

Regulations of the People's Republic of China Concerning Diplomatic Privileges and Immunities

(Adopted at the 17th Meeting of the Standing Committee of Sixth National People's Congress on September 5, 1986 and promulgated by Order No.44 of the President of the People's Republic of China on September 5, 1986)

Article 1 These Regulations are formulated for the purpose of defining the diplomatic privileges and immunities of the diplomatic missions in China and their members and facilitating the efficient performance of the functions of the diplomatic missions in China as representing States.

Article 2 The members of the diplomatic staff of a mission shall in principle be of the nationality of the sending State. They may be appointed from among persons of Chinese or third-State nationality only with the consent of the competent Chinese authorities, which may be withdrawn at any time by the said authorities.

Article 3 The mission and its head shall have the right to use the flag and emblem of the sending State on the premises of the mission and on the means of transport of the head of the mission.

Article 4 The premises of the mission shall be inviolable. Chinese government functionaries may enter them only with the consent of the head of the mission or another member of the mission authorized by him. The Chinese authorities concerned shall take appropriate measures to protect the premises of the mission against any intrusion or damage.

The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

Article 5 The premises of the mission shall be exempt from dues and taxes, other than such as represent payment for specific services rendered.

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

Article 6 The archives and documents of the mission shall be inviolable.

Article 7 The members of the mission shall enjoy freedom of movement and travel within Chinese territory except for areas the entry into which is prohibited or restricted by the regulations of the Chinese Government

Article 8 The mission may for official purposes communicate freely with the Government and the other missions and consulates of the sending State. In so doing, it may employ all appropriate means, including diplomatic couriers, diplomatic bag, and messages in code or cipher.

Article 9 The mission may install and use a wireless transmitter-receiver for the purpose of communication only with the consent of the Chinese Government. The import of the above-mentioned equipment shall be subject to the relevant procedure as specified by the Chinese Government.

Article 10 The official correspondence of the mission shall be inviolable.

The diplomatic bag shall not be opened or detained.

The diplomatic bag may contain only diplomatic papers or articles intended for official use and must be sealed and bear visible external marks of its contents.

Article 11 The diplomatic courier shall be provided with a courier certificate issued by the competent authorities of the sending State. He shall enjoy personal inviolability and shall not be liable to arrest or detention.

Diplomatic couriers ad hoc shall be provided with certificates of courier ad hoc issued by the competent authorities of the sending State, and shall enjoy the same immunities as the diplomatic courier while charged with the carrying of the diplomatic bag.

A diplomatic bag may be entrusted to the captain of a commercial aircraft. He shall be provided with an official document issued by the consigner State indicating the number of packages constituting the bag, but he

shall not be regarded as a diplomatic courier. The mission shall send its members to receive the diplomatic bag from the captain of the aircraft or deliver it to him.

Article 12 The person of a diplomatic agent shall be inviolable. He shall not be liable to arrest or detention. The Chinese authorities concerned shall take appropriate measures to prevent any attack on his personal freedom and dignity.

Article 13 The residence of a diplomatic agent shall enjoy inviolability and protection.

His papers, correspondence and, except as provided in Article 14, his property, shall be inviolable.

Article 14 A diplomatic agent shall enjoy immunity from criminal jurisdiction.

He shall also enjoy immunity from civil and administrative jurisdiction, except in the case of:

- (1) an action relating to succession in which he is involved as a private person; or
- (2) an action relating to any professional or commercial activity conducted by him in China outside his official functions in violation of paragraph 3 of Article 25.

No measures of execution shall be taken in respect of a diplomatic agent except in cases coming under the preceding paragraphs of this Article, where the measures of execution do not constitute any violations of his person and residence.

A diplomatic agent is not obliged to give evidence as a witness.

Article 15 The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under Article 20 may be waived through explicit expression by the Government of the sending State.

The initiation of proceedings by a diplomatic agent or by a person enjoying immunity from jurisdiction under Article 20 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the claim.

Waiver of immunity from civil or administrative jurisdiction shall not imply waiver of immunity in respect of the execution of the judgment, for which a separate and explicit waiver shall be necessary.

Article 16 A diplomatic agent shall be exempt from all dues and taxes, except:

- (1) dues and taxes of a kind which are normally incorporated in the price of goods or services;
- (2) estate, succession or inheritance duties, except for the movable property in China of a deceased diplomatic agent;
- (3) dues and taxes on private income having its source in China;
- (4) charges levied for specific services rendered.

Article 17 Diplomatic agents shall be exempt from all personal and public services as well as military obligations.

Article 18 Imported articles for the official use of the mission and those for the personal use of a diplomatic agent shall, in accordance with the relevant regulations of the Chinese Government, be exempt from customs duties and all other related dues and taxes.

The personal baggage of a diplomatic agent shall be exempt from inspection, unless the competent Chinese authorities have serious grounds for presuming that it contains articles not covered by the exemptions specified in the previous paragraph, or articles the import or export of which is prohibited by Chinese laws and government regulations or controlled by the quarantine law and regulations. Such inspection shall be conducted in the presence of the diplomatic agent or of his authorized representative.

