or of the receiving State and certify that translation is in conformity with the original;

(d) carry out other notarial functions which are authorized by the sending State, and to which no objection is taken by the receiving State;

(e) authenticate signatures and seals on documents issued by the authorities concerned of the sending State or of the receiving State.

2. When used in the receiving State, the documents drawn up, certified or authenticated by consular officers in accordance with the laws and regulations of the receiving State shall have the same validity and effect as the documents drawn up, certified or authenticated by the competent authorities of the receiving State.

Article 46

Protection of documents and valuable articles

1. Upon request of the nationals of the sending State, a consular officer may receive under custodial deposit their documents or valuable articles for protection, if it is not contrary to the laws and regulations of the receiving State.

2. A consular officer shall be also entitled to receive in order to transfer to their owners, articles lost by nationals of the sending State during their stay in the receiving State.

Article 47

Transmission of judicial documents

A consular officer shall be entitled to transmit judicial and extra-judicial documents in accordance with international agreements in force between the sending State and the receiving State or, in the absence of such agreements, in any other manner compatible with the laws and regulations of the receiving State.

Article 48

Assistance to vessels of the sending State

1. A consular officer shall be entitled to provide appropriate assistance and support to vessels of the sending State during their stay in a port or other anchorage of the receiving State, or within the territorial, internal waters of the receiving State.

2. The master and members of the crew shall be entitled to meet and communicate with the consular officer on the vessel or elsewhere and to visit the consular post in accordance with the laws and regulations of the receiving State, in particular the laws and regulations of the port and those relating to border crossing.

3. A consular officer may address the competent authorities of the receiving State and request their support in performing his duties on all matters relating to the vessels of the sending State, and to the master, the members of the crew and cargo.

Article 49

Assistance to master and crew

1. Provided that the following acts are not contrary to the laws and regulations of the receiving State, a consular officer shall be entitled:

(a) to investigate any incident which occurs on board a vessel of the sending State; to question the master or any member of the crew with reference to these incidents; to inspect the vessel's papers and documents; to receive information in connection with the voyage and destination of the vessel and also to render assistance in the entry into and the departure of a vessel and its stay in the port;

(b) to settle disputes between the master and members of the crew, including disputes relating to wages and labour contracts;

(c) to take steps connected with the recruitment or the replacement of the master and of members of the crew;

(d) to arrange medical treatment for the master, a member of the crew or a passenger of the vessel and to arrange for their repatriation to the sending State;

(e) to receive, draw up, certify or prolong any declaration or other document in accordance with the laws and regulations of the sending State in regard to a vessel of the sending State or its cargo;

(f) to take other steps in accordance with the laws and regulations of the sending State concerning merchant shipping.

2. The consular officer shall be entitled, in accordance with the laws and regulations of the receiving State, to appear together with the master or a crew member before the court or other competent authorities of the receiving State in order to render them assistance.

Article 50

Protection of interests in case of coercive measures on board a vessel of the sending State

1. If the courts or other competent authorities of the receiving State intend to take coercive measures or to conduct an investigation on board a vessel of the sending State which is in the internal waters or territorial waters of the receiving State, the consular officer shall be notified in advance by the competent authorities so that the consular officer can be present when such actions are being taken. If the consular officer is not present when such actions are taken, the competent authorities of the receiving State, on request, inform him thereof in writing. If the urgency of the measures to be taken does not allow prior notification of the consular officer, in all cases, the competent authorities of the receiving State shall, upon his request, provide him with full particulars of the said actions.

2. The provisions of paragraph 1 of this Article shall also apply to similar actions taken on shore by the competent authorities of the receiving State against the master or members of the crew of a vessel of the sending State.

3. Except at the request or with the permission of the consular officer or of the master of the vessel of the sending State, the judicial or other competent authorities of the receiving State shall not interfere on board a vessel of the sending State in questions of relations between the members of the crew, labour relations, discipline on board and in other activities of an internal character relating to the vessel provided that the laws and regulations relating to the public order and safety of the receiving State are not violated.

