

No. 24580

**CHINA
and**

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

Consular Convention. Signed at Beijing on 26 November 1985

Authentic texts: Chinese and Korean.

Registered by China on 4 December 1986.

**CHINE
et
RÉPUBLIQUE POPULAIRE DÉMOCRATIQUE
DE CORÉE**

Convention consulaire. Signée à Beijing le 26 novembre 1985

Textes authentiques : chinois et coréen.

Enregistrée par la Chine le 4 décembre 1986.

[TRANSLATION — TRADUCTION]

CONSULAR CONVENTION¹ BETWEEN THE PEOPLE'S REPUBLIC OF CHINA AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

The People's Republic of China and the Democratic People's Republic of Korea,

Seeking to develop further friendly relations between the two countries on the basis of the principles of mutual respect for sovereignty, non-intervention in each other's internal affairs, equality and mutual benefit, and to strengthen cooperation in the area of consular affairs,

Have decided to conclude this Convention and have agreed on the following provisions:

CHAPTER I. DEFINITIONS

Article 1. DEFINITIONS

For the purposes of this Convention, the following expressions shall have the meaning given below:

(a) "Consular post" means a consulate-general, consulate, vice-consulate or consular agency.

(b) "Consular district" means the area assigned to the consular post for the exercise of consular functions in the receiving State.

(c) "Head of the consular post", means a consul-general, consul, vice-consul or consular agent designated by the sending State to head a consular post.

(d) "Consular officer" means a person, including the head of the consular post, designated by the sending State to exercise consular functions.

(e) "Consular employee" means a person performing administrative or technical functions or services at the consular post.

(f) "Members of the consular post" means consular officers and consular employees.

(g) "Family members" means the spouse of a member of the consular post and those children of the member of the consular post who have not attained majority and reside with him.

(h) "Consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used by the consular post.

(i) "Consular archives" means all documents, certificates, correspondence, ciphers and codes, records, seals, audiotapes, videotapes, films, photographs and books of the consular post, together with articles intended for their protection or safekeeping.

¹ Came into force on 2 July 1988, i.e., 30 days after the date of the exchange of the instruments of ratification, which took place at P'yongyang on 3 June 1986, in accordance with article 46 (1).

(j) “Vessel of the sending State” means a vessel registered in the sending State and flying the flag of that State, with the exception of warships.

(k) “Aircraft of the sending State” means an aircraft registered in the sending State and bearing the nationality markings of that State, with the exception of military aircraft.

CHAPTER II. ESTABLISHMENT OF CONSULAR POSTS AND APPOINTMENT OF THE MEMBERS OF CONSULAR POSTS

Article 2. ESTABLISHMENT OF CONSULAR POSTS

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 any changes thereto shall be established by an agreement concluded between the sending State and the receiving State.

Article 3. APPOINTMENT AND ADMISSION OF HEADS OF CONSULAR POSTS

1. When the sending State decides to appoint a head of consular post to the receiving State, the sending State shall, through the diplomatic channel, transmit a consular commission to the receiving State. The commission shall state the full name and rank of the head of the consular post and the seat, classification and consular district of the consular post.

2. Upon receipt of the consular commission relating to the appointment of the head of the consular post, the receiving State must without delay issue an exequatur confirming the appointment. If the receiving State refuses to confirm the appointment, it shall not be required to give the reasons for the refusal.

3. The head of the consular post shall be admitted to the exercise of his functions following confirmation of the appointment by the receiving State. Pending such confirmation, the head of the consular post may be admitted to the exercise of his functions on a provisional basis with the consent of the receiving State.

4. Once the receiving State has confirmed the appointment of the head of the consular post or admitted him provisionally to the exercise of his functions, it shall immediately notify the competent authorities of the consular district and take all necessary measures to enable the head of the consular post to exercise his functions and enjoy all rights, facilities, privileges and immunities conferred by this Convention.

