

Document:-
A/CN.4/L.86

Provisional draft articles submitted by Jaroslav Zourek, Special Rapporteur

Topic:
Consular intercourse and immunities

Extract from the Yearbook of the International Law Commission:-
1960, vol. II

*Downloaded from the web site of the International Law Commission
(<http://www.un.org/law/ilc/index.htm>)*

other material advantages granted to members of the consular staff.

2. In the first case, the principle of reciprocity operates with negative effect, in that the receiving State is authorized to apply one of the present rules in a restrictive manner in cases where that rule is so applied to its consulate in the sending State. It should be emphasized that the restrictive application by the sending State must be in keeping with the strict terms of the rule in question; otherwise, there is an infringement of the rule, and the action of the receiving State becomes an act of reprisal.

3. In the second case, the receiving State may, pursuant to the principle of reciprocity, restrict the consular

privileges and immunities which it accords to the members of the consular staff of the sending State, because the latter's practice in this respect is less liberal than its own; or, conversely, it may, pursuant to the same principle, grant to members of the consular staff of the sending State more extensive privileges and immunities than to the staff of other foreign consulates in its territory, because the sending State grants more extensive privileges and immunities to the staff of the receiving State's consulates.

4. The text of the article and of the commentary is largely taken from the text of article 44 of the draft articles on diplomatic intercourse and immunities and the commentary thereon.

DOCUMENT A/CN.4/L.86

Provisional draft articles submitted by Jaroslav Zourek, Special Rapporteur

[Original text : French]

[21 April 1960]

[NOTE : This text, prepared by the Special Rapporteur for the convenience of members of the International Law Commission and to expedite the Commission's work, comprises the articles already adopted by the Commission at its eleventh session, the texts contained in the first report submitted by the Special Rapporteur at the Commission's ninth session (A/CN.4/108, *Yearbook of the International Law Commission, 1957*, vol. II, pp. 71 *et seq.*) and the additional articles contained in the second report which the Special Rapporteur is submitting to the Commission at its twelfth session. The structure of the draft prepared before the adoption by the Commission of the draft articles concerning diplomatic intercourse and immunities has been adapted to bring it into line, wherever this seems justified, with the draft articles concerning diplomatic intercourse and immunities. To that end, also, the wording of certain articles which have not yet been discussed by the Commission has been amended or expanded.]

CHAPTER I

Article 1 (adopted). *Definitions*

For the purposes of this draft :

(a) The term "consulate" means any consular post, whether it be a consulate-general, a consulate, a vice-consulate or a consular agency;

(b) The expression "consular premises" means any building or part of a building used for the purposes of a consulate;

(c) The expression "consular district" means the area within which the competence of the consulate is exercised in relation to the receiving State;

(d) The term "exequatur" means the final authorization granted by the receiving State to a foreign consul to exercise consular functions on the territory of the receiving State, whatever the form of such authorization;

(e) The expression "consular archives" means official correspondence, documents and other chancery papers, as well as any article of furniture intended for their protection or safe keeping;

(f) The term "consul", except in article 6, means any person duly appointed by the sending State to exercise consular functions in the receiving State as consul-general, consul, vice-consul or consular agent, and authorized to exercise those functions in conformity with articles 11 or 12 of this draft;

A consul may be :

(i) A "career consul", if he is a government official of the sending State, receiving a salary and not exercising in the receiving State any professional activity other than that arising from his consular function;

(ii) An "honorary consul", if he does not receive any regular salary from the sending State and is authorized to engage in commerce or other gainful occupation in the receiving State.

(g) The expression "head of consular post" means any person appointed by the sending State to take charge of a consulate;

(h) The expression "consular official" means any person, including a head of post, who exercises consular functions in the receiving State and who is not a member of a diplomatic mission;

(i) The expression "consular employee" means any person who performs administrative, technical or similar work in a consulate;

(j) The expression "members of the consular staff" means consular officials and employees;

(k) The expression "private staff" means persons employed in the private service of a consular official.