Article 19 The diplomatic missions and their members may bring and import firearms and bullets into China for their personal use, subject to the approval of the Chinese government and to its relevant regulations.

Article 20 The spouse and under-age children of a diplomatic agent forming part of his household shall, if they are not nationals of China, enjoy the privileges and immunities specified in Articles 12 through 18.

The members of the administrative and technical staff of the mission, together with their spouses and under-age children forming part of their respective households, shall, if they are not nationals of or permanent residents in China, enjoy the privileges and immunities specified in Articles 12 through 17. However, the immunity from civil and administrative jurisdiction shall be confined to acts performed in the course of official duties. The members of the administrative and technical staff shall also enjoy the privilege of exemption from dues and taxes specified in paragraph one of Article 18 in respect of articles intended for their establishment which are imported within six months of the time of installation.

The members of the service staff of the mission who are not nationals of or permanent residents in China shall enjoy immunity in respect of acts performed in the course of official duties and exemption from income tax on the emoluments they receive by reason of their employment. They shall enjoy the privilege of exemption from dues and taxes as specified in paragraph one of Article 18 of these Regulations in respect of articles intended for their establishment which are imported within six months of the time of installation.

The private attendants of members of the mission shall, if they are not nationals of or permanent residents in China, be exempt from income tax on the emoluments they receive by reason of their employment.

Article 21 Diplomatic agents who are nationals of China or who are foreigners having obtained permanent residence in China shall enjoy immunity from jurisdiction and inviolability only in respect of acts performed in the course of official duties.

Article 22 The following persons shall enjoy immunity and inviolability necessary for their transit through or sojourn in China:

- (1) a diplomatic agent stationed in a third State who passes through China together with his spouse and under-age children forming part of his household;
- (2) a visiting foreign official who has obtained a diplomatic visa from China or who holds a diplomatic passport of a State with which China has an agreement on the mutual exemption of visas;
- (3) other visiting foreigners to whom the Chinese Government has granted the privileges and immunities specified in this Article.

The provisions of Articles 10 and 11 shall apply, *mutatis mutandis*, to a diplomatic courier of a third State passing through China and his accompanying diplomatic bag.

Article 23 Visiting heads of State or government, foreign ministers and other officials of comparable status from foreign States shall enjoy the privileges and immunities specified in these Regulations.

Article 24 Representatives of foreign States coming to China to attend international conferences sponsored by the United Nations or its specialized agencies, visiting officials and experts of the United Nations and its specialized agencies, and offices of the United Nations and its specialized agencies in China and their personnel shall enjoy such treatment as specified in the relevant international conventions to which China has acceded and agreements which China has concluded with the international organizations concerned.

Article 25 Persons enjoying diplomatic privileges and immunities under these Regulations shall:

- (1) respect Chinese laws and regulations;
- (2) not interfere in the internal affairs of China;
- (3) not practise for personal profit any professional or commercial activity within Chinese territory;
- (4) not use the premises of the mission and the residence of the members of the staff of the mission for purposes incompatible with the functions of the mission.

Article 26 In case the diplomatic privileges and immunities accorded by a foreign State to the Chinese mission and its members in that State and to visiting Chinese personnel concerned are fewer than those China would

give under these Regulations to the mission of that State and its members in China and its visiting personnel concerned, the Chinese Government may accord them such diplomatic privileges and immunities as appropriate on a reciprocal basis.

Article 27 Where there are other provisions in international treaties to which China is a contracting or acceding party, the provisions of those treaties shall prevail, with the exception of those provisions on which China has expressed reservations.

Where there are other provisions in agreements on diplomatic privileges and immunities between China and other countries, the provisions of those agreements shall prevail.

Article 28 For the purpose of these Regulations, the following expressions shall have the meanings hereunder assigned to them: (1) the "head of the mission" is the ambassador, minister, charge d' affaires or other person of equivalent rank charged by the sending State with the duty of acting in that capacity;

(2) the "members of the mission" are the head of the mission and the members of the staff of the mission;

(3) the "members of the staff of the mission" are the members of the diplomatic staff, of the administrative and technical staff and of the service staff of the mission;

(4) the "members of the diplomatic staff of the mission" are the members of the staff of the mission having diplomatic rank;

(5) a "diplomatic agent" is the head of the mission or a member of the diplomatic staff of the mission;

(6) the "members of the administrative and technical staff of the mission" are the members of the staff of the mission engaged in the administrative and technical work of the mission;

(7) the "members of the service staff of the mission" are the members of the staff of the mission in the domestic service of the mission;

(8) a "private attendant" is a person in the private employment of a member of the mission;

(9) the "premises of the mission" are the buildings and the land ancillary thereto used for the purposes of the mission and the residence of the head of the mission.

Article 29 These Regulations shall enter into force as of the date of promulgation.

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