5. If the head of the consular post is unable for any reason to exercise his functions or if his position is temporarily vacant, the sending State may appoint a consular officer of that consular post or another consular post in the receiving State or a member of the diplomatic staff of its diplomatic mission in that State to assume the functions of the head of the consular post. The sending State shall notify the receiving State in advance of the full name and former rank of the acting head of the consular post.

6. The acting head of the consular post shall enjoy the same rights, facilities, privileges and immunities as those enjoyed by the head of the consular post under the provisions of this Convention. A member of the diplomatic staff who is

appointed acting head of the consular post shall continue to enjoy the diplomatic privileges and immunities to which he is entitled.

Article 4. NOTIFICATION OF ARRIVALS AND DEPARTURES

The head of the consular post shall promptly notify the receiving State in writing of the following:

- (a) The full name of members of the consular post, their rank, date of arrival, date of final departure or of the termination of their functions, and other changes affecting their status during their service at the consular post;
- (b) The full names of family members, their nationality, arrival and final departure, and the fact that any person becomes or ceases to be a family member.

Article 5. NATIONALITY OF MEMBERS OF THE CONSULAR POST

1. Consular officers must be nationals of the sending State or of the receiving State.

Article 6. TERMINATION OF THE FUNCTIONS OF MEMBERS OF THE CONSULAR POST

1. The functions of a member of the consular post shall be subject to termination through:

- (a) Notification of the receiving State by the sending State that the functions of a particular member have been terminated;
- (b) Notification of the sending State by the receiving State, through the diplomatic channel, that a particular consular officer has been declared *persona non grata*. In that event, the sending State shall recall the consular officer concerned or terminate his functions at the consular post.

2. In the situation referred to in paragraph 1 (b) of this article, the receiving State is not required to give the sending State reasons for its decision. If the sending State refuses to discharge its obligations under paragraph 1 (b) of this article or fails to discharge them promptly, the receiving State may cease to consider the person concerned as a member of the consular post and withdraw his exequatur or identity card.

CHAPTER III. CONSULAR FUNCTIONS

Article 7. GENERAL CONSULAR FUNCTIONS

General consular functions shall include:

- (a) Protecting the rights and interests of the sending State and its nationals and legal persons, and providing assistance to nationals and legal persons of the sending State;
- (b) Furthering the development of relations between the sending State and the receiving State in the fields of economics, trade, culture, education, science and technology and tourism and otherwise promoting relations of friendship and cooperation between them;
- (c) Ascertaining by all lawful means the situation of the receiving State in such areas as economics, trade, culture, education, science and technology and tourism, and reporting thereon to the sending State;

- (d) Performing other functions authorized by the sending State which are not prohibited by the laws and regulations of the receiving State or to which the receiving State does not object.

Article 8. APPLICATION FOR CITIZENSHIP AND REGISTRATION OF NATIONALS

1. A consular officer may perform the following functions with respect to applications for citizenship and registration of nationals of the receiving State:

- (a) Accepting applications for citizenship, in accordance with the laws of the sending State;
- (b) Registering nationals of the sending State;
- (c) Registering births and deaths of nationals of the sending State and accepting notifications and documents pertaining thereto;
- (d) Provided that there is no conflict with the laws of the receiving State, registering marriages and divorces between nationals of the sending State, in accordance with the laws and regulations of the sending State, and issuing marriage certificates.

2. The provisions of paragraph 1 of this article shall not exempt any of the parties concerned from the obligation to comply with the laws and regulations of the receiving State.

Article 9. ISSUANCE OF PASSPORTS AND VISAS

A consular officer may perform the following functions relating to the issuance of passports and visas:

- (1) Issuing passports or other travel documents to nationals of the sending State and amending or revoking them;
- (2) Issuing visas or other documents to persons entering or leaving the sending State and executing the relevant formalities.