SECTION I. CONSULAR INTERCOURSE IN GENERAL

Article 2. *Establishment of consular relations*

Paragraph 1 (adopted)

The establishment of consular relations takes place by mutual consent of the States concerned.

Paragraph 2 (reserved)

The establishment of diplomatic relations includes the establishment of consular relations.

Article 3 (adopted). *Establishment of a consulate*

1. No consulate may be established on the territory of the receiving State without that State's consent.

2. The seat of the consulate and the consular district shall be determined by mutual agreement between the receiving and sending States.

3. Subsequent changes in the seat of the consulate or in the consular district may not be made by the sending State except with the consent of the receiving State.

4. Save as otherwise agreed, a consul may exercise his functions outside his district only with the consent of the receiving State.

5. The consent of the receiving State is also required if the consul is at the same time to exercise consular functions in another State.

Article 4 (adopted). *Consular functions*

1. A consul exercises within his district the functions provided for by the present articles and by any relevant agreement in force, and also such functions vested in him by the sending State as can be exercised without breach of the law of the receiving State. The principal functions ordinarily exercised by consuls are:

(a) To protect the interests of the nationals of the sending State, and the interests of the sending State itself;

(b) To help and assist nationals of the sending State;

(c) To act as notary and civil registrar, and to exercise other functions of an administrative nature;

(d) To extend necessary assistance to vessels and boats flying the flag of the sending State and to aircraft registered in that State;

(e) To further trade and promote the development of commercial and cultural relations between the sending State and the receiving State;

(f) To acquaint himself with the economic, commercial and cultural life of his district, to report to the Government of the sending State, and to give information to any interested persons;

2. Subject to the exceptions specially provided for by the present articles or by the relevant agreements in force, a consul in the exercise of his functions may deal only with the local authorities.

Second more detailed variant

1. The task of consuls is to defend, within the limits of their consular district, the rights and interests of the sending State and of its nationals and to give assistance and relief to the nationals of the sending State, as well as to exercise other functions specified in the relevant international agreements in force or entrusted to them by the sending State, the exercise of which is compatible with the laws of the receiving State.

2. Without prejudice to the consular functions deriving from the preceding paragraph, consuls may perform the under-mentioned functions:

I. *Functions concerning trade and shipping*

1. To protect and promote trade between the sending State and the receiving State and to foster the development of economic relations between them;

2. To render all necessary assistance to ships and merchant vessels flying the flag of the sending State;

3. To render all necessary assistance to aircraft registered in the sending State;

4. To render all necessary assistance to vessels owned by the sending State, and particularly its warships, which visit the receiving State;

II. *Functions concerning the protection of nationals of the sending State*

5. To see that the sending State and its nationals enjoy all the rights accorded to them under the laws of the receiving State and under the international customs and conventions in force and to take appropriate steps to obtain redress if these rights have been infringed;

6. To propose, where necessary, the appointment of guardians or trustees for nationals of the sending State, to submit nominations to courts for the office of guardian or trustee, and to supervise the guardianship of minors and the trusteeship for insane and other persons lacking full capacity who are nationals of the sending State;

7. To represent in all cases connected with succession, without producing a power of attorney, the heirs and legatees, or their successors, in title, who are nationals of the sending State and who are not represented by a special agent; to approach the competent authorities of the receiving State in order to arrange for an inventory of assets or for the winding up of the estate; and, if necessary, to apply to the competent courts to settle disputes and claims concerning the estates of deceased nationals of the sending State;

III. *Administrative functions*

8. To perform and record acts of civil registration (births, deaths, marriages), without prejudice to the obligation of declarants to make whatever declarations

are necessary in pursuance of the laws of the receiving State ;

9. To solemnize marriages in accordance with the laws of the sending State, where this is not contrary to the laws of the receiving State ;