4. The provisions of paragraph 1 and 2 of this Article shall not apply to any routine inspection carried out by the competent authorities of the receiving State in relation to customs, administration of ports, quarantine or border

check, nor to measures taken by such authorities to ensure navigation safety on sea or the prevention of pollution of water.

Article 51

Assistance in the case of accident of a vessel

1. If a vessel of the sending State is wrecked, grounded or suffers any other damage in the territorial or internal waters of the receiving State, the competent authorities of that State shall inform the consular officer as soon as possible of measures undertaken for saving the passengers and crew and salvaging the vessel and its cargo and other property.

2. The consular officer may assist a vessel in accident of the sending State, the members of the crew and the passengers. The consular officer may also request the receiving State to provide such assistance.

3. If the owner of a vessel of the sending State, the master or other authorized person is not in a position to undertake the necessary measures for safeguarding, salvaging or disposing the vessel's assets and its cargo, the competent authorities of the receiving State shall inform the consular post as promptly as possible. A consular officer of the sending State may either take appropriate measures on behalf of the owner of the vessel or the cargo, or request the competent authorities of the receiving State to take those measures.

4. The provisions of paragraphs 1, 2, 3 of this Article shall also apply to objects belonging to a national of the sending State which were on board a vessel, whether of the sending State or of a third State, which were found on shore or in the waters of the receiving State, or which have been brought to a port of the receiving State.

5. The competent authorities of the receiving State shall extend all necessary assistance to a consular officer in taking measures relating to the salvage of a vessel of the sending State.

6. A wrecked vessel of the sending State and its cargo and articles shall not be subjected to customs duties or other similar charges by the receiving State provided that they are not delivered for sale or for use in the receiving State.

Article 52

Functions relating to aircraft

Articles 48, 49, 50 and 51 of the present Convention shall apply in a proper way to aircraft of the sending State, provided that the application should not be inconsistent with the international treaties to which the Contracting Parties are parties, as well as the provisions of any air service agreement signed between the Hong Kong Special Administrative Region of the People's Republic of China and the Socialist Republic of Vietnam.

Article 53

Consular charges and fees

1. In accordance with the laws and regulations of the sending State, the consular post shall be entitled to levy, within the territory of the receiving State, charges and fees for the consular acts.

2. The sums collected in the form of the fees and the charges referred to in paragraph 1 of this Article and the receipts for such fees and charges, shall be exempt from any taxes and charges within the receiving State.

3. The receiving State shall permit a consular post to remit to the sending State the income from the fees and charges referred to in paragraph 1 of this Article.

Part V

Final provisions

Article 54

Application of territory

This Convention shall apply as well to the Hong Kong Special Administrative Region of the People's Republic of China.

Article 55

Ratification, entry into force and termination

1. This Convention shall be subject to ratification. The exchange of instruments of ratification shall take place in Hanoi. The present Convention shall enter into force after the expiration of thirty (30) days following the date of the exchange of instruments of ratification. ^(Note)

2. The present Convention may be amended. Any such amendment shall be negotiated through diplomatic channel and shall enter into force thirty (30) days after the date on which the Contracting Parties have exchanged their instruments of ratification concerning such amendments.

3. This Convention shall remain in force until the expiration of six months from the date on which one of the Contracting Parties gives the other Contracting Party written notification of its intention to terminate the Convention.

DONE in duplicate in Beijing, this 19th day of October, 1998, in Vietnamese, Chinese and English. The Vietnamese, Chinese and English texts are equally authentic. In case of divergences in interpretation, the English text shall prevail.

Plenipotentiary of
THE SOCIALIST REPUBLIC
OF VIETNAM

Vu Khoan

Plenipotentiary of
THE PEOPLE'S REPUBLIC
OF CHINA

Wang Yi

Note: The People's Republic of China and the Socialist Republic of Vietnam exchanged instruments of ratification in respect of this Convention on 26 June 2000 at Hanoi. This Convention came into force on 26 July 2000.