Article 10. NOTARIAL FUNCTIONS AND LEGALIZATION

1. A consular officer may perform the following functions in respect of notarization and legalization, in accordance with the laws and regulations of the sending State:

- (a) At the request of an individual of any nationality, drawing up and issuing relevant documents for use in the sending State;
- (b) At the request of an individual or legal person of the sending State, drawing up and issuing relevant documents for use inside or outside the receiving State;
- (c) Certifying that translations into the official languages of the sending State or the receiving State are accurate and conform to the originals;
- (d) Performing other notarial functions which are authorized by the sending State and to which no objection is taken by the receiving State;
- (e) Authenticating signatures and seals on documents issued by the competent authorities of the sending State or the receiving State.

2. All documents, copies, abridgements and translations and certifications thereof which are notarized by a consular officer shall be considered to be official documents or officially certified documents of the sending State. If such documents are used in the receiving State, they shall conform to the laws of that State.

Article 11. COMMUNICATION WITH NATIONALS OF THE SENDING STATE

1. A consular officer shall have the right to communicate and meet with nationals of the sending State within his consular district. The receiving State shall not restrict the ability of a national of the sending State to communicate with the consular post or his access to that post.

2. When a national of the sending State is arrested or detained within the consular district, the competent authorities of the sending State shall so notify the consular post within seven days of the arrest or detention.

3. A consular officer shall be entitled to visit a national of the sending State who has been arrested, detained or imprisoned, to converse or correspond with him and to provide him with legal assistance. Within three days of notification of the request for visitation by the consular officer, the competent authorities of the receiving State must make appropriate arrangements; they must also provide regular opportunities for subsequent visits.

4. The competent authorities of the receiving State shall immediately notify a national of the sending State who has been arrested, detained or imprisoned of his rights under paragraphs 2 and 3 of this article.

5. In exercising the privileges provided for in this article, the consular officer shall comply with all relevant laws and regulations of the receiving State.

Article 12. GUARDIANSHIP OR TRUSTEESHIP

1. The competent authorities of the receiving State shall notify the consular post of the need to establish guardianship or trusteeship in respect of a citizen of the sending State resident in the consular district who is a minor or lacks full legal capacity.

2. A consular officer shall be entitled, to the extent that is permissible under the laws and regulations of the sending State, to protect the interest of a national of the sending State who is a minor or lacks full legal capacity. When necessary, the consular officer may recommend or appoint a guardian or trustee for such persons and supervise the activities of the guardian or trustee.

Article 13. REPRESENTATION OF NATIONALS AND LEGAL PERSONS
OF THE SENDING STATE

1. Where a national or legal person of the sending State is unable to undertake the defence of his rights and interests in a timely manner because he is not present in the receiving State or for any other reason, a consular officer may represent the said national or legal person before the courts or other bodies of the receiving State or provide appropriate representation for him.

2. In implementing the provisions of paragraph 1 of this article, the consular officer shall comply with the laws and regulations of the receiving State.

Article 14. ASSISTING NATIONALS AND LEGAL PERSONS
OF THE SENDING STATE

1. Consular officers shall be entitled to keep nationals and legal persons of the sending State informed of conditions in the receiving State and to provide them with necessary assistance.

2. Consular officers shall be entitled to ask the competent authorities of the receiving State for assistance in making inquiries regarding the whereabouts of nationals of the sending State. The competent authorities of the receiving State shall, to the extent possible, furnish the necessary information.

3. Consular officers in the receiving State shall educate nationals of the sending State and help them to observe the laws of the receiving State.

4. Upon learning of accidents which result in the death, disappearance or serious bodily injury of a national of the sending State, the competent authorities of the receiving State shall notify the consular post at once. Consular officers shall be entitled to request the competent authorities of the receiving State to furnish information regarding such accidents and to take the necessary steps to protect the interests of the injured nationals.

5. Where such action is not inconsistent with the laws and regulations of the receiving State, consular officers shall be entitled to receive and have temporary custody of the documents, money and valuables of nationals or legal persons of the sending State.

Article 15. SAFEGUARDING OF ESTATES

1. Upon receiving information concerning the death of a national of the sending State in the receiving State, the competent authorities of the receiving State shall notify the consular post at once and, at the request of the consular post, transmit free of charge a copy of the death certificate or other document attesting to the death.