10. To serve judicial documents or take evidence on behalf of courts of the sending State, in the manner specified by the conventions in force or in any other manner compatible with the laws of the receiving State ;

IV. Notarial functions

11. To receive any statements which nationals of the sending State may have to make, to draw up, attest and receive for safe custody wills and deeds-poll executed by nationals of the sending State and indentures the parties to which are nationals of the sending State or nationals of the sending State and nationals of other States, provided that they do not relate to immovable property situated in the receiving State or to rights *in rem* attaching to such property ;

12. To attest or certify signatures and to stamp, certify or translate documents in any case in which these formalities are requested by a person of any nationality for use in the sending State or in pursuance of the laws of that State. If an oath or declaration in lieu of oath is required under the laws of the sending State, such oath or declaration may be sworn or made before the consul ;

13. To receive for safe custody such sums of money, documents and articles of any kind as may be entrusted to the consuls by nationals of the sending State. Transfers of sums of money or other valuables, especially works of art, are governed (in the absence of an international agreement) by the laws and regulations of the receiving State.

V. Other functions

14. To further the cultural interests of the sending State, particularly in science, the arts, the professions and education ;

15. To act as arbitrators or mediators in any disputes submitted to it by nationals of the sending State, where this is not contrary to the laws of the receiving State ;

16. To gather information concerning aspects of economic, commercial and cultural life in the consular district and other aspects of national life in the receiving State and to report thereon to the Government of the sending State or to supply information to interested parties in that State ;

17. A consul may perform additional functions as specified by the sending State, provided that their performance is not prohibited by the laws of the receiving State.

Article 5 (adopted). *Carrying out of consular functions on behalf of a third State*

No consul may carry out consular functions on behalf of a third State without the consent of the receiving State.

Article 6 (adopted). *Classes of heads of consular posts*

Heads of consular posts are divided into four classes, viz :

- (1) Consuls-general ;
- (2) Consuls ;
- (3) Vice-consuls ;
- (4) Consular agents.

Article 7 (adopted). *Acquisition of consular status*

A consul within the meaning of these articles is an official who is appointed by the sending State to one of the four classes enumerated in article 6, and who is recognized in that capacity by the State in whose territory he is to carry out his functions.

Article 8 (adopted). *Competence to appoint and recognize consuls*

1. Competence to appoint consuls, and the manner of its exercise, is governed by the internal law of the sending State.

2. Competence to grant recognition to consuls, and the form of such recognition, is governed by the internal law of the receiving State.

Article 9 (adopted). *Appointment of nationals of the receiving State*

Consular officials may be appointed from amongst the nationals of the receiving State only with the express consent of that State.

Article 10 (adopted). *The consular commission*

1. Heads of consular posts shall be furnished by the State appointing them with full powers in the form of a commission or similar instrument, made out for each appointment and showing, as a general rule, the full name of the consul, the consular category and class, the consular district and the seat of the consulate.

2. The State appointing a consul shall communicate the commission through the diplomatic or other appropriate channel to the Government of the State on whose territory the consul is to exercise his functions.

3. If the receiving State so accepts, the commission may be replaced by a notice of the appointment of the consul, addressed by the sending State to the receiving State. In such case the provisions of paragraphs 1 and 2 of this article shall apply *mutatis mutandis*.

Article 11 (adopted). *The exequatur*

Without prejudice to the provisions of articles 12 and 14, heads of consular posts may not enter upon their duties until they have obtained the final recognition of the Government of the State in which they are to exercise them. This recognition is given by means of an *exequatur*.

Article 12 (adopted). *Provisional recognition*

Pending delivery of the *exequatur*, the head of a consular post may be admitted on a provisional basis to the exercise of his functions and to the benefits of

the present articles and of the relevant agreements in force.