2. In the event of the death of a national of the sending State who is a permanent resident of the receiving State and who leaves an estate in the receiving State but has no heirs or executor there, the competent authorities of the receiving State shall notify the consular post without delay.

3. When the competent authorities of the receiving State accept custodianship of an estate referred to in paragraph 2 of this article, the consular officer may request permission to be present.

4. Where a national of the sending State mentioned as an heir or legatee in connection with a succession is not present in the receiving State but is entitled to inherit all or part of an estate or to receive a legacy left by a person of any nationality who has died in the receiving State, the competent authorities of the receiving State shall inform the consular post of the arrangements regarding the succession.

5. A consular officer may represent before the courts or other authorities of the receiving State, directly or through his agent, a national or legal person of the sending State who is entitled or has a claim to an estate in the receiving State when the said national or his representative is unable to participate in the succession proceedings.

6. Consular officers shall be entitled to receive an estate or legacy due by reason of succession in the receiving State to nationals of the sending State who are not permanent residents of the receiving State for delivery to such persons.

7. In the event of the death in the receiving State of a national of the sending State who is not a permanent resident of the receiving State and who leaves no relatives or agent, the consular officer shall have the right immediately to assume temporary custodianship of the monies, documents and personal possessions of

said national for delivery to his heirs or executors or to other persons entitled to receive such property.

8. In performing the functions set out in paragraphs 5, 6 and 7 of this article, the consular officer shall comply with the laws and regulations of the receiving State.

Article 16. PROVISION OF AID TO VESSELS OF THE SENDING STATE

1. Consular officers shall be entitled to provide aid to vessels of the sending State which are in the inland waters, ports, territorial sea or other anchoring places of the receiving State and to their masters and crews. Consular officers shall also be entitled to:

- (a) Board the vessel, make inquiries of the master or members of the crew and take statements concerning the vessel, its cargo and its voyage;
- (b) Conduct investigations concerning events that have taken place during the voyage, without prejudice to the jurisdiction of the competent authorities of the receiving State;
- (c) Settle disputes between the master and members of the crew, including disputes concerning wages and contracts of service, in accordance with the laws and regulations of the sending State;
- (d) Receive visits from the master or members of the crew and, where necessary, arrange for their hospitalization or repatriation;
- (e) Receive, inspect, draw up, sign or authenticate certificates relating to the vessel;
- (f) Handle other matters relating to the vessel entrusted to him by the competent authorities of the sending State.

2. While performing the functions referred to in this article, the consular officer shall be required to comply with the laws and regulations of the receiving State and may apply to the competent authorities of the receiving State for assistance.

Article 17. PROTECTION OF VESSELS OF THE SENDING STATE AGAINST WHICH COERCIVE MEASURES ARE TAKEN

1. Where the courts or other authorities of the receiving State intend to take coercive measures against a vessel of the sending State or on board such a vessel or to conduct a major investigation of the vessel or on board it, they must so notify the consular post in advance so that a consular officer or his representative may be present when the action is taken. If, owing to the urgency of the case, advance notification is impossible, the competent authorities of the receiving State must notify the consular post immediately after the action has been taken and promptly provide all information concerning the steps taken.

2. The provisions of paragraph 1 shall apply to all such actions taken by the competent authorities of the receiving State in respect of the master of a vessel or members of the crew who are on shore.

3. The provisions of paragraphs 1 and 2 shall not apply to actions taken by the competent authorities of the receiving State in connection with routine customs, harbour management, health and immigration inspections or to measures taken by the appropriate authorities of the receiving State for the purpose of ensuring safety at sea or preventing water pollution.

4. Except in cases involving breaches of the peace, security or public order of the receiving State, the competent authorities of the receiving State may not interfere in the internal affairs of a vessel of the sending State without the consent of the master of the vessel or the consular officer.

Article 18. ASSISTANCE TO DAMAGED VESSELS OF THE SENDING STATE

1. Where a vessel of the sending State is sunk or stranded or suffers other substantial damage in the inland waters or territorial sea of the receiving State or in waters adjacent thereto, the competent authorities of the receiving State shall promptly inform the consular post and notify it of the measures being taken to rescue persons on board the vessel and to salvage the vessel, its cargo and other property.

2. The consular officer shall be entitled to provide assistance to a vessel of the sending State which is involved in an accident and to its crew and passengers and may for this purpose request assistance from the competent authorities of the receiving State.

3. If a vessel of the sending State which is involved in an accident, articles belonging to the vessel or its cargo are found in the offshore waters of the receiving State or brought to a port of the receiving State, in the event of the absence of the master, the owner of the vessel, the shipping agent and insurer, or in the event of their inability to take protective or administrative measures, the competent authorities of the receiving State shall promptly notify the consular post. The consular officer shall be empowered to take appropriate action on behalf of the owner.

4. If a vessel of the sending State which is involved in an accident and its cargo and foodstuffs are not disposed of in the receiving State, the receiving State may not collect customs duty or other similar duty.

Article 19. VISITS ON BOARD FOREIGN VESSELS

Subject to the consent of the master of the vessel, and compliance with the harbour regulations of the receiving State, a consular officer, or his representative may visit a vessel of any State other than the sending State and travelling towards a port or other anchoring place in the sending State.

Article 20. AIRCRAFT OF THE SENDING STATE

The provisions of this agreement which apply to vessels of the sending State shall apply also to aircraft of the sending State, unless otherwise provided in bilateral or multilateral agreements to which the receiving State and the sending State are parties.

Article 21. DELIVERY OF JUDICIAL DOCUMENTS

A consular officer shall have the right to receive declarations from nationals and legal persons of the sending State and to deliver judicial and non-judicial documents to them, in accordance with the laws and regulations of the receiving State.

Article 22. AREA OF EXERCISE OF CONSULAR FUNCTIONS

A consular officer may exercise consular functions only within his consular district. He may also, with the consent of the receiving State, exercise consular functions outside his consular district.

Article 23. COMMUNICATION WITH THE AUTHORITIES OF THE RECEIVING STATE

In the exercise of his functions, a consular officer may apply to the following authorities:

- (a) The competent local authorities of his consular district;
- (b) The competent local authorities outside his consular district, with the consent of the receiving State;
- (c) The competent central authorities of the receiving State, to the extent that this is allowed by the laws, regulations and customs of the receiving State.

Article 24. EXERCISE OF CONSULAR FUNCTIONS BY THE DIPLOMATIC MISSION

1. The diplomatic mission of the sending State may exercise consular functions. Members of the diplomatic mission who are assigned to the exercise of the consular functions shall enjoy the rights, facilities, privileges and immunities to which consular officers are entitled under the provisions of this Convention.

2. The diplomatic mission of the sending State shall communicate to the Ministry of Foreign Affairs of the receiving State the full names and ranks of the members of the diplomatic mission who are assigned to the exercise of consular functions.

3. Members of the diplomatic mission who are assigned to the exercise of consular functions shall continue to enjoy the rights, facilities, privileges and immunities to which they are entitled by reason of their diplomatic status.

CHAPTER IV. FACILITIES, PRIVILEGES AND IMMUNITIES

Article 25. FACILITIES ACCORDED TO CONSULAR POSTS

The receiving State shall afford the consular post all facilities in the exercise of its functions.

Article 26. ACQUISITION OF CONSULAR PREMISES AND RESIDENCES

1. To the extent allowed by the laws and regulations of the receiving State, the sending State or its representatives shall have the right to purchase, lease, build or acquire in any other manner buildings or parts of buildings, including the land appertaining thereto, for use as the premises of the consular post and residences for members of the consular post, with the exception of residences of employees of the consular post who are nationals of the receiving State or nationals of the sending State residing permanently in the receiving State.

2. The receiving State shall provide the sending State with assistance in the acquisition of consular premises and, where necessary, shall provide the members of the consular post with assistance in the acquisition of suitable housing.