Article 13 (adopted). Obligation to notify the authorities of the consular district

The Government of the receiving State shall immediately notify the competent authorities of the consular district that the consul is authorized to assume his functions. It shall also ensure that the necessary measures are taken to enable the consul to carry out the duties of his office and to admit him to the benefits of the present articles and of the relevant agreements in force.

Article 14 (adopted). Acting head of post

1. If the position of head of post is vacant, or if the head of post is unable to carry out his functions, the direction of the consulate shall be temporarily assumed by an acting head of post whose name shall be notified to the competent authorities of the receiving State.

2. The competent authorities shall afford assistance and protection to such acting head of post, and admit him, while in charge of the consular post, to the benefits of the present articles and of the relevant agreements in force on the same basis as the head of the consular post concerned.

Article 15 (adopted). Precedence

1. Consuls shall rank in each class according to the date of the grant of the *exequatur*.

2. If the consul, before obtaining the *exequatur*, was recognized provisionally, his precedence shall be determined according to the date of the grant of the provisional recognition; this precedence shall be maintained even after the granting of the *exequatur*.

3. If two or more consuls obtained the *exequatur* or provisional recognition on the same date, the order of precedence as between them shall be determined according to the dates on which their commissions were presented.

4. Heads of posts have precedence over consular officials not holding such rank.

5. Consular officials in charge of a consulate *ad interim* rank after all heads of posts in the class to which the heads of posts whom they replace belong, and, as between themselves, they rank according to the order of precedence of these same heads of posts.

Article 16 (adopted). Occasional performance of diplomatic acts

In a State where the sending State has no diplomatic mission, a consul may, on an occasional basis, perform such diplomatic acts as the Government of the receiving State permits in the particular circumstances.

Article 17 (adopted). Grant of diplomatic status to consuls

In a State where the sending State has no diplomatic mission, a consul may, with the consent of the receiving State, be entrusted with diplomatic functions, in which

case he shall bear the title of consul-general-*chargé d'affaires* and shall enjoy diplomatic privileges and immunities.

*Article 18 (adopted). Withdrawal of *exequatur**

1. Where the conduct of a consul gives serious grounds for complaint, the receiving State may request the sending State to recall him or to terminate his functions, as the case may be.

2. If the sending State refuses, or fails within a reasonable time, to comply with a request made in accordance with the preceding paragraph, the receiving State may withdraw the *exequatur* from the consul.

3. A consul from whom the *exequatur* has been withdrawn may no longer exercise consular functions.

Article 19. Staff employed in the consulate

Subject to the provisions of articles 9 and 20, the sending State is entitled to employ in its consulate the requisite number of consular officials and employees, whose titles and legal status it shall itself determine.

Article 20. Persons deemed unacceptable

1. The receiving State may, upon being notified of the name of a member of the consular staff (article 21), inform the sending State that the said person is not acceptable.

Where the conduct of a member of the consular staff other than the head of post gives serious grounds for complaint, the receiving State may request the sending State to recall this person or to terminate his functions, as the case may be. The sending State shall then recall the person concerned or terminate his functions.

2. If the sending State refuses to comply with this request or fails within a reasonable time to fulfil its obligations under paragraph 1, the receiving State may refuse to recognize the person concerned as a member of the consular staff.

Article 21. Notification of arrival and departure

1. The Ministry of Foreign Affairs, or the authority, designated by that Ministry, shall be notified of:

(a) the arrival of members of the consular staff after their appointment to the consulate and of members of their families and of their private staff;

(b) the departure of persons referred to in the foregoing sub-paragraph, when they cease to be part of the consular staff or of the families of members of the consular staff.

2. A similar notification shall be made in respect of locally recruited members of the consular staff.

SECTION II. CONSULAR PRIVILEGES AND IMMUNITIES

Article 22. Use of the State coat-of-arms

The sending State is entitled to display its coat-of-arms, with an inscription identifying the consulate, on the building occupied by the consulate, and above, or by, the entrance door thereto.