Article 27. USE OF THE NATIONAL FLAG AND COAT OF ARMS

1. The sending State shall have the right to display on the consular premises its coat of arms and inscriptions designating the consular post in the languages of the sending State and the receiving State.

2. The sending State shall have the right to fly its flag on the consular premises, at the residence of the head of the consular post and on his means of transport when used for official purposes.

Article 28. INVIOIABILITY OF THE CONSULAR POST AND THE LIVING QUARTERS
OF CONSULAR OFFICERS

1. The consular premises shall be inviolable. The authorities of the receiving State may not enter them without the consent of the head of the consular post, the head of the diplomatic mission of the sending State or any person designated by either of them.

2. The receiving State shall have particular responsibility for taking all necessary measures to protect the consular premises against intrusion or damage and to prevent any disturbance of the peace of the consular post or any offence against its dignity.

3. The consular premises and the equipment, property and means of transport of the consular post may not be requisitioned. If their requisition is required by the receiving State for purposes of national defence or public utility, the receiving State shall take all measures to avoid impeding the exercise of consular functions and shall make suitable compensation without delay to the sending State.

4. The consular premises shall not be used for any activity incompatible with the exercise of consular functions.

5. The provisions of paragraph 1 of this article shall apply also to the living quarters of consular officers.

Article 29. INVIOIABILITY OF THE CONSULAR ARCHIVES

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

Article 30. FREEDOM OF COMMUNICATION

1. The receiving State shall permit and protect the consular post's freedom of communication for all official purposes. In communicating with the Government, diplomatic missions and other consular posts of the sending State, the consular post may employ all appropriate means, including correspondence in code or cipher, diplomatic or consular couriers and diplomatic or consular bags. 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 not be opened or detained. The consular bag must bear visible external marks of its character and may contain only official documents and materials and articles intended for official use. If the competent authorities of the receiving State have conclusive evidence that the bag contains articles not specified above, they shall request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused, the bag shall be returned to its place of origin.

3. The consular courier must be a citizen of the sending State who is not a permanent resident of the receiving State. The diplomatic courier must be provided with an official document indicating his status. Within the receiving State, the diplomatic courier shall enjoy all rights, benefits, privileges and immunities accorded to diplomatic couriers.

4. The consular bag may be entrusted to the captain of an aircraft or the master of a vessel of the sending State. The captain or master shall be provided with an official document indicating the number of packages constituting the consular

bag. He shall not, however, be considered to be a consular courier. By arrangement with the competent authorities of the receiving State, a consular officer may directly and freely deliver the consular bag to the captain or master.

Article 31. CONSULAR SERVICE CHARGES AND PROCEDURAL FEES

1. The consular post may levy service charges and procedural fees in the territory of the receiving State, in accordance with the laws and regulations of the sending State, for consular activities performed.

2. The income and associated receipts deriving from the service charges and procedural fees referred to in paragraph 1 of this article shall not be subject to any taxes or charges in the receiving State.

3. The receiving State shall allow the consular post to transfer the earnings from the service charges and procedural fees referred to in paragraph 1 of the sending State.

Article 32. FREEDOM OF MOVEMENT

With the exception of entry into areas which is prohibited or restricted for reasons of national security, the receiving State shall guarantee all members of the consular post and their families freedom of movement and travel in its territory.

Article 33. PERSONAL INVIOABILITY OF CONSULAR OFFICERS

Consular officers shall enjoy personal inviolability and shall not be liable to arrest or detention. The receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any offence against their persons, freedom or dignity.

Article 34. IMMUNITY FROM JURISDICTION

1. Consular officers shall not be subject to the judicial or administrative jurisdiction of the receiving State, except in the case of the following civil actions:

- (a) Those arising out of the conclusion of a contract by a consular officer in which he did not act expressly as a representative of the sending State;
- (b) Those arising out of damage resulting from an accident in the receiving State caused by a means of transport in which a third party seeks compensation;
- (c) Those relating to private immovable property in the receiving State other than such property which the consular officer may own in his capacity as a representative of the sending State;
- (d) Those relating to private successions;
- (e) Those arising out of any professional or commercial activities undertaken in the receiving State which fall outside the scope of official duties.

2. In the event that the receiving State takes measures in any of the situations set out in paragraph 1 of this article, it shall not harm the person of the consular officer or violate his living quarters.

3. Consular employees shall not be subject to the legal or administrative jurisdiction of the receiving State in the exercise of their official functions, except in the case of the civil action referred to in paragraphs 1 (a) and 1 (b) of this article.

4. If the receiving State arrests or detains a consular employee, it shall notify the head of the consular post without delay.

Article 35. OBLIGATION TO GIVE EVIDENCE

1. Consular officers shall be under no obligation to give evidence as witnesses.
2. Consular employees may be summoned to testify in judicial or administrative proceedings in the receiving State. Consular employees may not refuse to give evidence except in the cases referred to in paragraph 3.
3. Consular employees shall be under no obligation to give evidence concerning matters connected with the exercise of their official functions or to produce correspondence or documents pertaining thereto. Consular employees shall have the right to refuse to give evidence as expert witnesses with regard to the law of the sending State.
4. The competent authority of the receiving State which summons a consular employee to give evidence may not interfere with the exercise of his official functions. Where possible, it shall take such evidence at his living quarters or on the consular premises or accept a statement from him in writing.

Article 36. EXEMPTION FROM PERSONAL SERVICES AND CONTRIBUTIONS

Members of the consular post shall be exempt from all personal services, public service and military obligations in the receiving State. They shall also be exempt, subject to the laws and regulations of the receiving State, from all obligations relating to the registration of aliens and residence permits.

Article 37. EXEMPTION FROM TAXATION ON MOVABLE AND IMMOVABLE PROPERTY

The receiving State shall exempt from taxation the following:

- (a) The consular premises and the living quarters of members of the consular post purchased, leased or built by the sending State or its representative and the transactions or contracts pertaining thereto;
- (b) Consular facilities and means of transport owned, leased or otherwise possessed for specific consular use.

Article 38. EXEMPTION OF MEMBERS OF THE CONSULAR POST FROM TAXATION

Members of the consular post shall be exempt from all national, local and communal personal and property taxes and charges, personal or real, of the receiving State, except for:

- (a) All indirect taxes of the kind normally incorporated in the price of goods or services;
- (b) Taxes and charges on private immovable property situated in the territory of the receiving State, subject to the provisions of article 37, paragraph 1 (a), of this Convention;
- (c) Inheritance taxes and taxes on the transfer of ownership levied by the receiving State, subject to the provisions of article 40 of this Convention;
- (d) Taxes and charges on private income of any kind having its source in the receiving State and derived from activities other than official duties;

- (e) Charges levied for specific services rendered;
- (f) Registration fees, court or record fees, mortgage dues and stamp duties subject to the provisions of article 37 of this Convention.

Article 39. EXEMPTION FROM CUSTOMS DUTIES AND CUSTOMS INSPECTION

1. Subject to its laws and regulations, the receiving State shall permit import and export of the following and shall exempt them from all customs duties, with the exception of charges for storage, transport and similar services:

- (a) Articles and means of transport intended for the official use of the consular post;
- (b) Articles intended for the personal use of consular officers;
- (c) Articles, intended for the personal use of consular employees, including household equipment and articles for everyday use, which are imported at the time of first installation.

2. The items referred to in paragraphs 1 (b) and 1 (c) of this article may not exceed the quantities necessary for the immediate needs of the person concerned.

3. The personal baggage of consular officers shall be exempt from inspection. It may be subjected to inspection by the competent authorities of the receiving State only when they have conclusive evidence that it contains articles other than those referred to in paragraph 1 (b) of this article, or articles whose import or export is prohibited by the laws and regulations of the receiving State or which are subject to its quarantine laws and regulations. Such inspection must be carried out in the presence of the consular officer concerned or of his agent.