Article 23. Use of the national flag

The receiving State is bound to permit:

(a) the national flag of the sending State to be flown by the consulate on solemn public occasions and on other occasions for which this right is recognized by custom;

(b) heads of consular posts to fly the national flag of the sending State on all means of transport used by them in the exercise of their functions.

SUB-SECTION A

CONSULAR PREMISES AND ARCHIVES

The sending State has the right to procure on the territory of the receiving State, in accordance with the internal law of the latter, the premises necessary for its consulates. The receiving State is bound to facilitate, as far as possible, the procuring of suitable premises for such consulates.

Article 25. Inviolability of consular premises

1. The premises used for the purposes of the consulate shall be inviolable. If the authorities of the receiving State wish to inspect the consular premises, they must first obtain the permission of the head of consular post. Even in that case, however, on no pretext whatever may the said authorities examine, seize or place under seal the files, papers or other documents which are in the consular premises.

2. The buildings and premises used by a consulate, and its equipment, furniture and means of transport, shall be exempt from military requisitioning or billeting.

3. The receiving State must ensure that the inviolability of consular premises is respected. In particular, it is under a special duty to take all appropriate steps to protect the consular premises against any invasion or damage, and to prevent any disturbance of the peace of the consulate or detraction from its dignity.

Article 26. Exemption of consular premises from taxation

The sending State and the head of consular post shall be exempt from all taxes and dues levied by the receiving State or by any of its territorial subdivisions in respect of the consular premises, whether owned or leased, other than such as represent payment for specific services rendered.

Article 27. Inviolability of the archives and documents

The archives and documents of the consulate shall be inviolable.

SUB-SECTION B. FACILITATION OF THE WORK OF THE CONSULATE, FREEDOM OF COMMUNICATION

Article 28. Facilities

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

Article 29. Freedom of communication

The receiving State shall accord and protect free communication on the part of the consulate for all official purposes, in particular with the Government of the sending State, its diplomatic missions and other consulates, wherever situated. To that end, the consulate may employ all appropriate means, including messages in code or cipher.

Article 30. Communication with authorities of the receiving State

The procedure for communication between consuls and the authorities of the receiving State shall be determined by usage or by the laws of that State.

Article 31. Consular fees and exemption of such fees from taxation

1. For official acts performed by its consuls, the sending State is entitled to charge on the territory of the receiving State the fees payable under its national laws.

2. Neither the receiving State nor any of its territorial subdivisions shall levy any tax or similar duty in respect of the consular fees referred to in the preceding paragraph or of the issuance of receipts on payment of such fees.

SUB-SECTION C. PERSONAL PRIVILEGES AND IMMUNITIES

Article 32. Duty to accord special protection to consuls

The receiving State is bound to accord special protection to foreign consuls by reason of their status as official representatives of the sending States.

Article 33. Personal inviolability

1. Consular officials who are not nationals of the receiving State and do not engage in commerce or any other gainful occupation shall not be liable to arrest or detention pending trial, except when they are caught *in flagrante delicto* and the act committed constitutes a criminal offence against life or personal freedom.

2. Except in the case specified in paragraph 1 above, the consular officials referred to in that paragraph may not be committed to prison or subjected to any other restriction upon their personal freedom save for the purpose of serving a court sentence, possessing the force of *res judicata*, for an offence punishable by a term of imprisonment of one year or more.

3. In the event of criminal proceedings being instituted against a consular official, that official may in no event be compelled to appear before the court. He may be invited in writing to give his deposition in person. If he refuses to do so, the court shall request him to send his deposition in writing, if the law of the receiving State so permits. Otherwise, the judicial authority shall visit his residence for the purpose of taking his deposition in the form prescribed by the law of the receiving State.

4. In the event of the arrest of, or of criminal proceedings being instituted against, one of the consular

officials referred to in paragraph 1 above, the receiving State shall immediately notify the diplomatic representative of the State to which the consular official belongs.

Article 34. Immunity from jurisdiction

1. Members of the consular staff shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of their functions.

2. Where a member of the consular staff invokes the above immunity before an authority of the receiving State, that authority shall refrain from pronouncing upon the matter, the rule being that all difficulties of this kind must be settled solely through the diplomatic channel.

Article 35. Exemption from obligations in the matter of registration of aliens and residence permits

Subject to reciprocity, members of the consular staff, members of their families and their private staff, if they are not nationals of the receiving State, shall be exempt from all obligations under local legislation in the matter of registration of aliens and residence permits, provided that their names have been notified to the Ministry of Foreign Affairs of the receiving State or to the office designated by that Ministry.

Article 36. Exemption from social security legislation

1. Members of the consular staff and members of their families belonging to their household, if they are not nationals of the receiving State, shall be exempt from the social security legislation in force in that State.

2. The exemption provided for in paragraph 1 shall also apply to the private staff in the sole employ of members of the consular staff, if they are neither nationals of, nor permanently established in, the receiving State.

3. The exemption set forth in paragraphs 1 and 2 above shall not preclude voluntary participation in the social security system in so far as such participation is allowed by the legislation of the receiving State.

Article 37. Exemption from taxation

1. Subject to reciprocity, the receiving State is bound to exempt members of the consular staff and members of their families from payment of all taxes and dues, personal or real, levied by the receiving State or by any of its territorial subdivisions, save:

(a) Indirect taxes incorporated in the price of goods or services;

(b) Taxes and dues on private immovable property, situated in the territory of the receiving State, unless held by a member of the consular staff on behalf of his Government for the purposes of the consulate;

(c) Estate, succession or inheritance duties levied by the receiving State, subject to the provisions of article 44 concerning the estates of deceased members

of the consular staff or of deceased members of their families;

(d) Taxes and dues on income which has its source in the receiving State;

(e) Taxes and dues levied for specific services rendered.

Article 38. Exemption from customs duties

Subject to reciprocity, the following items shall be admitted free of all customs duty and other taxes:

(a) Coats-of-arms, flags, signs, seals and stamps, books and all official printed matter for the current use of the consulate;

(b) Furniture, office equipment and other articles required to fit out the consulate;

(c) Personal possessions and effects which members of the consular staff and members of their families proceeding to the receiving State bring with them, or have brought in from the sending State within six months [one year] of their arrival in the receiving State.

Article 39. Exemption from personal services

The receiving State shall:

(a) exempt members of the consular staff, members of their families, and members of the private staff who are in the sole employ of members of the consular staff, provided that they are not nationals of the receiving State, from all personal services and from all public service of whatever kind;

(b) exempt the persons referred to in sub-paragraph (a) above, provided that they are not nationals of the receiving State, from material military obligations (requisitioning, taxation or billeting).

Article 40. Attendance as witnesses in courts of law and before the administrative authorities

1. Members of the consular staff are liable to attend as witnesses in the courts and before the administrative authorities.

2. In the case of a consular official or employee who is not a national of the receiving State, the judicial or administrative authority concerned must ask him in writing whether he wishes his oral evidence to be taken at the consulate or at his residence or is prepared to appear in person before the court or administrative authority. A reply to that inquiry must be given immediately in writing.

3. If the evidence of a consular official or employee is to be taken at the consulate or at his residence, the date fixed for the deposition shall be such as to enable it to be taken within the time-limit prescribed by the judicial or administrative authority concerned.

4. Members of the consular staff may decline to give evidence on circumstances connected with the exercise of their functions and to produce correspondence and documents relating thereto, on the grounds of professional or State secrecy. In that event, the judicial or administrative authority shall refrain from taking any coercive measures against the person con-

cerned, the rule being that all difficulties of this kind must be settled solely through the diplomatic channel.

Article 41. Acquisition of nationality

Members of the consular staff who are not nationals of the receiving State, and members of their families belonging to their household, shall not acquire the nationality of that State solely by virtue of its nationality laws.