Article 40. ESTATE OF A MEMBER OF THE CONSULAR POST

In the event of the death of a member of the consular post or of a family member, the receiving State shall be required:

- (a) To permit the export of the movable property of the deceased, with the exception of property which was acquired in the receiving State and whose export was prohibited at the time of death;
- (b) Not to levy any inheritance taxes or related duties on the movable property of the deceased.

Article 41. PRIVILEGES AND IMMUNITIES OF FAMILY MEMBERS

Subject to the provisions of article 42, paragraph 2, of this Convention, family members shall enjoy the privileges and immunities accorded under this Convention to members of the consular post and consular employees.

Article 42. INDIVIDUALS NOT ENJOYING PRIVILEGES AND IMMUNITIES

1. Subject to the provisions of article 35, paragraph 3, of this Convention, consular employees who are nationals of the receiving State or nationals of the sending State residing permanently in the receiving State or who carry on any gainful occupation in that State shall not enjoy the privileges and immunities provided for in this Convention.

2. Family members of consular employees who are nationals of the receiving State or nationals of the sending State residing permanently in the receiving State or

who carry on any private gainful occupation in that State shall not enjoy the privileges and immunities provided for in this Convention.

Article 43. BEGINNING AND END OF PRIVILEGES AND IMMUNITIES

1. A member of the consular post shall enjoy the privileges and immunities accorded under this Convention from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment he assumes his consular functions.

2. Family members of a member of the consular post shall enjoy the privileges and immunities accorded under this Convention from the date from which the member of the consular post enjoys privileges and immunities or from the date of their entry into the territory of the receiving State or from the time they are considered to be family members of a member of the consular post.

3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of his family members shall cease at the moment when he leaves the receiving State or on the expiry of a reasonable period in which to do so. If a family member of a member of the consular post ceases to enjoy that status, his privileges and immunities shall come to an end immediately provided, however, that if he intends to leave the receiving State within a reasonable period thereafter, his privileges and immunities may be extended until the time of his departure.

4. In the event of the death of a member of the consular post, the privileges and immunities of his family members shall cease from the moment they leave the receiving State or upon the expiry of a reasonable period enabling them to do so.

Article 44. WAIVER OF PRIVILEGES AND IMMUNITIES

1. The sending State may waive any of the privileges and immunities enjoyed by individuals under articles 34 and 35 of this Convention. However, any such waiver must be express and must be communicated to the receiving State in writing.

2. Where a person enjoying jurisdictional immunity under this Convention initiates proceedings in a case in which he could enjoy such immunity, he may not invoke immunity in relation to any counter-claim directly related to the principal claim.

3. A waiver of immunity from jurisdiction in respect of a civil or administrative action shall not be considered a waiver of immunity in respect of measures of execution of a judgement. For such measures, a separate waiver must be communicated in writing.

*Article 45. RESPECT FOR THE LAWS AND REGULATIONS
OF THE RECEIVING STATE*

1. Without prejudice to their privileges and immunities under this Convention, it is the duty of persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of the receiving State.

2. No member of the consular post who is a national of the sending State may engage in any professional or commercial activity in the receiving State apart from his official functions.

3. Means of transport owned by the consular post and members of the consular post and their family members shall be liable to the insurance regulations of the receiving State.

CHAPTER V. FINAL PROVISIONS

Article 46. RATIFICATION, ENTRY INTO FORCE AND TERMINATION

1. This Convention is subject to ratification and shall enter into force 30 days after the date of the exchange of instruments of ratification, which shall take place at P'yongyang.

2. This Convention shall remain in force unless one of the Contracting Parties notifies the other in writing six months in advance of its intention to terminate it.

DONE at Beijing on 26 November 1985, in duplicate in the Chinese and Korean languages, both texts being equally authentic.

For the People's Republic of China:

For the Democratic People's Republic
of Korea:

[Signed]

WU XUEQIAN
Plenipotentiary

[Signed]

KIM YONG NAM
Plenipotentiary