Article 42. Members of the consular staff who are nationals of the receiving State

1. A consular official who is a national of the receiving State shall enjoy immunity from jurisdiction in respect of acts performed in the exercise of his functions.

2. Other members of the consular staff who are nationals of the receiving State shall enjoy only such privileges and immunities as may be granted to them by the receiving State.

Article 43. Duration of consular privileges and immunities

1. Any person entitled to consular privileges and immunities shall enjoy them from the moment when he enters the territory of the receiving State on proceeding to take up his post, or if already in its territory at the time of his appointment, from the moment when his appointment is notified to the Ministry of Foreign Affairs or to the authority designated by that Ministry.

2. When the functions of a person enjoying consular privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time even in case of armed conflict. However, with respect to acts performed by him in the exercise of his functions as a member of the consular staff, immunity shall continue to subsist without limitation as to time.

Article 44. Estates of deceased members of the consular staff or of deceased members of their families

In the event of the death of a member of the consular staff, or of a member of his family, who are not nationals of the receiving State, that State shall permit the withdrawal of the movable property, of the deceased, with the exception of any such property acquired in the country and the export of which was prohibited at the time of his death. In that event, estate, succession or inheritance duties shall be levied only on immovable property situated in the territory of the receiving State.

Article 45. Duties of third States

1. If a consular official passes through or is in the territory of a third State while proceeding to take up or to return to his post, or when returning to his own country, the third State shall accord him the inviolability he enjoys in virtue of the present articles and such immunities as may be required to ensure his transit or return.

2. Third States shall accord the same immunities to the members of the family of the consular officials referred to in paragraph 1 above who accompany such officials or who travel separately to join them or to return to their own country.

3. In the circumstances specified in paragraph 1, third States must not hinder the transit through their territory of other members of the consular staff and members of their families.

4. Third States shall accord correspondence and other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State itself.

SECTION III. CONDUCT OF THE CONSULATE AND OF THE CONSULAR STAFF TOWARDS THE RECEIVING STATE

Article 46. Duty to respect the laws and regulations of the receiving State

Without prejudice to their consular privileges and immunities, it is the duty of all 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 that State.

Article 47. Jurisdiction of the receiving State

Subject to the privileges and immunities recognized by the present articles and by other relevant agreements, members of the consular staff shall be amenable to the jurisdiction of the State in which they exercise their functions.

Article 48. Obligations of the receiving State in certain special cases

To facilitate the exercise of consular functions, the receiving State shall:

(a) in the case of the death on its territory of a national of the sending State, send a copy of the death certificate to the consulate in whose district the death occurred;

(b) notify immediately the competent consulate of any cases where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State;

(c) when a vessel flying the flag of the sending State is wrecked or runs aground on the coast or in the territorial sea of the receiving State, inform immediately the competent consulate or, failing such consulate, the one nearest to the scene of the occurrence.

SECTION IV. END OF CONSULAR RELATIONS AND IMMUNITIES

Article 49. Termination of consular functions

A consul's functions are terminated by, *inter alia*:

1. His recall by the sending State;
2. His resignation;
3. His death;

4. Withdrawal of his *exequatur* (article 18);
5. Breaking-off of consular relations (article 50).

Article 50. Breaking-off of consular relations

Except where a state of war has arisen in conformity with international law between the sending State and the receiving State, the breaking-off of diplomatic relations shall not automatically entail the breaking-off of consular relations.

Article 51. Right to leave the territory of the receiving State and facilitation of departure

1. Upon the termination of the functions of persons enjoying consular privileges and immunities, the receiving State shall, save as otherwise provided in the present articles, allow such persons, the members of their families and the private staff in their employ, who are not nationals of that State, to leave its territory, even in case of armed conflict.

2. The receiving State shall grant the persons referred to in paragraph 1 above the necessary time and facilities to enable them to leave its territory for their own country. It must treat those persons with respect and courtesy and protect them until their departure, which shall take place within a reasonable time. If need be, the receiving State must place at their disposal the necessary means of transport.

Article 52. Protection of premises, archives and interest

If consular relations are broken off between the sending State and the receiving State, or if a consulate is closed temporarily or permanently:

(a) The receiving State, even in case of armed conflict, shall respect and protect the premises of the consulate, together with its property and archives;

(b) The sending State may entrust the custody of the premises of the consulate, together with its property and archives, to the consulates or diplomatic mission of another State acceptable to the receiving State;

(c) The sending State may entrust the protection of its interests to the consulates or diplomatic mission of a third State acceptable to the receiving State.

SECTION V

Article 53. Non-discrimination

1. In applying the present rules, the receiving State shall not discriminate between States.

2. The following acts by the receiving State shall not, however, be deemed discriminatory:

(a) the restrictive application of one of the present rules by reason of the fact that the same rule is applied restrictively to its consulate in the sending State;

(b) the granting subject to reciprocity of privileges and immunities in respect of which the condition of reciprocity is expressly provided for in the present articles or in other relevant international agreements.

CHAPTER II

PRIVILEGES AND IMMUNITIES OF HONORARY CONSULS AND OFFICIALS ASSIMILATED TO HONORARY CONSULS

Article 54. Honorary consuls

For the purposes of the present articles the term "honorary consul" shall mean a consul (article 5), whether a national of the sending State or not, who does not receive any regular salary from the sending State and is authorized to engage in commerce or other gainful occupation in the receiving State.

Article 55. Powers of honorary consuls

1. The powers of honorary consuls shall be determined by the sending State in accordance with international law.

2. The sending State shall inform the Government of the receiving State through the diplomatic or some other appropriate channel of the extent of the powers conferred upon the consuls in question.

Article 56. Legal status of honorary consuls

1. Honorary consuls shall enjoy the consular privileges and immunities set forth in articles 22, 23 (a), 28, 29, 30, 31, 34 and 38 (a).

2. The official correspondence, official documents and papers, and consular archives of honorary consuls shall be inviolable and may not be the subject of search or seizure, provided that they are kept separate from private correspondence and from books and documents relating to any business, industry or profession in which such honorary consuls may be engaged.

3. Honorary consuls may decline to give evidence before a judicial or administrative authority, or to produce documents in their possession, should their evidence or the production of documents relate to their consular functions. No coercive measures may be taken in such cases.

Article 57. Precedence of honorary consuls

Honorary consuls shall rank in each class after career consuls in the order and according to the rules laid down in article 15.

Article 58. Officials assimilated to honorary consuls

The provisions of this chapter shall also apply *mutatis mutandis* to consular officials who, although officials of the sending State receiving a regular salary, are authorized by the laws of that State to engage in commerce or other gainful occupation in the receiving State.

CHAPTER III

GENERAL PROVISIONS

Article 59. Relationship between the present articles and previous conventions

1. The provisions contained in the present articles shall in no way affect conventions previously concluded between the Contracting Parties and still in force

between them. Where conventions regulating consular intercourse and immunities between the Contracting Parties already exist, these articles shall apply solely to questions not governed by the previous conventions.

2. Acceptance of the present articles shall be no impediment to the conclusion in the future of bilateral conventions concerning consular intercourse and immunities.

Article 60. Complete or partial acceptance

1. Ratifications of and accessions to the present articles may relate :

(a) Either to all the articles (chapters I, II, III and IV) ;

(b) Or only to the provisions concerning consular intercourse in general and the privileges and immunities of career consuls (chapter I) and to chapters III and IV.

2. The Contracting Parties may benefit by the ratifications or accessions of other Contracting Parties only in so far as they have themselves assumed the same obligations.

CHAPTER IV

FINAL CLAUSES

The final clauses will be formulated at a later stage of the work.